

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

DEPARTMENT: City Development Department

AGENDA DATE: Introduction: October 29, 2013
Public Hearing: November 19, 2013

CONTACT PERSON/PHONE: Carlos Gallinar, (915) 541-4662

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An Ordinance amending Title 20 (Zoning), Chapter 20.04 (Administrative Provisions); Article VII Public Hearings Section 20.04.520 (Notice) of the El Paso City Code to require that notice of proposed changes in zoning classification be provided to property owners and to multifamily dwellings and that notice be posted on the site of the proposed zoning change. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

BACKGROUND / DISCUSSION:

On July 23, 2013, the City Council directed staff to review the notification provisions of Title 20 (Zoning) and bring back recommendations to provide for additional forms of notification. During the City Council meeting, staff received direction to consider multiple alternatives to improve public notification methods to include social media, electronic notifications, door hangers, improved standards for on-site signage, and increased notification standards for public utility facilities and use. The City Plan Commission has reviewed this ordinance and proposed additional recommendations that have already been included in this draft.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

City Plan Commission voted unanimously to approve the recommended changes on August 22, 2013.

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: _____

Mathew McElroy, Director, City Development Department

APPROVED FOR AGENDA: _____

CITY MANAGER: _____ **DATE:** _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.04 (ADMINISTRATIVE PROVISIONS); ARTICLE VII (PUBLIC HEARINGS); SECTION 20.04.520 (NOTICE) OF THE EL PASO CITY CODE TO REQUIRE THAT NOTICE OF PROPOSED CHANGES IN ZONING CLASSIFICATION BE PROVIDED TO PROPERTY OWNERS AND TO MULTIFAMILY DWELLINGS AND THAT NOTICE BE POSTED ON THE SITE OF THE PROPOSED ZONING CHANGE. 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, and general welfare of the community;

WHEREAS, the Texas Local Government Code Chapter 211, requires written notice of each public hearing before the zoning commission on a proposed change in a zoning classification be sent to each owner, as indicated by the most recently approved municipal tax roll, of real property within 200 feet of the property on which the change in classification is proposed;

WHEREAS, the Texas Local Government Code Chapter 211, also requires written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located;

WHEREAS, Chapter 20.04.520 of the El Paso City Code requires that all property owners within 300 feet of the property on which a change in zoning classification is proposed receive written notice of the public hearing;

WHEREAS, the El Paso City Council desires to notify property owners and multifamily dwellings located within 300 feet of a property on which a change in zoning classification is proposed;

WHEREAS, the El Paso City Council finds that the El Paso community as a whole is affected by the location, installation, and construction of infrastructure necessary for the distribution and transmission to and from a Public Utility Facility;

WHEREAS, the El Paso City Council desires that all property owners who own property within 1,000 feet of a property on which a zoning classification for a Public Utility Facility is proposed receive notice of a public hearing and that multifamily dwellings within 1,000 of the proposed zoning classification also receive notice of the public hearing;

WHEREAS, the City Plan Commission has recommended approval of the amendments;
and

WHEREAS, the El Paso City Council finds that the amendments proposed herein will further protect and provide for the public health, safety, and general welfare of the community,

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

SECTION 1. That Title 20, Zoning, Chapter 20.04 Administrative Provisions, Article VII Public Hearings, Section 20.04.520 Notice of the El Paso City Code shall be amended in its entirety to read as follows:

20.04.520 Notice.

Where a public hearing is required by State law, notice shall be given in the manner specified below:

A. Content of Notice. Required mailed notices and notices by publication shall include the date, time, and place of the hearing, a description of the subject matter of the hearing and the body holding the hearing. The mailed notices shall be in the form of a standard letter or a postcard and shall include the information in both English and Spanish. The postcard shall be a minimum size of 5.5 inches by 8.5 inches. Required on-site posting of notice shall be as specified in subsection (B)(2)(d) of this section.

B. Provision of Notice. Notice will be given in the following manner and as per Chapter 2.102 of this Code, as applicable:

1. In all cases, by mail to the applicant, or owner of the property that is subject of the application, if different;
2. On applications for special permits, amendments to zoning conditions and amendments to the district map, additional notice shall be given as follows:
 - a. Notice of hearing before the City Plan Commission shall be given to all owners of real property by mail, as indicated by the most recently approved municipal tax roll within three hundred (300) feet of the lot line of the subject property.
 - i. In addition to notice given to the owners of the real property within three hundred (300) feet of the lot line of the subject property, if a multifamily dwelling is located on any parcel of real property within the three hundred (300)

feet of the lot line of the subject property, notice shall be provided to each dwelling unit of the multifamily dwelling.

- ii. Notice to the dwelling units in a multifamily dwelling must be provided by any of the following identified methods which are listed in order of preferred method of notice: (1) written notice to the property manager of the multifamily dwelling, (2) posting of the notice in a common area of the multifamily dwelling, (3) mailed notice sent to each dwelling unit in the multifamily dwelling, (4) an email sent to the dwelling units in a multifamily dwelling by the property manager or the real property owner, or (5) with the permission from the property manager or the real property owner, door hangers placed at each dwelling unit in the multifamily dwelling.
 - iii. In the event notice to dwelling units in a multifamily dwelling cannot be given by any of the above-mentioned methods, the City staff will provide a memorandum explaining the notification attempts to the City Plan Commission and the City Council. Any otherwise properly enacted zoning classification shall not be invalidated because notice by any of the above-mentioned methods could not be provided to dwelling units in a multifamily dwelling.
- b. When applications for special permits, amendments to zoning conditions, and amendments to the district map involve a Public Utility Facility, notice of hearing before the City Plan Commission shall be given by mail to all owners of real property, as indicated by the most recently approved municipal tax roll within one thousand (1,000) feet of the lot line of the subject property.
- i. In addition to notice given to the owner of the real property within one thousand (1,000) feet of the lot line of the subject property, if a multifamily dwelling unit is located on any parcel of real property within the one thousand (1,000) feet of the lot line of the subject property, notice shall be provided to each dwelling unit in the multifamily dwelling.

- ii. Notice to the dwelling units in a multifamily dwelling must be provided by any of the following identified methods which are listed in order of preferred method of notice: (1) written notice to the property manager of the multifamily dwelling, (2) posting of the notice in a common area of the multifamily dwelling, (3) mailed notice sent to each dwelling unit in the multifamily dwelling, (4) an email notice sent to the dwelling units in a multifamily dwelling by the property manager or the real property owner, or (5) with the permission from the property manager or the real property owner, door hangers placed at each dwelling unit in the multifamily dwelling.
 - iii. The applicant for a special permit, an amendment to zoning conditions, or an amendment to the district map involving a Public Utility Facility is responsible for providing the required notice and for all costs of providing the required notice. The applicant shall provide written documentation to the City that the required notices have been provided unless the applicant has requested that the City provide the notices of the hearing and reimburses the City for all its expenses upon receipt of a City invoice.
 - iv. In the event notice to the dwelling units in a multifamily dwelling cannot be provided by any of the above-mentioned methods, the City staff shall provide a memorandum explaining the notification attempts to the City Plan Commission and the City Council. Any otherwise properly enacted zoning classification shall not be invalidated because notice by any of the above-mentioned methods could not be provided to dwelling units in a multifamily dwelling.
- c. Notice of hearing before the City Council shall be given as follows:
- i. On first reading--by publication in a newspaper of general circulation in the city not less than fifteen days prior to the day of the public hearing and posted in accordance with

provisions of Chapter 551 of the Texas Government Code (the Texas Open Meetings Act).

- ii. The published notice shall contain:
 - 1. the name of the property owner(s) requesting the special permits, amendments to zoning conditions, or amendments to the district map;
 - 2. the legal description of the property or the physical address assigned to the property; if no address has been assigned, the notice shall contain the name and block number of the street(s), if any, abutting the property for which the special permit, amendment to zoning conditions, or amendment to the district map has been requested, and
 - 3. an electronic link on the City's website containing the City Council agendas at which the application will be introduced and the identified public hearing date at which the application will be considered.

d. On-site posting of notice by an applicant is required for parcels of one acre or more in size. The on-site posting of notice shall comply with the following:

- i. Location. The notice should be placed on the proposed site so that it is clearly visible and legible from each right-of-way abutting the property.
 - 1. The sign(s) shall be placed perpendicular to the street frontage and be double sided.
 - 2. One sign per right-of-way shall be required. However, if a property identified in an application is separated by a right-of-way, on-site postings shall be required on each side of the property divided by the right-of-way.
 - 3. Required signage shall be made of durable material. Signage shall be properly anchored to the ground with at least two posts, a building, a fence, or a wall. The top of the text portion of such signage shall be a minimum of five feet above ground.

- ii. Duration of Posting. On-site posting shall be continuous until final City Council action on the application. Posting shall commence at least fifteen (15) days prior to the date of the first public hearing at the City Plan Commission. The applicant shall provide a digital or printed photograph to the City showing that all required signage has been properly placed on the property. Failure to provide such photograph proving compliance with signage requirements shall result in postponement of the application until such time as a photograph is received. Any sign required by this provision shall be removed no later than ten (10) days after final action on the application. Posting is continuous so long as lost, stolen, or vandalized signage is replaced within five (5) days following the mailing of a letter to the applicant by the City notifying the applicant that the sign has been lost, stolen, or vandalized.

- iii. Size and Content. A sign area with a minimum width of eight feet and a minimum height of four feet shall be required. The sign shall provide a caption stating the location of Proposed Rezoning (or other type of application); an explanation of the requested rezoning (or other type of application), i.e. change to zoning map from one district to another; the dates of the scheduled public hearings, and a telephone number at which additional information can be obtained. The caption shall also be provided in Spanish. The caption shall be a minimum of four inch bolded block in black lettering and appear on a light green background.

- iv. Zoning Validity. Any otherwise properly enacted zoning classification shall not be invalidated by failure to comply with these on-site posting requirements.

3. On applications for amendments to the text of this chapter, notice of hearing before the City Plan Commission shall be posted in accordance with provisions of Chapter 551 of the Texas Government Code (the Texas Open Meetings Act).

4. Notice of hearing before the City Council shall be as follows:

On first reading—by publication in a newspaper of general circulation in the City not less than fifteen days prior to the day of the public hearing and posted in accordance with provisions of Chapter 551 of the Texas Government Code (the Texas Open Meetings Act);

5. On appeals or applications to the Zoning Board of Adjustment, notice of time, place and purpose of hearing before the board shall be given by letter or postcard not less than ten (10) days prior to the date of hearing to the owners of real property, as indicated by the most recently approved municipal tax roll within two hundred (200) feet of the area to be considered.

SECTION 3 Except as herein amended, Title 20, Zoning, of the El Paso City Code shall remain in full force and effect.

Signatures on next page

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO:

Oscar Lesser
Mayor

ATTEST:

Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
Assistant City Attorney

Mathew S. McElroy, Director
City Development Department



September 20, 2013

The Honorable Oscar Leeser
Mayor of El Paso
300 N. Campbell
El Paso, TX 79901

Re: Proposed Changes to Title 20 (Zoning)

Dear Mayor Leeser:

The Greater El Paso Chamber of Commerce wishes to express its concern related to the proposed changes to Title 20 regarding forms of notification to property owners within the vicinity of a property on which a change in zoning is proposed.

While we do support judicious review of the zoning ordinance in order to make the notification process more efficient and successful, we believe that any changes should be carefully considered and vetted by the development community in order to avoid placing greater, and in some instances, unreasonable and unnecessary hurdles on the development process.

Specifically, we believe that requiring notice to all residents of multi-family dwellings in addition to notifying property owners will cause an undue burden on the business and development community. A reasonable solution to this issue is to require notification to property managers via written notice, therefore, continuing to make it incumbent upon the property manager to notify residents of their property.

With this in mind, we urge you to please consider the repercussions of the proposed changes on the business and development community. We believe that a full vetting process should be undertaken before making any changes to the public notification process, and we ask that you consider commissioning a sub-committee to work on this issue in a more comprehensive and thoughtful and less reactive manner.

The Chamber's Infrastructure and Development Committee greatly appreciates the opportunity to work closely with the City of El Paso on critical development issues and looks forward to a continued partnership on this and future issues. We would like to thank City Council and City

staff for considering the interests and input of the El Paso business community in pursuing the most effective implementation of Title 20.

Sincerely,



Richard Dayoub
President and CEO



Walter Miller
Chair, Infrastructure and Development Committee

cc:

Representative Ann Morgan Lily
Representative Emma Acosta
Representative Michiel Noe
Representative Lilia Limon
City Manager Joyce Wilson
Mr. Matthew McElroy

Representative Larry Romero
Representative Carl Robinson
Representative Eddie Holguin
Representative Cortney Niland