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

DEPARTMENT: City Development Department, Planning Division

AGENDA DATE: **Introduction:** October 16, 2012
Public Hearing: November 6, 2012

CONTACT PERSON/PHONE: Elizabeth Gibson, (915) 541-4730, GibsonEK@elpasotexas.gov

DISTRICT(S) AFFECTED: All Districts

SUBJECT:
An ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions, 20.10 (Supplemental Use Regulations), and Appendix A (Table of Permissible Uses) of the El Paso City Code to add a definition for "conservation covenant", "stormwater open space" and "utility green space", and to add standards for the use of utility green space. The penalty is as provided for in Chapter 20.24 of the El Paso City Code. (**All Districts**)

BACKGROUND / DISCUSSION:
The proposed amendment more closely defines the protections and purposes of conserved lands, providing definitions and environmental standards for the following terms: "conservation covenant", "stormwater open space" and "utility green space".

PRIOR COUNCIL ACTION:
N/A

AMOUNT AND SOURCE OF FUNDING:
N/A

BOARD / COMMISSION ACTION:
City Plan Commission (CPC) – Pending Review (Hearing Scheduled October 18, 2012)
Open Space Advisory Board – Approval Recommended (September 26, 2012)

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Mathew S. McElroy
Director, City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (GENERAL PROVISIONS AND DEFINITIONS), 20.10 (SUPPLEMENTAL USE REGULATIONS), AND APPENDIX A (TABLE OF PERMISSIBLE USES) OF THE EL PASO CITY CODE, TO ADD A DEFINITION FOR CONSERVATION COVENANT, STORMWATER OPEN SPACE AND UTILITY GREEN SPACE, AND TO ADD STANDARDS FOR THE USE OF UTILITY GREEN SPACE. THE PENALTY IS AS PROVIDED FOR IN CHAPTER 20.24 OF THE EL PASO CITY CODE.

WHEREAS, Title 20 (Zoning) of the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, the El Paso Water Utilities – Public Service Board (EPWU-PSB) is authorized to find that certain parcels of land which were purchased for the purpose of improving and extending the El Paso waterworks plant and system and sewer system are inexpedient and may be offered for sale; and

WHEREAS, the EPWU-PSB has deemed that master planning of real estate as a condition to it being removed from its care, custody and control to be in the best interest of all the citizens of the City to insure that City goals and objectives for sustainability and smart growth are achieved; and

WHEREAS, as part of the master planning process, certain areas are to be set aside as conserved lands that are publicly owned and maintained in perpetuity; and

WHEREAS, these conserved lands will remain mostly undeveloped areas except for necessary water, waste water and stormwater utility systems to serve developing areas in the City; and

WHEREAS, other passive recreational uses may also be allowed in the conserved lands to add to the City's existing open space and recreational system; and

WHEREAS, the City Plan Commission has recommended that new open space designations of "Stormwater Open Space" and "Utility Green Space" be included in the El Paso City Code that more closely defines the protections and purposes of these conserved lands than otherwise allowed in current provisions of the Code; and

WHEREAS, the City Council has determined that the regulation of conserved lands are designed to protect ecologically sensitive lands and to prohibit those activities that would adversely affect the environmental characteristics of the lands; and

WHEREAS, the regulations established by this Ordinance are part of a comprehensive regulatory scheme designed to protect the culture, heritage, ecology and aesthetics of the City;

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

SECTION 1. That Title 20 (Zoning), Chapter 20.02 (Definitions), of the El Paso City Code to add the following definitions:

20.02 Definitions

20.02.254 "Conservation covenant" means a voluntary declaration by a property owner of a covenant that is filed of record in the El Paso County Real Property Records on property and is intended to preserve permanently the conservation values of an area.

20.02.1031 "Stormwater open space" means a natural open area to be used to help manage storm water, reduce flooding risk and improve water quality as its primary purposes, while still permitting passive recreational use of the open space as secondary purposes to the area. Water, waste water, and stormwater utility systems within areas designated for stormwater open space shall be designed with environmentally sensitive infrastructure and constructed with a low impact development (LID) approach to the extent permitted in the City's subdivision regulations. Any area designated as stormwater open space shall require the approval of the Floodplain Administrator, shall conform to the Master Stormwater Management Plan and Open Space Master Plan of the City, and shall be shown within the boundaries of any required land study, subdivision plat, detailed site development plan, master zoning plan, SmartCode regulating plan, or any other platting or zoning document as may be required by the City.

20.02.1128 "Utility green space" means an area of protected or conserved land, larger than ten acres, where development is limited or controlled to preserve large areas of undisturbed open space as its primary purpose, while still permitting passive recreational uses and necessary water, wastewater and stormwater utility systems as secondary purposes to the area. Utility green space shall be shown within the boundaries of any required land study, subdivision plat, detailed site development plan, master zoning plan, SmartCode regulating plan, or any other platting or zoning document as may be required by the City.

SECTION 2. That Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), of the El Paso City Code be amended to add the following section:

20.10.557 Utility green space.

A. The purpose of these regulations is to protect and conserve lands designated as utility green space while still allowing certain necessary water, wastewater and stormwater utility systems as secondary purposes to the area. Utility green space serves to:

1. Add to the existing open space system and enhance the ecological, hydrological, and recreational vitality of the existing Franklin Mountains State Park and foothill areas;

2. Promote planning and growth that emphasizes sustainability in our built and natural environments;

3. Promote careful management to reduce environmental impacts to the water, waste water and stormwater systems in the community;

4. Protect healthy ecosystems through environmental management and measurement by:

a. Reducing impervious cover that contributes to degradation of water resources;
b. Reducing rainfall pollutant loads to streams and other water resources;
c. Reducing potential pressure to encroach on utility resource buffer areas;
d. Reducing soil erosion potential by reducing the amount of clearing and grading required;
e. Promoting erosion and sediment control;
f. Reducing capital cost of utility infrastructure;
g. Reducing cost of stormwater management by concentrating runoff and reducing volumes;
h. Promote a high quality, sustainable utility system that conserves and protects land, watershed, wastewater, reclaimed water and water resources;
i. Optimize best practices in planning, engineering and management that will protect the environment; and
j. Protect the ecological and geological health and function of green space.

B. Where utility green space is designated, a conservation covenant may be required to provide further protections to the area. Any conveyance of the utility green space to the Texas Parks & Wildlife Department shall incorporate the requirements of this section as a condition of donation and acceptance of the land.

C. In addition to allowing use of the land for water, waste water, and stormwater utility systems, other passive recreational uses and activities customarily found in conserved natural areas are also permitted (such as trail corridors and trailheads, scenic outlooks, and pedestrian walking and jogging paths). Notwithstanding the allowable uses and activities described in this section, the mandating restriction of uses and activities permitted on land within a utility green space designated property shall be as set forth in the conservation covenant, where applicable. The conservation covenant shall enumerate the use(s) permitted and prohibited, shall detail how use of the land shall be authorized pursuant to this section, and shall include a management plan for maintenance, monitoring and enforcement of these use provisions. In no case shall a use not satisfying the general intent of these regulations be permitted as a provision of the conservation covenant.

D. Any property designated as utility green space shall be subject to the development standards of the El Paso City Code as part of construction, reconstruction, or alteration of any permitted use, and any additional development standards as may be enumerated in the conservation covenant.

E. For purposes of this section, water, waste water, and stormwater utility systems shall mean the systems of the City as they may be constructed or now exist and may be improved, added to, or extended hereafter, there being included in such term all water, sewer and stormwater facilities now or hereafter owned or operated by the El Paso Water Utilities – Public Service Board, and including all real and personal property comprising any part of or used or

useful in the operation of the water, waste water, and stormwater facilities of the City. Specific facilities shall include, but not be limited to, any facility or structure that stores, pumps, conveys, treats, or disposes of potable water, reclaimed water, wastewater, and/or stormwater and the associated residuals with the appropriate resource buffer zone. In addition, other public utility facilities which serve to distribute and transmit electrical power, gas and other essential service necessary to the water, waste water, and stormwater utility systems are also authorized.

F. Utility green space designated within a development shall not be considered a park under any circumstances, nor shall acceptance of a dedication and maintenance by the City be required.

SECTION 3. That Title 20 (Zoning), Table A, Table of Permissible Uses, of the El Paso City Code be amended to allow utility green space, stormwater open space and conservation easements in all zoning districts.

SECTION 4. Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

PASSED AND ADOPTED this ____ day of _____ 2012.

CITY OF EL PASO

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

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Karla M. Nieman
Assistant City Attorney

APPROVED AS TO CONTENT:

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Mathew S. McElroy, Director
City Development Department

ORDINANCE NO _____