

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

DEPARTMENT: Engineering Department

AGENDA DATE: Introduction – August 17, 2010
Public Hearing – August 24, 2010

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert,
Engineering, (915) 541-4428

DISTRICT(S) AFFECTED: All

SUBJECT:

An ordinance to amend the City code to reflect departmental reorganization by amending Title 19 (Subdivisions), to amend various sections thereunder pertaining to the duties that had been assigned to the Development Services Department and staff; the penalty being as provided in section 19.42.070 of the El Paso City code.

BACKGROUND / DISCUSSION:

The City Manager proposed through the Budget for FY 2011 and the City Council has decided to re-organize the Engineering Department, the Street Department, the Environmental Services Department and to delete the Development Services Department. This action necessitates this ordinance and others to make changes to the City Code to reflect the organizational changes. No substantive changes are being made to the code in this ordinance--only the changes necessary to achieve reorganization and to make appropriate cross references to other code provisions.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD: _____

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CITY CODE TO REFLECT DEPARTMENTAL REORGANIZATION BY AMENDING TITLE 19 (SUBDIVISIONS), TO AMEND VARIOUS SECTIONS THEREUNDER PERTAINING TO THE DUTIES THAT HAD BEEN ASSIGNED TO THE DEVELOPMENT SERVICES DEPARTMENT, AND STAFF; THE PENALTY BEING AS PROVIDED IN SECTION 19.42.070 OF THE EL PASO CITY CODE.

WHEREAS, the Planning Division is being moved to the planning and Economic Development Department and the Building Permits and Inspections Division is being moved to the Construction and Engineering Management Department, and both departments are being restructured and renamed; and

WHEREAS, various provisions in the City Code need to be amended to reflect these changes.

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

Section 1. That Title 19 (Subdivisions), Sections 19.01.010 (Authority, Purpose and Applicability), 19.01.050 (Applications and procedures) of the El Paso City Code, are amended to change the phrase “planning division of the development services department” to “planning division” as used within these sections.

Section 2. That Title 19 (Subdivisions), Section 19.01.060 (Stages of Plat Approval), of the El Paso City Code, is amended to read as follows:

19.01.060 Stages of Plat Approval

A. Plats. A plat may be approved in three stages:

1. Land study (refer to Chapter 19.02); if required;
2. Preliminary plat (refer to Chapter 19.03); and
3. Final plat (refer to Chapter 19.04).

B. Combined Applications. An applicant may submit applications for approval of a land study and a preliminary plat, or a preliminary plat and a final plat simultaneously. Such acceptance shall be on a form provided by the planning division. The combination plat must meet all requirements of a final plat prior to approval by the city plan commission. Engineering and subdivision improvement plans must also be submitted and approved in accordance with this title.

C. City Manager or designee. The city manager or designee shall be the responsible official for a plat, and the designated staff in the planning division shall be the initial reviewing officials for a plat application.

1. The designated staff shall review all plat applications for completeness (refer to Section 19.37.020) based on a checklist and the administrative submission requirements supplied by the planning division.
2. The designated staff shall review all plat applications that are deemed complete for conformance with this title and any other applicable city regulations.

Section 3. That Title 19 (Subdivisions), Section 19.02.020 (Application and Procedures) of the El Paso City Code, is amended to change the phrase “planning and development services department” to “planning division”, as used within this section.

Section 4. That Title 19 (Subdivisions), Section 19.03.020 (Application and Procedures) of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 5. That Title 19 (Subdivisions), Section 19.04.010 (Purpose, Applicability, Exceptions and Effect) of the El Paso City Code, is amended to change the phrase “development services office” to “planning division”, as used within this section.

Section 6. That Title 19 (Subdivisions), Section 19.04.020 (Application and Procedures), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 7. That Title 19 (Subdivisions), Section 19.06.020 (Application and Procedures), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 8. That Title 19 (Subdivisions), Section 19.07.040 (Amending Plats), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 9. That Title 19 (Subdivisions), Section 19.08.010 (Subdivision Improvement Plans) of the El Paso City Code, is amended to change the phrase “development services department” to “city engineer”, as used within this section.

Section 10. That Title 19 (Subdivisions), Section 19.10.020 (In General), of the El Paso City Code, is amended to change the phrase “development services department” to “planning division”, as used within subsection A; and to change the phrase “Planning Division of the Development Services Department” to “planning division” as used within subsection A 1 a of this section.

Section 11. That Title 19 (Subdivisions), Section 19.11.040 (Water and Wastewater Service) of the El Paso City Code, is amended to change the phrase “Development Services Department” to “planning division”, as used within this section.

Section 12. That Title 19 (Subdivisions), Section 19.15.040 (Public Right-of-way, Alley, or Public Easement Vacation), of the El Paso City Code, is amended to change the phrase “Planning Division of the Development Services Department” to “office of the planning official”, as used within this section.

Section 13. That Title 19 (Subdivisions), Section 19.15.140 (Street names and addresses), of the El Paso City Code, is amended to change the phrase “director” to “planning official”, as used within this section.

Section 14. That Title 19 (Subdivisions), Section 19.20.020 (Dedication Required) of the El Paso City Code, is amended to change the phrase “Development Services Department” to “office of the planning official”, as used within this section.

Section 15. That Title 19 (Subdivisions), Section 19.20.040 (Review by Director of Department of Parks and recreation), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 16. That Title 19 (Subdivisions), section 19.20.070 (Deed conveyance), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning official”, as used within this section.

Section 17. That Title 19 (Subdivisions), Section 19.20.080 (Off-site Dedication of Parkland) of the El Paso City Code, is amended to change the phrase “Development Services Department” to “office of the planning official”, as used within this section.

Section 18. That Title 19 (Subdivisions), Section 19.20.100 (Provision for Construction of Additional facilities on New or Existing Public Parklands in Lieu of Park

Fees), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning official”, as used within this section.

Section 19. That Title 19 (Subdivisions), Section 19.24.030 (Development standards), of the El Paso City Code, is amended to change the phrase “traffic division of the engineering department” to “traffic engineer”, as used within this section.

Section 20. That Title 19 (Subdivisions), Section 19.26.020 (Infill Development), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning division”, as used within this section.

Section 21. That Title 19 (Subdivisions), Section 19.26.040 (Alternative Subdivision Improvement Design), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “city engineer”, as used within this section.

Section 22. That Title 19 (Subdivisions), Section 19.31.010 (Responsible Official Designated), of the El Paso City Code, is amended to read as follows:

19.31.010 Responsible official designated.

A. Responsible Official. The responsible official shall be the planning official, who is assigned responsibility under this title for taking the following actions with regard to a particular type of application or relief petition authorized under this title unless otherwise specifically provided:

1. Accepting the application for submittal, filing and processing the application;
2. Reviewing and making recommendations concerning the application or petition;
3. Seeking advice of other city departments and coordinating any recommendations from such departments concerning the application or petition;
4. Initially deciding the application or petition, where so authorized;
5. Determining a request for exemption;
6. Preparing reports to and advising any board, commission or the city council that has responsibility for making recommendations on or deciding the application or petition;
7. Promulgating additional or modified policies, standards and administrative rules for adoption by the city council that apply to the application or petition;
8. Initiating enforcement actions concerning compliance with the standards applicable to the application or petition and the conditions imposed thereon; and
9. Taking all other actions necessary for administration of the provisions of this title with respect to the application or petition.

B. Specific Duties. The specific duties of the responsible official shall include those authorized under the procedures applicable to all types of applications pursuant to this title, those authorized under the provisions governing procedures for deciding particular applications under Articles 3 and 4 of this title, and those authorized under relief procedures pursuant to Article 5 of this title.

C. Delegation. The responsible official may delegate the official's authority under this code to subordinate officials, who shall thereupon be deemed the responsible official for purposes of carrying out the delegated duties.

Section 23. That Title 19 (Subdivisions), Section 19.31.020 (Planning Official), of the El Paso City Code, is amended to read as follows:

19.31.020 Planning Official.

A. Responsible Official. The planning official or other designee of the city manager is the responsible official for the following types of applications and relief petitions:

1. Petition for amending the comprehensive plan;
2. Application for a land study, preliminary plat, final plat, minor plat and replat;
3. Appeal of a decision on any application for which the planning official is the responsible official;
4. Alternative subdivision designs, exception or waiver petition for any application for which the planning official is the responsible official;
5. Vested rights petition for any decision where the planning official is the responsible official for the application for which the vested rights petition is submitted.

B. Initial Decision-Maker. The planning official or other designee of city manager is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this title:

1. Application for a minor plat or replat of four or less lots as authorized by state statute;
2. Application for an amending plat;
3. Vested rights petition for any decision for which the planning official or city manager designee is the initial decision-maker.
4. Any appeal for which a subordinate city staff person was the initial decision-maker, subject to further appeal as provided for in this title.

Section 24. That Title 19 (Subdivisions), Section 19.31.030 (City Engineer), of the El Paso City Code, is amended to read as follows:

19.31.030 City Engineer.

A. Responsible Official. The city engineer is the responsible official for the following types of applications and relief petitions (except as provided):

1. Application for approval of construction and engineering plans, and all related construction management tasks, including without limitation, approval of contracts for public improvements;
2. Application for a site preparation permit;
3. Appeal of a decision on any application for which the city engineer is the responsible official;

4. Alternative subdivision designs, exception or waiver petition for any application for which the city engineer is the responsible official;
 5. Vested rights petition for any decision where the city engineer is the responsible official for the application for which the vested rights petition is submitted; and
 6. Petition for relief from a dedication or construction requirement in accordance with Chapter 19.46 and other provisions of this title.
- B. Initial Decision-Maker. The city engineer is the initial decision-maker for the following types of applications and relief petitions, subject to appeal as provided in this title:
1. Application for approval of construction plans, and all related construction management tasks, including without limitation approval of a contract for public improvements;
 2. Application for a site preparation permit; and
 3. Vested rights petition for any decision for which the city engineer is the initial decision-maker.

Section 25. That Title 19 (Subdivisions), Section 19.31.060 (City Manager or Designee), of the El Paso City Code, is amended to read as follows:

Section 19.31.060 City Manager or Designee

Initial Decision-Maker. The city manager or his designee is the initial decision-maker for the following:

- A. Appeal of a decision on any application for which a staff member is the responsible official;
- B. Alternative subdivision designs, exception or waiver petition for any application for which the a staff member is the responsible official;
- C. Vested rights petition for any decision where a staff member is the responsible official for the application for which the vested rights petition is submitted; and
- D. Petition for relief from a dedication or construction requirement in accordance with chapter 19.46 and other provisions of this title.

Section 26. That Title 19 (Subdivisions), Section 19.37.060 (Application contents), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “office of the planning official”, as used within this section.

Section 27. That Title 19 (Subdivisions), Section 19.37.140 (Certification Regarding Compliance With Plat Requirements), of the El Paso City Code, is amended to change the phrase “planning division of the development services department” to “planning official”, as used within this section.

Section 28. That Title 19 (Subdivisions), Section 19.42.010 (Enforcement Activities), of the El Paso City Code, is amended to read as follows:

Section 19.42.010 Enforcement Activities

The city engineer, the building official, employees of the code enforcement division, and other enforcing officers as defined or designated by the city manager, constitute authorized officials under this title, and are authorized to issue municipal court citations for violations of this article and to bring to the attention of the city attorney, and any other appropriate authority, any violations or lack of compliance with these regulations. Any department, agency, employee or authorized official of the city having information regarding an alleged violation to this title, shall report that information to as directed by the city manager or his designee to assist in the enforcement of these requirements.

Section 29. That Title 19 (Subdivisions), section 19.42.040 (Stop Work Orders), of the El Paso City Code, is amended to read as follows

Section 19.42.040 Stop Work Orders

A. Whenever any development or construction activity is being done contrary to any term, condition or requirements of an approved application and/or this title, the planning official, or the city engineer or other designee of the city manager may order the work stopped by notice in writing, served on the property owner or authorized agent. Notice shall be given before the order shall be effective, except when the order states that it is effective immediately as being necessary to protect and preserve the public health, safety, or general welfare. Any person thereafter shall cease and desist from further development or construction material to the alleged noncompliance, until corrected by compliance and authorized by person issuing the stop work order to proceed with the work. This prohibition shall extend throughout any appeal period.

B. The owner or authorized agent may appeal the stop work order by giving written notice to the planning official and submitting a completed form as may be required by the city. The city plan commission shall meet to consider the appeal within fifteen calendar days after the date the completed application for appeal is received by the secretary of the commission.

C. The city plan commission shall reach a decision without unreasonable or unnecessary delay. A copy of the decision shall be delivered by certified mail or personal delivery to the applicant. The decision of the city plan commission shall be final, but as may be provided by law, be adjudicated in a court of competent jurisdiction.

D. The city engineer or his designee may require the placement of temporary erosion control, drainage protection or other measures by the owner or appellant in order to protect the site and the community resources during the appeal period or any subsequent litigation.

E. The application for each appeal must be signed and be accompanied by payment of a nonrefundable application fee in the amount established by appropriate resolution of the city council.

Section 30. That Title 19 (Subdivisions), Section 19.46.040 (Processing of Appeals and Decision), of the El Paso City Code, is amended read as follows:

Section 19.46.040 Processing of Appeals and Decision.

- A. Responsible Official. The city engineer is the responsible official for processing a proportionality appeal.
- B. Evaluation, Recommendation. The city engineer shall evaluate the appeal and supporting study and shall make a recommendation to the city plan commission and city council based upon the information contained in the study, any comments received from El Paso County, and the city engineer's analysis.
- C. Decision-Maker. The city council shall decide the appeal.
- D. Hearing. The city council shall conduct a hearing in accordance with Chapter 19.39 of this title within sixty business days after the study supporting the petition is submitted to the subdivision improvement plan engineer.
- E. Burden of Proof. The petitioner bears the burden of proof to demonstrate that the application of a dedication or construction requirement that is uniformly applied imposes a disproportionate burden on the petitioner.
- F. Decision. The city council shall consider the petition for relief from a dedication, fee or construction requirement based upon the following criteria:
 - 1. The city council shall determine whether the application of the standard or condition requiring dedication of an interest in land for public improvements or construction of capital improvements is roughly proportional to the nature and extent of the impacts created by the proposed development on such city's water, wastewater, stormwater, parks, or roadway system, and reasonably benefits the development.
 - 2. In making such determination, the council shall consider the evidence submitted by the applicant, any testimony submitted by the applicant, the subdivision improvement plan engineer's report and recommendation and, where the property is located within the city's extraterritorial jurisdiction, any recommendations from El Paso County.
- G. Action. Based on the criteria in subsection E above, the city council shall, within thirty days following the hearing, take one of the following actions:
 - 1. Deny the petition for relief, and impose the standard or condition in accordance with the initial decision; or
 - 2. Grant the petition for relief, and waive any dedication or construction requirement to the extent necessary to achieve proportionality; or
- H. Notification of Decision on Petition. The petitioner shall be notified of the decision on the petition for relief in the manner provided in Chapter 19.38 of the subdivision ordinance, within ten business days of the decision.
- I. Effect. The relief granted on the petition shall remain in effect for the period the plat or related approved development application is in effect, and shall expire upon expiration of the plat or related application.

Section 31. That Title 19 (Subdivisions), section 19.47.030 (Processing of Petitions and Decision), of the El Paso City Code, is amended to read as follows:

19.47.030 Processing of petitions and decision.

A. Responsible Official. The responsible official for a vested rights petition is the planning official, except where a petition is submitted pursuant to Section 19.41.060. The responsible official shall promptly forward a copy of the vested rights petition to the city attorney following acceptance.

B. Initial Decision. The responsible official is the decision-maker on the application, and shall determine whether the relief requested in the vested rights petition should be granted in whole or in part, and shall formulate a written report summarizing the official's reasoning and setting forth the decision on the petition, which shall be delivered to the applicant within ten business days of the date the vested rights petition is accepted for filing.

C. Appeal of Decision on Petition. The petitioner may appeal the responsible official's decision on the vested rights petition within ten business days of the date of such decision to the city council in accordance with the procedures in Chapter 19.45. The city council shall decide the petition within thirty business days of receipt of the notice of appeal.

D. Effect on Related Applications. A final decision on the vested rights petition or appeal under this title is an application requirement for any related application. No related application shall be deemed complete without such decision having been made.

Section 32. That Title 19 (Subdivisions), Section 19.50.030 (Definitions), of the El Paso City Code, is amended in part to amend the definitions set forth below, to read as follows, for those definitions set forth below:

Section 19.50.030 Definitions

“City Planner.” See "Planning Official."

“Submission” means the process by which a person desiring approval of a subdivision plat or subdivision improvement plans makes application to the city manager, the planning official, or their designee, which application meets all of the submission requirements.

Section 33. That Title 19 (Subdivisions), Section 19.50.030 (Definitions), of the El Paso City Code, is amended in part to add the definitions set forth below, to read as follows, for those definitions set forth below:

Section 19.50.030 Definitions

“City engineer” means the engineer appointed by the city manager to serve in this position, who shall furnish or cause to be furnished required assistance, approval of construction drawings as to compliance with city codes, inspection and acceptance of public improvements in the administration of this title.

"Planning official" means the planning official as defined in Chapter 1.04 of this code. He is responsible to coordinate the subdivision review process, gather all staff comments and recommendations and convey such recommendations to the city plan commission and city council. The planning official is also authorized under this title to approve certain plats.

Section 34. That Title 19 (Subdivisions), Section 19.50.030 (Definitions), of the El Paso City Code, is amended in part to delete the following definitions in their entirety:

“Deputy director-planning”

“Director”

“Subdivision improvement plan engineer”

“Deputy director-building permits and inspections”

“Planning director”

Section 35. Except as herein amended, Title 19 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS 24th day of August 2010.

CITY OF EL PASO

ATTEST:

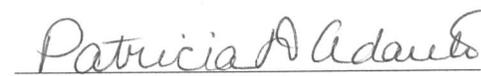
John F. Cook, Mayor

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:


Elaine S. Hengen
Senior Assistant City Attorney

APPROVED AS TO CONTENT:


Patricia D. Adauto
Deputy City Manager