

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (GENERAL PROVISIONS AND DEFINITIONS); CHAPTER 20.06 (ZONING DISTRICTS AND MAPS), SECTION 20.06.010 (DISTRICTS ESTABLISHED AND ENUMERATED) AND 20.06.020 (PURPOSE OF DISTRICTS) AND CHAPTER 20.10(SUPPLEMENTAL USE REGULATIONS), 20.16. (SCREENING AND FENCING) AND APPENDIX A (TABLE OF PERMISSIBLE USES) AND APPENDIX B (TABLE OF DENSITY AND DIMENSIONAL STANDARDS) OF THE EL PASO CITY CODE, TO ADD A DEFINITION FOR NATURAL OPEN SPACE, ESTABLISH A NATURAL OPEN SPACE DISTRICT; ESTABLISH STANDARDS FOR SUPPLEMENTAL USES IN OPEN SPACE DISTRICTS; TO ESTABLISH PERMISSIBLE USE AND DENSITY AND DIMENSIONAL STANDARDS IN OPEN SPACE DISTRICTS. 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 Green Infrastructure Plan for the City of El Paso, Texas recommends that a Natural Open Space zoning district be implemented for the City of El Paso; and

WHEREAS, the Open Space Advisory Board and City Plan Commission recommend that the City Council establish a Natural Open Space zoning district; and

WHEREAS, the City Council has determined that the regulations of the Natural Open Space zoning district are designed to protect ecologically sensitive lands and to prohibit those activities that would adversely affect the environmental characteristics of the district; and,

WHEREAS, City Council has determined that the regulation of Natural Open Space zoning district is necessary to promote the health, safety, morals and general welfare of the community; 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(General Provisions and Definitions), of the El Paso City Code is amended to add the following definitions:

20.02.651. "Natural Open Space" means any area that has not been developed or that currently has no significant structures on it. Natural Open Space may be under public or private ownership but shall not include land that has been dedicated as a park or areas containing structures other than the structures identified in Section 20.10.385 C(1) of the El Paso City Code. Natural Open Space may only allow passive recreation which shall mean and include activities such as hiking, photography, or nature studies and if specifically designated, bicycling, climbing,

and horseback riding. Passive recreation does not include motorized activity except for maintenance, emergency services, or legal access agreements. Natural Open Space may include properties designated in the Green Infrastructure Plan for El Paso and additions to the plan when approved by City Council and shall have some combination of natural scenic beauty, natural resources that are deemed worthy of preservation, or have a cultural or historic significance to the area or region.

20.02.1151. “Wildlife Sanctuary” means as an area of land, water, and the air space above which is managed to protect wildlife species, their habitat, and the ecosystem(s) these wildlife species depend upon. For the purpose of this ordinance, the term “Wildlife Sanctuary” is synonymous with “Wildlife Refuge”, “Wildlife Preserve”, and “Nature Preserve”. This designation shall only apply to property that is zoned Natural Open Space.

SECTION 2. That Title 20 (Zoning), Chapter 20.06(Zoning Districts and Maps), Section 20.06.010 (Districts Established and Enumerated), Subsection D (Special Purpose Districts) of the El Paso City Code is amended to add the following District as follows:

20.06.010 D. Districts Established and Enumerated

“NOS” Natural Open Space District

SECTION 3. That Title 20 (Zoning), Chapter 20.06(Zoning Districts and Maps), Section 20.06.020 (Purpose of Districts), Subsection D (Special Purpose Districts) of the El Paso City Code is amended to add the following:

20.06.020 D. Special Purpose Districts

13. “NOS” Natural Open Space District.

A. The purpose of this district is to preserve and protect natural features of the mountain, hillside, arroyo, and desert flatland areas within the City and to promote conservation and restoration of these areas within and adjacent to urban and suburban development whether upon application of a private owner or for public land.

B. The regulations of this district are designed to protect ecologically sensitive lands and to prohibit those activities that would adversely affect the environmental characteristics of the district. This district is also intended to preserve land that, if disturbed, may be susceptible to flooding and soil erosion due to steep slopes and runoff. Property located within this district shall remain undeveloped, except as allowed under the provisions of this section. Developed recreational areas, such as playground equipment, picnic facilities, and other types of recreational structures not specifically identified in this section are prohibited within the natural open space zoning district.

C. This District shall apply to land where the property owner initiates a rezoning to NOS or land owned by the city, where the city initiates a rezoning to NOS.

SECTION 4. That Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations) of the El Paso City Code is amended as follows:

1. Section 20.10.060 (Alcoholic Beverages), subparagraph A4 is amended to add the following:

j. NOS natural open space district.

2. Section 20.10.220 (Farming) is amended as follows:

20.10.220 Farming

Notwithstanding any other provisions of this title, in all zoning districts except for the PMD (Planned Mountain Development) or the NOS (Natural Open Space), a property may be used wholly or partially for farming and harvesting of field, tree and bush crops as an interim use in any zoning district until a change in use or development occurs on the property. The change in use or development of the property shall be for a use legally permissible within the base-zoning district or as permitted by special permit approved by City Council.

3. Section 20.10.240 (Freight and passenger terminals), Paragraph B (Screening) and Paragraph C (Perimeter Treatment) is amended as follows:

20.16.240 Freight and passenger terminals

B. Screening. A screening wall complying with Chapter 20.16 shall be provided along the property lines abutting an existing residential use or an existing R, A, PR, SRR, PMD or NOS zoning district, and adjacent to any right-of-way or easement which separates the property from a residential use or an R, A, PR, SRR, PMD or NOS zoning district, except for necessary ingress and egress and where otherwise prohibited by this code

C. Perimeter Treatment. A minimum perimeter setback shall be provided along the property lines abutting an existing residential use or an existing R, A, PR, SRR, PMD or NOS zoning district, and adjacent to any right-of-way or easement which separates the property from a residential use or an R, A, PR, SRR, PMD or NOS zoning district, to minimize potential negative impacts created by any activity within the site as follows:

Use	Setback (in feet)
Passenger station	100
Transportation terminal type A or B	100
Railyard, auxiliary rail facilities	100
Railroad repair shop	100
Diesel maintenance facility	100
Intermodal facility	100

Airport	1500
Heliport	500
Airpad	150
Helistop	150
Motor-carrier terminal	050
Other uses	050

4. Section 20.10.250 (General warehousing), Paragraph A (Screening) and Paragraph B (Perimeter Treatment) is amended as follows:

20.10.250 General warehousing.

A. Screening. A screening wall complying with Chapter 20.16 (Screening and Fencing) shall be provided along the property lines abutting an existing residential use or an existing R, A, PR, SRR, PMD or NOS zoning district, and adjacent to any right-of-way or easement which separates the property from a residential use or an R, A, PR, SRR, PMD or NOS zoning district, except for necessary ingress and egress where otherwise prohibited by this code.

B. Perimeter Treatment. A minimum perimeter setback of fifty feet shall be provided along the property lines abutting an existing residential use or an existing R, A, PR, SRR, PMD or NOS zoning district, and adjacent to any right-of-way or easement which separates the property from a residential use or an R, A, PR, SRR, PMD or NOS zoning district, to minimize potential negative impacts created by activity within the site.

5. Section 20.10.385 (Natural Open Space) be added as follows:

20.10.385 Natural Open Space.

A. Purpose. The purpose of these regulations is to promote the following city objectives within mountain, hillside, arroyo, bosque, and desert flatland areas:

1. To protect and promote ecologically sensitive areas in conformance with the goals and policies of the comprehensive plan and open space plan;
2. To minimize scarring and disturbance of the natural environment, plant and animal habitat and visual character of the mountain, hillside, arroyo, bosque, and desert flatland areas through prohibition of development;
3. To control water runoff and soil erosion;
4. To preserve land that, if disturbed, may be susceptible to flooding and soil erosion due to steep slopes and runoff;
5. To provide a safe means of ingress and egress for non-motorized traffic to and within the mountain, hillside, arroyo, bosque, and desert flatland areas;
6. To create a separate holding district that may be used as a buffer from military land and uses.

B. Ownership. The area comprising any natural open space district may be made public if dedicated or transferred to the city and the City Council accepts such dedication or transfer.

C. Property Development Standards. The following land uses and property development standards shall apply to land zoned as NOS.

1. Permitted Uses. Hike and bike trails, equestrian trail nodes, picnic benches and shelters, scenic lookouts, viewing shelters, shade structures, ground maintenance structures, and restrooms are permitted uses in this district, subject to minimal disturbance of the natural open space.

2. Screening Walls. No screening wall or fence shall be placed to impede normal flow of water or restrict visibility.

3. Parking. Off-street parking requirements of Chapter 20.14 shall not apply to properties in this district. Parking shall be provided in accordance with the approved detailed site development plan

4. Site Plan. A detailed site development plan complying with all of the requirements of Chapter 20.04 (Administrative Review Procedures) shall be required for all property within a natural open space district.

5. Signs. Community service signs may be approved by the Deputy Director of Development Services - Planning, in conformance with 20.18.490 after review by the Parks and Recreation Director and Open Space Advisory Board. The total number of signs on the property may exceed two per street frontage and four per premise upon approval of the Deputy Director of Development Services - Planning and upon review by the Parks and Recreation Director and Open Space Advisory Board.

6. Wildlife Sanctuary. The City Council may designate a property as a Wildlife Sanctuary as part of the approval of a NOS rezoning application.

7. Perimeter Treatments. A minimum perimeter setback of 25 feet shall be provided along the property lines for any use abutting an existing NOS zoning district to minimize potential negative impacts created by activity within the site.

D. Incentives.

1. Applications under this section shall be processed with priority on a fast-track basis, defined as follows:

a. Processing for detailed site development plan review: approximately thirty days;

b. Processing for a natural open space rezoning application or any other application that requires city council approval: approximately sixty days (minimum) for final approval.

2. The city shall waive application fees for rezoning, detailed site development plans, or amendments to a detailed site development plan.

6. Section 20.10.455 (Personal wireless service facilities) is amended to add the following paragraph:

Section 20.10.455 Personal wireless service facilities

H. PWSF located in the NOS zoning district is prohibited.

7. Section 20.10.490 (Processing facilities), Paragraph A (Light processing facilities), subparagraph 2b and subparagraph 11 be amended as follows:

Section 20.10.490 Processing facilities

2b. Located at least one hundred fifty feet from the property lines of an existing residential use or existing R, A, PR, SRR, RMU, PMD or NOS zoning district;

11. Any containers provided for after-hours donation of recyclable materials will be at least fifty feet from any property line of an existing residential use or existing R, A, PR, SRR, RMU, PMD or NOS zoning district, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials;

8. Section 20.10.490 (Processing facilities), Paragraph B (Heavy/Light Processing Facilities), subparagraph 1 be amended as follows:

Section 20.10.490 Processing facilities

1. Facility does not abut a bridge or overpass and shall be located at least one hundred fifty feet from the property lines of an existing residential use or existing R, A, PR, SRR, PMD or NOS zoning district;

9. Section 20.10.520 (Recycling collection facilities), Paragraph A (Small Collection Facilities), subparagraph 9 and 10 be amended as follows:

Section 20.10.520 Recycling collection facilities

9. Attended facilities located within fifty feet of a property line of an existing residential use or existing R, A, PR, SRR, RMU, PMD or NOS zoning district shall operate only during the hours between nine a.m. and seven p.m.;

10. Containers for the twenty-four-hour donation of materials shall be at least thirty feet from any property line abutting an existing residential use or an existing R, A, PR, SRR, RMU, PMD or NOS zoning district;

10. Section 20.10.520 (Recycling collection facilities), Paragraph B (Large Collection Facilities), subparagraph 1, 2, 9 and 10 be amended as follows:

Section 20.10.520 Recycling collection facilities

1. Facility does not abut a bridge or overpass or the property lines of an existing residential use or an existing R, A, PR, SRR, RMU, PMD or NOS zoning district;

2. Facility will be screened from the public right-of-way by operating in an enclosed building or:
a. Within an area enclosed by a screening fence having a minimum height of six feet,

- b. At least one hundred fifty feet from the property line of existing residential use or existing R, A, PR, SRR, RMU or PMD zoning district, and
- c. Meets all applicable noise standards required by city code;

9. If the proposed facility is located within five hundred feet of existing residential use or existing R, A, PR, SRR, RMU, PMD or NOS zoning district, it shall not be in operation between seven p.m. and seven a.m.;

10. Any containers provided for after-hours donation or recyclable materials will be at least fifty feet from any property line of an existing residential use or existing R, A, PR, SRR, RMU, PMD or NOS zoning district, shall be of sturdy, rustproof construction, shall have sufficient capacity to accommodate materials collected, and shall be secure from unauthorized entry or removal of materials;

11. Section 20.10.560 (Restaurants, drive-in) be amended as follows:

20.10.560 Restaurants, drive-in.

Drive-in restaurants are not permitted in a C-1 or mixed use zoning district within two hundred feet of a residential use or an R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, PR-I, PR-II, PMD or NOS zoning district.

SECTION 5. That Section 20.16(Screening and Fencing), Subsection 20.16.020 (Mandatory Walls) of the El Paso City Code be amended as follows:

20.16.020 Mandatory walls.

A. Where both properties are vacant, a six-foot high masonry wall (measurement of height is from the high ground) shall be erected by the owner of whichever property first builds upon it:

- 1. Between all R (including Ranch-Farm and NOS) and A districts;
- 2. Between all R (including Ranch-Farm and NOS) and C districts;
- 3. Between all R (including Ranch-Farm and NOS) and manufacturing or industrial districts;
- 4. Between all A and C districts;
- 5. Between all A and manufacturing or industrial districts by the owner of whichever property that first builds upon it or uses it for outside storage;
- 6. Between all R (including Ranch-Farm and NOS) or A districts and all special purpose districts as part of the approved site plan for the special purpose district;
- 7. In R districts (including Ranch-Farm and NOS), between residential uses and those nonresidential uses permitted in R districts by the owner of the property having the nonresidential use when he builds upon it;
- 8. Within mixed-use districts, between residential uses and nonresidential uses or pursuant to the approved master zoning plan.

B. In existing developments, a six-foot high masonry wall (measurement of height is from the high ground) shall be erected:

1. Between all R (including Ranch-Farm and NOS) and A districts by the owner of the A property when he builds upon it;
2. Between all R (including Ranch-Farm and NOS) and C districts by the owner of the C property when he builds upon it;
3. Between all R (including Ranch-Farm) and manufacturing or industrial districts by the owner of the M or I property when he builds upon it;
4. Between all A and C districts by the owner of the C property when he builds upon it;
5. Between all A and manufacturing or industrial districts by the owner of whichever property first builds upon it or uses it for outside storage;
6. Between all R (including Ranch-Farm and NOS) or A districts and all special purpose districts as part of the approved site plan for the special purpose district;
7. In R districts (including Ranch-Farm and NOS), between residential uses and those nonresidential uses permitted in R districts by the owner of the property having the nonresidential use;
8. Within mixed-use districts, between residential uses and nonresidential uses by the owner of the property having the nonresidential use or pursuant to the approved master zoning plan.

G. Where both properties are vacant or in existing developments, a six-foot high masonry wall (measurement of height is from the high ground) shall be erected between all NOS zoning districts with a designation of a Wildlife Sanctuary and any other zoning districts. The six-foot masonry shall be built by the owner of the property of the non-NOS zoning district when he/she builds upon it;

H. Exception. Upon receipt of a written application from the property owner, the zoning administrator may approve a revised location for a mandatory wall within the same property to achieve an equal or improved use of the screen; or may waive the requirement when topographic conditions negate the visual screening effect of the wall; or where the property is adjacent to nonresidential uses or common recreational areas, such as golf courses, parks or other areas designated as open area under the provisions of this title. Any requests to amend the requirement for a mandatory wall on the property line of a natural open space zoning district shall be reviewed by the Parks and Recreation Director and Open Space Advisory Board prior to approval by the zoning administrator, except that a mandatory wall along the property line of a natural open space zoning district and nonresidential uses cannot be waived. No masonry wall shall be required where a street is the boundary line between the districts except that this does not apply to properties used for outside storage. A fee for processing requests to amend the requirement for a mandatory wall shall be adopted by resolution of city council.

SECTION 6. That Appendix A (Table of Permissible Uses) of the El Paso City Code be amended as follows:

Appendix A, Table of Permissible Uses

Add NOS to Table of Permissible Uses:

“P” Open space (common, public, or private)

“S” Minor Utility Facility

SECTION 7. That Appendix B (Table of Density and Dimensional Standards) of the El Paso City Code be amended as follows:

Appendix B, Table of Density and Dimensional Standards

Add NOS to Table of Density and Dimensional Standards:

Minimum District Area: 1 acre; extensions to the original district from a common boundary may be considered in increments of 1 acre or less.

Permitted Use (as established in Chapter 20.08): See permitted uses in Section 20.10.385

Minimum Lot Area (square feet): 43,560

Minimum Average Lot Width (in feet): N/A

Minimum Lot Depth (in feet): N/A

Other Standards: See Development Standards in Section 20.10.385

Minimum Front Yard (in feet): 10

Minimum Rear Yard (in feet): 10

Minimum Cumulative Front & Rear Yard Total Front: N/A

Minimum Side Yard (in feet): 10

Minimum Side Street Yard (in feet): 10

Minimum Cumulative Side & Side Street Yard Total: N/A

Other Standards: See development standards in Section 20.10.385

Maximum Height Limitation (in feet): 35

SECTION 8. Except as herein amended Title 20 (Zoning) of the El Paso City Code shall remain in full force and effect.

PASSED and APPROVED this _____ day of _____, 2010.

THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Lupe Cuellar
Assistant City Attorney

Mathew McElroy, Deputy Director
Development Services Department

MEMORANDUM

DATE: March 8, 2010

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

SUBJECT: Proposed Natural Open Space Zoning District

The City Plan Commission (CPC), on February 11, 2010, voted **3 - 2** to recommend **APPROVAL** of this ordinance with modifications. The CPC recommended the following changes to the ordinance:

1. Delete the following provision:

For properties with the following uses abutting an NOS zoning district with a designation of a Wildlife Sanctuary, a minimum perimeter setback shall be provided along the property lines abutting an existing NOS zoning district to minimize potential negative impacts created by any activity within the site as follows:

Use	Setback (in feet)
Automobile wrecking yard; contractor yard (large); motor vehicle wrecking yard; salvage yard; transfer station; quarry; resource recovery plant; sanitary landfill; major utility facility	100
School; university, college	50
Fabricated metal product manufacturing; machine manufacturing; non metallic mineral product manufacturing; paper product manufacturing; primary metal manufacturing; processing facility; recycling collection facility (large); textile mill; textile product mill; wood product manufacturing; borrow pit	50
Amusement game complex; amusement park; athletic facility (outdoor); coliseum; convention center; fairground; golf driving range; racetrack, auto or truck; racetrack, motorcycle; shooting range, archery or gun (outdoor); skateboarding facility (outdoor); sports arena; stadium; hotel	50

2. Delete the following provision:

Landscape Treatments. A minimum landscape buffer of 10 feet shall be provided along the property lines of any commercial, manufacturing, or industrial uses abutting an existing NOS zoning district with a designation of a Wildlife Sanctuary in order to minimize potential negative impacts created by activity within the site. The landscape buffer shall include high profile native trees with a minimum of 2" caliper placed at every 15 feet on center. The tree species shall be selected by Deputy Director of Development Services - Planning based upon consultation with the Parks and Recreation Director, Open Space Advisory Board and the Wildlife Sanctuary's managing entity. The landscape buffer shall be in addition to the landscape requirements of Title 18 and be installed prior to the issuance of any certificates of occupancy.

3. Amend the following provision:

G. Where both properties are vacant or in existing developments, a ten-foot high masonry wall (measurement of height is from the high ground) shall be erected between all NOS zoning districts with a designation of a Wildlife Sanctuary and any other zoning districts. The ten-foot masonry shall be built by the owner of the property of the non-NOS zoning district when he/she builds upon it;

The City Plan Commission recommended that the provisions for a ten-foot high masonry wall be amended to a six-foot high masonry wall.

There was **NO OPPOSITION** to this request.

Attachment: Proposed Ordinance