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

DEPARTMENT: **Planning & Economic Development, Planning Division**

AGENDA DATE: **Introduction: October 25, 2011**
Public Hearing: November 1, 2011

CONTACT PERSON/PHONE: Linda Castle, (915) 541-4029, castlelj@elpasotexas.gov

DISTRICT(S) AFFECTED: All

SUBJECT:
An Ordinance amending Title 2 (Administration and Personnel) Chapter 2.16 (Zoning Board of Adjustment), Section 2.16.020 (Powers), Section 2.16.030 (Variances) and Section 2.16.060 (Administration) of the El Paso City Code to add the authority to approve variances specified in Title 21 (SmartCode) of the El Paso City Code. (All Districts)

BACKGROUND / DISCUSSION:
N/A

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
Zoning Board of Adjustment – Unanimous Approval Recommendation, October 10, 2010
Development Coordinating Committee (DCC) – Reviewed October 12, 2010

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

LEGAL: (if required) N/A **FINANCE:** (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Deputy Director, Planning & Economic Development

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

MEMORANDUM

DATE: October 12, 2011

TO: The Honorable Mayor and City Council
Joyce A. Wilson, City Manager

FROM: Linda Castle, Senior Planner

SUBJECT: **ZBA Ordinance SmartCode Amendment, Title 2, Chapter 2.16**

The El Paso City Code, Title 21 (SmartCode), grants responsibility to the Zoning Board of Adjustment to consider requests for variances allowed under Title 21. This proposed amendment to Chapter 2.16 gives authority to the Board to consider variances under Title 21, in addition to their current authority to grant variances from Title 20 (Zoning). Further, since no fees are collected for SmartCode applications, the ordinance is amended to provide that a fee is not required for these applications to the ZBA.

The ZBA and the DCC have reviewed this request and recommend approval to City Council.

Attachments: Proposed ZBA Ordinance

ORDINANCE NO._____

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL) CHAPTER 2.16 (ZONING BOARD OF ADJUSTMENT), SECTION 2.16.020 (POWERS), SECTION 2.16.030 (VARIANCES) AND SECTION 2.16.060 (ADMINISTRATION) OF THE EL PASO CITY CODE TO ADD THE AUTHORITY TO APPROVE VARIANCES SPECIFIED IN TITLE 21 (SMARTCODE) OF THE EL PASO CITY CODE

WHEREAS, the City of El Paso adopted Title 21, SmartCode, in 2008 and amended the SmartCode in November 30, 2010 to address variances allowed under the SmartCode; and,

WHEREAS, the amendment designated the City of El Paso Zoning Board of Adjustment as the appropriate Board to hear variances submitted under the SmartCode; and,

WHEREAS, the additional responsibility granted to the Zoning Board of Adjustment requires an amendment to Title 2 of the El Paso City Code;

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

SECTION 1. That Title 2, Administration and Personnel, Chapter 2.16, Zoning Board of Adjustment, Section 2.16.020, Powers, Paragraph B, of the El Paso City Code is amended as follows:

2.16.020 - Powers.

B. The concurring vote of seven members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under Title 2, Title 20 of this code, or to effect any variation in requirements of Title 20 or as specified in Title 21.

SECTION 2. That Title 2, Administration and Personnel, Chapter 2.16, Zoning Board of Adjustment, Section 2.16.030, Variances of the El Paso City Code is amended as follows:

2.16.030 - Variances.

The board of adjustment may authorize in specific cases a variance from the terms of the zoning ordinance (Title 20) or as specified in (Title 21) SmartCode if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done.

SECTION 3. That Title 2, Administration and Personnel, Chapter 2.16, Zoning Board of Adjustment, Section 2.16.060, Administration, Paragraphs A and D, of the El Paso City Code is amended as follows:

2.16.060 - Administration.

A. All applications to the board will be in writing on forms provided by the planning official and with documents as required and shall be accompanied by the fee as set by city council to help defray the cost of publication, the giving of notice, and general expense in connection with the application, except that no fee shall be required for a variance application that is related to a proposed SmartCode development. Before acceptance, all applications submitted shall be complete in all details.

D. Extension of the time to apply for a building permit may be requested from the board during the one-year period. Extension of time may not be requested when demolition of non-permitted structure(s) is required. The request for an extension shall be acted upon by the board at the regular meeting, but no notice and hearing shall be required. If a board authorization expires, a new application accompanied by a new fee is required, except that no fee shall be required for a variance application that is related to a proposed SmartCode development.

SECTION 4 . Except as herein amended Title 2, Administration and Personnel, Chapter 2.16, Zoning Board of Adjustment, of the El Paso City Code shall remain in full force and effect.

PASSED and APPROVED this _____ day of _____, 2011.

THE CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST

_____
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

_____
Lupe Cuellar
Assistant City Attorney

APPROVED AS TO CONTENT:

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Mathew McElroy, Deputy Director
Planning and Economic Development
Department – Planning