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

DEPARTMENT: Development Services/Planning Division

AGENDA DATE: Intro. 8-8-06, Public Hearing 8-29-06

CONTACT PERSON/PHONE: Kimberly Forsyth, Zoning Administrator - 541-4631

DISTRICT(S) AFFECTED: City-wide

SUBJECT:

AN ORDINANCE AMENDING TITLE 20 (ZONING) OF THE EL PASO CITY CODE, BY AMENDING SECTION 20.62.020 (NON-CONFORMING USES AND STRUCTURES) TO ADD SUBSECTION M, REGULATING NON-CONFORMING PERSONAL WIRELESS SERVICE FACILITIES. THE PENALTY IS AS PROVIDED IN CHAPTER 20.68 OF THE CITY OF EL PASO CITY CODE. (ALL DISTRICTS)

BACKGROUND / DISCUSSION:

See attached information.

PRIOR COUNCIL ACTION:

The City Council on July 11, 2006, imposed a moratorium for a period of 60 days on the acceptance of all applications for the construction of new personal wireless service facilities (PWSF). The City was in the process of amending the zoning regulations concerning these facilities and expected to have the amendments adopted within the time period of the proposed moratorium. This related ordinance amends the non-conforming Chapter of Title 20 to allow modifications to non-conforming PWSF for the purpose of collocation of additional antennas and requires improvements to the appearance of non-conforming PWSF to blend into the surrounding area.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

The Building and Zoning Advisory Committee (BZAC), in the course of their review and rewrite of Title 20 recommended several changes to the current City zoning regulations applicable to Personal Wireless Service Facilities. These were further revised following input from the wireless industry and direction from City Council. Some specific recommendations have been proposed relating to existing nonconforming PWSFs.

Scheduled for Development Coordinating Committee review on Aug. 9 and City Plan Commission review and recommendation on Aug. 17.

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

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

DEPARTMENT HEAD: Alan Shubert

APPROVED FOR AGENDA:

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

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING) OF THE EL PASO CITY CODE, BY AMENDING SECTION 20.62.020 (NON-CONFORMING USES AND STRUCTURES) TO ADD SUBSECTION M, REGULATING NON-CONFORMING PERSONAL WIRELESS SERVICE FACILITIES. THE PENALTY IS AS PROVIDED IN CHAPTER 20.68 OF THE CITY OF EL PASO CITY CODE.

WHEREAS, the zoning regulations of the City of El Paso have been established for the purpose of promoting the health, safety, morals and general welfare of its citizens; and,

WHEREAS, the zoning regulations have been adopted in conformance with *The Plan for El Paso*, and provides in part for the proposed arrangement of compatible land uses; and,

WHEREAS, the increasing construction of Personal Wireless Service Facilities (“PWSF”) has caused a large number of structures to be built throughout the City to provide this service; and,

WHEREAS, the current language in Title 20 preserves the right to use existing structures but does not provide any incentive to improve the appearance of these facilities; and,

WHEREAS, the amendments proposed herein are adopted in order to permit modifications to PWSF while furthering the City’s goals of mitigating the adverse impact on adjacent properties, minimize the total number of ground-mounted PWSF throughout the City without impairing the provision of wireless service, to encourage the joint use of new and existing PWSF site as a primary option rather than construction of additional single-user towers; to encourage the location of PWSF in non-residential areas; and to encourage users of PWSF to configure them in such a way that minimizes any adverse visual impact through careful design, siting, screening, and innovative camouflaging techniques, consistent with state and federal regulations; and,

WHEREAS, the Development Coordinating Committee, and the City Plan Commission after public hearing and comment recommend approval of the proposed amendment; and

WHEREAS, the El Paso City Council finds that the proposed amendment as herein enumerated will have a positive impact upon the public health, safety, morals, and general welfare of the City, and will carry out the purpose and spirit of the policies expressed in *The Plan for El Paso*.

ORDINANCE NO. _____

Doc No. 23945

Doc Name: Planning/Ord/Amend Title 20-Non-Conforming Personal Wireless Service Facilities

Doc Author: CCRO

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

SECTION 1. That Title 20 (Zoning), Chapter 20.62 (Nonconforming Uses) of the El Paso City Code, is hereby amended to create and add Section 20.62.020.M. to read as follows:

“Section 20.62.020.M.

A. A personal wireless service facility (PWSF) that has been was built in compliance with the City’s zoning regulations, was issued a certificate of completion, is registered in accordance with the applicable Code provisions, and determined to be nonconforming by the Zoning Administrator, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt, provided that the PWSF complies with all of the following:

1. The PWSF is being modified or demolished and rebuilt for the sole purpose of accommodating one or more additional antennas no larger in size than those currently installed on the facility and has a ground surface area not to exceed that of the existing facility, upon completion of all construction and demolition; and,
2. The height of the modified or rebuilt PWSF and the appurtenant antennas attached thereto shall not exceed the height of the existing facility or the height limitation of Section 20.08.185 (Personal Wireless Service Facilities), whichever is greater; and,
3. The setbacks of the modified or rebuilt PWSF are no more nonconforming than that of the existing facility; and,
4. The modified or rebuilt PWSF shall be painted to reduce glare and reflections. No exterior paint colors shall be used which have a light reflecting value (LRV) greater than forty percent. The LRV of a paint is available from paint manufacturers and it measures the amount of light reflected by a certain color; and,
5. All rebuilt ground-mounted PWSF located in and/or abutting residential and apartment zoning districts shall be camouflaged. Camouflaging is a method of disguising or concealing the appearance of an object by changing its usual color, modifying its shape, or locating it in a structure that complements the natural setting, existing and surrounding structures. In the context of this section, camouflaging includes, but is not limited to, making PWSF antenna support structures resemble man-made trees, locating

PWSF antenna support structures in bell steeples or clock towers, or on similar alternative-design mounting structures.

6. Screening and landscaping shall comply with Section 20.08.185 of this Title; and,

7. A new rebuilt PWSF may be constructed on the same property prior to the demolition of the existing non-conforming PWSF, provided, that the new PWSF is constructed in accordance with the provisions of this Section, and the existing non-conforming PWSF shall be demolished within thirty (30) days from the date of the issuance of the certificate of completion.

B. The issuance of a permit pursuant to this Section allowing the modification or demolition and rebuild of an existing nonconforming PWSF shall not be considered a determination that the modified or rebuilt PWSF is conforming.

C. Except as provided in this Section, a nonconforming PWSF may not be enlarged, increased in size, or discontinued in use for a period of more than 120 days without being brought into compliance with the regulations of Section 20.08.185 (Personal Wireless Service Facilities).”

SECTION 2. Except as herein amended, Title 20 (Zoning) shall remain in full force and effect.

PASSED AND APPROVED THIS _____ DAY OF _____, 2006.

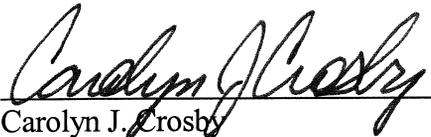
THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

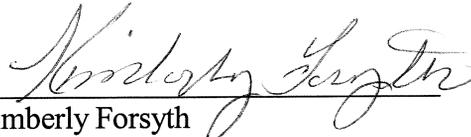
Richarda Duffy Momsen, Municipal Clerk

APPROVED AS TO FORM:



Carolyn J. Crosby
Assistant City Attorney

APPROVED AS TO CONTENT:



Kimberly Forsyth
Zoning Administrator

ORDINANCE NO. _____