

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

DEPARTMENT: Planning & Inspections Department, Planning Division

AGENDA DATE: Introduction: May 31, 2016
Public Hearing: June 28, 2016

CONTACT PERSON/PHONE: Larry F. Nichols, (915) 212-1550, nicholslf@elpasotexas.gov
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DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An Ordinance amending Title 20 (Zoning), Chapter 20.02 (Definitions) to revise the definition of the Natural Open Space Zoning District and to add additional definitions; Chapter 20.06 (Zoning Districts and Map) to revise the purpose of the Natural Open Space Zoning District; Chapter 20.08 (Permissible Uses) to revise the Table of Permissible Uses for the Natural Open Space Zoning District; Chapter 20.10 (Supplemental Use Regulations) to clarify and add supplemental use regulations; Chapter 20.16 (Screening and Fencing) to modify screening and fencing standards; Chapter 20.18 (Sign Regulations) to add signage standards for Natural Open Space Districts of the El Paso City Code. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

BACKGROUND / DISCUSSION:

This amendment to Title 20 (Zoning) was initially recommended by the Open Space Advisory Board in its capacity to act as an advisory board and provide recommendations to the City Council in efforts to preserve and acquire open space.

PRIOR COUNCIL ACTION:

On April 6, 2010, City Council amended Title 20 (Zoning) to adopt the Natural Open Space District and set standards for that district through Ordinance No. 017306.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

Open Space Advisory Board (OSAB) – unanimous approval
City Plan Commission (CPC) – unanimous approval

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD: Larry F. Nichols
Director, Planning & Inspections Department

APPROVED FOR AGENDA:

CITY MANAGER: _____

DATE: _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 20 (ZONING), CHAPTER 20.02 (DEFINITIONS) TO REVISE THE DEFINITION OF THE NATURAL OPEN SPACE ZONING DISTRICT AND TO ADD ADDITIONAL DEFINITIONS; CHAPTER 20.06 (ZONING DISTRICTS AND MAP) TO REVISE THE PURPOSE OF THE NATURAL OPEN SPACE ZONING DISTRICT; CHAPTER 20.08 (PERMISSIBLE USES) TO REVISE THE TABLE OF PERMISSIBLE USES FOR THE NATURAL OPEN SPACE ZONING DISTRICT; CHAPTER 20.10 (SUPPLEMENTAL USE REGULATIONS) TO CLARIFY AND ADD SUPPLEMENTAL USE REGULATIONS; CHAPTER 20.16 (SCREENING AND FENCING) TO MODIFY SCREENING AND FENCING STANDARDS; CHAPTER 20.18 (SIGN REGULATIONS) TO ADD SIGNAGE STANDARDS FOR NATURAL OPEN SPACE DISTRICTS OF THE EL PASO CITY CODE. 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 City's open space master plan, *Towards a Bright Future: A Green Infrastructure Plan for El Paso* recommends that a Natural Open Space zoning district be implemented for the City of El Paso; and

WHEREAS, on April 6, 2010, by Ordinance No. 17306, the Natural Open Space zoning district was established to protect ecologically sensitive lands and to prohibit those activities that would adversely affect the environmental characteristics of the district; and

WHEREAS, the City Council has determined that the regulation of the 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 natural resources, habitat, features and scenic and aesthetic values 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), Section 20.02.651 (Natural Open Space) of the El Paso City Code be amended as follows:

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§20.02.651 Natural open space.

"Natural open space" (NOS) means a zoning district that includes areas consisting of primarily natural and undisturbed landscape set aside for the purpose of preservation or conservation of natural resources, habitats, wildlife and/or features or scenic/aesthetic values. This zoning district is appropriate for areas consisting of, but not limited to, natural vegetation, arroyos, mountains and other geologic landforms, historic/cultural sites, water bodies/wetlands/riparian areas, wildlife habitats, hillside slopes, desert flatlands, ridgelines, scenic buffer areas, and trails. In addition to the preservation and conservation of land, the NOS zoning district is intended, but not required to allow for passive recreational uses, including such activities as mountain and recreational biking, hiking, jogging, walking, horseback riding, nature study or observation, and photography, as well as other activities that do not adversely affect the environmental characteristics of the district. Activities shall not include motorized activity except for maintenance, emergency services or legal access agreements or as allowed on streets, parking lots, or railroad right-of-way.

SECTION 2. That Title 20 (Zoning), Chapter 20.02 (Definitions) of the El Paso City Code be amended to add the following definitions:

§20.02.032.5 Active recreation.

“Active recreation” means recreational activities that are primarily designed with structured improvements and that require modification of natural landforms and can include the provision of service facilities, playing fields, or equipment. Examples of structured improvements may include playground equipment, sports fields, surfaced courts, swimming pools, skate parks, multipurpose centers and open play areas. Ancillary to these highly structured uses, active recreational facilities may include areas for informal recreational uses such as open playing fields and passive recreational activities such as sightseeing, hiking and picnicking.

§20.02.171 Campground.

“Campground” means any area, place, parcel or tract of land on which three or more campsites are occupied or intended for occupancy, or facilities are established or maintained for the accommodation of camping units for one or more overnight periods, as granted gratuitously or by permission.

§20.02.171.5 Camping unit.

“Camping Unit” means tents, tent trailers, travel trailers, camping trailers, pick-up campers, motor homes, or any other device or vehicular-type structure intended for use as temporary living quarters or shelter during periods of recreation, vacation, leisure time, or travel.

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§20.02.171.7 Campsite.

“Campsite” means any plot of ground within a campground used or intended for occupation by a camping unit or units under the control of the camper.

§20.02.691 Passive recreation.

“Passive recreation” means recreational activities requiring minimal development or facilities and providing areas for informal, self-directed activities that place minimal stress on a site’s resources and are highly compatible with natural resource protection. Such activities include, but are not limited to, backpacking, hiking, wildlife viewing, observing and photographing nature, picnicking, walking, bird watching, mountain and recreational bicycling, running/jogging, horseback riding and climbing. Passive recreational activities do not require highly structured facilities like sports fields or pavilions, but may include minor facilities ancillary to passive recreational activities including, but not limited to interpretive signage and kiosks for educational purposes, picnic areas, parking areas, restrooms and shade structures with preference given to natural sources of protection such as trees.

SECTION 3. That Title 20 (Zoning), Chapter 20.06 (Zoning Districts and Map), Section 20.06.020 (Purpose of Districts), Subsection D (Special Purpose Districts) of the El Paso City Code be amended as follows:

§20.06.020 Purpose of Districts.

13. "NOS" Natural Open Space District.

- A. The purpose of this district is to preserve and protect natural resources and features including, but not limited to the mountain, hillside, arroyo, bosque and desert flatland areas within the City and to promote the conservation and restoration of these areas within and adjacent to urban and suburban development.
- 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, while still permitting passive recreational use of the land. 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.
- C. Property located within this district shall remain undeveloped, except as allowed in accordance with this Title.

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SECTION 4. That Title 20 (Zoning), Chapter 20.08 (Permissible Uses), Section 20.08.010 (Uses Permitted by District) Table of Permissible Uses (Appendix A) of the El Paso City Code be amended as follows:

Revise the following uses as **Use Not Allowed (X)** within the **Natural Open Space (NOS)** District column:

Accessory dwelling unit
Barn
Dude Ranch
Garage or lot, parking (community)
Livestock grazing
Pasturage (small or large animals)
Raising (field, tree, bush crops)
Raising (small or large animals)
Ranch (>5 acres)

Revise the following uses as **Permitted Use (P)** within the **Natural Open Space (NOS)** District column:

Water and Wastewater

Revise the following uses as **Accessory Use (A)** within the **Natural Open Space (NOS)** District column:

On-premise advertising
On-site parking
Storage of supplies, equipment, goods
Streets and R.O.W. (public/private)

Revise the following uses as **Special Permit Use (S)** within the **Natural Open Space (NOS)** District column:

Campground
Specialty Shop
Transfer of Development Rights

Revise the “**Supplemental Standards**” column to include **§20.10.385** for the uses identified below:

Campground

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Specialty Shop

Storage of supplies, equipment, goods

Stormwater retention pond (public/private)

SECTION 5. That Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.385 (Natural Open Space) of the El Paso City Code be amended as follows:

§20.10.385 Natural open space.

A. Purpose. The purpose of these regulations is to promote the following City objectives within the mountain, hillside, arroyo, bosque, and desert flatland areas, as well as other natural open space areas:

1. To protect and promote ecologically sensitive areas in conformance with the goals and policies of the City’s comprehensive plan and open space master plan,;
2. To minimize scarring and disturbance of the natural environment, plant and wildlife 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 and to assure continuation of the existing natural drainage system;
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 district that may be used as a buffer from military land and other land uses;
7. To assure the permanent use of such areas for their primary natural function, as well as for enjoyment by the general public.

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

1. Before land owned by the City and managed and controlled by the Public Service Board is rezoned to NOS, the City and the Public Service Board shall enter into a Joint Use Agreement specifying the duties and responsibilities for the maintenance of the open space and the management of the passive recreational uses permitted within the area rezoned to NOS.
2. Refer to Section 20.08 for uses permitted within the NOS zoning district. The uses specified below shall have additional restrictions:
 - a. Stormwater retention ponds are permitted but shall be restricted to public facilities only and shall be built in compliance with best practices in low impact design. Additionally, the following standards shall apply:
 - i. Grading shall not result in excessive erosion or degrade natural drainage paths or create irreparable scarring and shall be limited to the minimum possible

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- disturbance of terrain and natural land features that are necessary to construct the drainage infrastructure.
- ii. Upon completion of the drainage infrastructure, the area surrounding the infrastructure shall be revegetated through the replanting of appropriate native, non-invasive, adaptive and drought tolerant vegetation.
- iii. Road access, work areas and grading for such access shall be constructed in compliance with best practices in low impact design.
- b. Campgrounds shall be restricted as follows:
 - i. Permitted camping units shall be restricted to tents only;
 - ii. Access to campsites shall be limited to walking, hiking or other non-motorized means, except that such campgrounds may contain service roads for maintenance of campground facilities.
- 3. Walls. Refer to Chapter 20.16 (Screening and Fencing) for applicable standards pertaining to walls and fencing.
- 4. Parking. Off-street parking surfaces shall be constructed of pervious surfaces that may include dirt or gravel. Parking shall be provided in accordance with the approved generalized or detailed site development plan.
- 5. Site Plan. At a minimum, approval of a generalized site plan shall be required for all proposed uses permitted in an NOS district; refer to Section 20.08 for additional site plan requirements by use. In addition to compliance with applicable requirements of this Title, the site plan shall include the following:
 - a. General features or concept of the proposed use;
 - b. Location of all impervious surfaces, structures, utilities and associated parking, as well as all areas that will be disturbed by the construction of a permitted use;
 - c. All areas that shall remain in their natural state.
 - d. For applications requiring the submittal of a detailed site development plan, only areas being improved shall require illustration of stormwater drainage elements.
- 6. Signs.
 - a. On-premise signs shall be permitted; these signs shall comply with all regulations and permitting procedures as codified in Section 20.18 (Signs).
 - b. Wayfinding signs including, but not limited to, trailhead kiosks, interpretive signs and trail markers may be permitted after review and approval by the City Manager or designee.
- 7. Wildlife sanctuary. For purposes of this section, wildlife sanctuaries shall include areas designated as such by local, state or federal documentation. If governmental documentation cannot be produced with an environmentally sensitive designation that meets the following criteria, then the City Manager or designee may evaluate the property and determine if it meets one or more of the following characteristics. If the City Manager or designee services determine it is not an environmentally sensitive area as defined herein a special permit application may not be processed.
 - a. Areas with significant natural features;

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- b. Areas which enhance the open space and aesthetic qualities of the land;
 - c. Areas that protect agricultural resources;
 - d. Areas necessary for the preservation of natural resources;
 - e. Areas containing habitats for breeding, wintering, migratory, threatened, or endangered species;
 - f. Wetlands and wetland transition areas;
 - g. Aquifer recharge and discharge areas;
 - h. Archaeological sites;
 - i. Waters of the state, which includes arroyos; or
 - j. Other areas or features that have been designated for protection due to ecological integrity, balance or character.
8. Landscape treatments.
- a. Permitted uses within this district shall not be required to conform to the landscaping requirements of Title 18 (Building and Construction) of the El Paso City Code. Landscaping, streetscape, and other green areas proposed within the development shall be shown and considered as part of the site plan approval process.
 - b. Impervious surfaces, structures, utilities and associated parking constructed as shown on the approved generalized site plan or other site plan, as required by Section 20.08, shall be exempt from re-vegetation requirements.

C. Incentives.

- 1. Applications under this section shall be expedited as follows:
 - a. Processing for NOS development plans not requiring City Council approval: thirty days;
 - b. Processing for an NOS rezoning application, detailed site development plan or 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, and any major or minor amendment applications.

SECTION 6. That Title 20 (Zoning), Chapter 20.10 (Supplemental Use Regulations), Section 20.10.730 (Utility Facilities), Subsections A and B of the El Paso City Code be amended as follows:

§20.10.730 Utility Facilities.

Utility facilities shall comply with the following:

- A. Minor Utility Facilities. Minor utility facilities shall be exempt from all requirements of this title and shall be a permitted use in any zoning district of the city, except the Natural Open Space zoning district, where such facilities shall be permitted by Special Permit in accordance with Section 20.08.

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B. Communication Utility Facilities and Water and Wastewater Utility Facilities. Communication utility facilities and water and wastewater utility facilities shall be permitted uses in any zoning district of the city and shall be exempt from all requirements of this title, except as follows:

1. Facilities with less than or equal to three hundred square feet of floor area:
 - a. No off-premises advertising shall be permitted;
 - b. A minimum setback of ten feet from any property line abutting a public or private street right-of-way shall be provided;
2. Facilities with a floor area greater than three hundred square feet:
 - a. No off-premises advertising shall be permitted;
 - b. The communication utility facility or water and wastewater utility facility shall be required to meet all requirements of the base zoning district.
3. Communication utility facilities are not permitted in the Natural Open Space zoning district.

SECTION 7. That Title 20 (Zoning), Chapter 20.16 (Screening and Fencing), Section 20.16.020 (Mandatory Walls), Subsections D and G be amended as follows:

§20.16.020 Mandatory walls.

D. Walls and fences as required in subsections A, B, C and G of this section shall be installed before the issuance of certificates of occupancy and compliance for any building constructed on the property or before any use is made of such property.

Where both properties are vacant or in existing developments, an eight-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.

SECTION 8. That Title 20 (Zoning), Chapter 20.18 (Sign Regulations), Section 20.18.410 (R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH and PMD Districts) be amended to change the title of this sections as follows:

§20.18.410 R-F, R-1, R-2, R-2A, R-3, R-3A, R-4, R-5, RMH, PMD, and NOS districts.

SECTION 9. Except as herein amended, Title 20 (Zoning) of the El Paso City Code shall remain in full force and effect.

ADOPTED this _____ day of _____, 2016.

THE CITY OF EL PASO

ORDINANCE NO. _____

Oscar Leeser, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Karla M. Nieman
Assistant City Attorney

Larry F. Nichols, Director
Planning & Inspections Department

ORDINANCE NO. _____

MEMORANDUM

DATE: May 18, 2016

TO: The Honorable Mayor and City Council
Tommy Gonzalez, City Manager

FROM: Alex Hoffman, Lead Planner

SUBJECT: An Ordinance amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions); Chapter 20.06 (Zoning Districts and Maps); Chapter 20.10 (Supplemental Use Regulations); and Appendix A (Table of Permissible Uses) of the El Paso City Code, to amend the definition for Open Space and Natural Open Space, amend the Natural Open Space District; amend standards for Supplemental Uses in Natural Open Space; and to amend the Permissible Use Standards in Natural Open Space Districts. The penalty is as provided for in Chapter 20.24 of the El Paso City Code.

The City Plan Commission (CPC), on July 9, 2015, voted unanimously to recommend **approval** of amending Title 20 (Zoning), Chapter 20.02 (General Provisions and Definitions); Chapter 20.06 (Zoning Districts and Maps); Chapter 20.10 (Supplemental Use Regulations); and Appendix A (Table of Permissible Uses) of the El Paso City Code, to amend the definitions for Open Space and Natural Open Space, amend the Natural Open Space District; amend standards for Supplemental Uses in Natural Open Space; and to amend the Permissible Use Standards in Natural Open Space Districts.

The CPC found that the amendment is in conformance with Plan El Paso. The CPC also determined that the amendment protects the best interest, health, safety, and welfare of the public in general; that it is compatible with adjacent land uses; and the amendment will have no negative effects on the natural environment, social and economic conditions, or property values in the city as a whole.

ATTACHMENT: Presentation



Recommendation/Public Input

- **OSAB Vote:** Approval Recommendation (8-0)
- **CPC Vote:** Approval Recommendation (7-0)
- **Public Input:** Two members of the public spoke in support of the ordinance change.

Strategic Goal #3 Promote the Visual Image of El Paso

- 3.1 Provide business friendly permitting and inspection processes
- 3.2 Improve the visual impression of the community



Background History

- April 6, 2010, City Council adopted Ordinance No. 17306 establishing the Natural Open Space (NOS) Zoning District.
- January 25, 2011, City Council adopts revisions to the original provisions of the NOS.
- December 12, 2012, OSAB began the process of proposing the revisions contained within this amendment.
- April 1, 2015, OSAB recommended approval of the proposed ordinance.



Natural Open Space Amendment

- An ordinance amending the following sections of Title 20 (Zoning) as they relate to Natural Open Space (NOS):
 - 20.02 (Definitions)
 - 20.06 (Zoning Districts and Map)
 - 20.08 (Permissible Uses)
 - 20.10 (Supplemental Use Regulations)
 - 20.16 (Screening and Fencing)
 - 20.18 (Sign Regulations)



Chapter 20.02 (Definitions) Amending Definitions

- 20.02.651 Natural Open Space
- 20.02.032.5 Active Recreation
- 20.02.171 Campground
- 20.02.171.5 Camping Unit
- 20.02.171.7 Campsite
- 20.02.691 Passive Recreation



Chapter 20.06.020 Zoning Districts and Map, Purpose of Districts

D.13. Natural Open Space

A. The purpose of this district is to preserve and protect natural resources and features including, but not limited to the mountain, hillside, arroyo, bosque and desert flatland areas within the City and to promote the conservation and restoration of these areas within and adjacent to urban and suburban development.

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, while still permitting passive recreational use of the land. 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.

C. Property located within this district shall remain undeveloped, except as allowed in accordance with this Title.



20.08, Appendix A (Permissible Use Table)

Not Permitted	Permitted Use	Accessory Use	Special Permit
Accessory Dwelling	Water & Wastewater	On-premise advertising	Campground
Barn		On-site parking	Specialty Shop
Dude Ranch		Storage of supplies	TDR
Garage		Streets and R.O.W.	
Livestock Grazing			
Pasturage			
Raising (crops)			
Raising (animals)			
Ranch (>5 acres)			

*These uses are amendments and/or additions to other existing permitted uses.



20.08, Appendix A

(Permissible Use Table)

<p>PERMITTED BY RIGHT</p>	<ul style="list-style-type: none"> • Conservation covenant • Open space (<i>common, public or private</i>) • Stormwater open space • Utility green space • Water • Wastewater
<p>PERMITTED AS AN ACCESSORY USE</p>	<ul style="list-style-type: none"> • On premises advertising • Onsite parking • Storage of supplies • Streets and Rights-of-way • Temporary events on public rights-of-way
<p>SPECIAL PERMIT REQUIRED</p>	<ul style="list-style-type: none"> • Campground • Major utility facility • Minor utility facility • Specialty shop • Stormwater retention pond (<i>public/private</i>) • Transfer of Development Rights
<p>NO LONGER PERMITTED</p>	<ul style="list-style-type: none"> • Accessory Dwelling Unit • Barn • Dude Ranch • Garage • Livestock grazing • Pasturage • Raising (crops) • Raising (animals) • Ranch (>5 ac)

Proposed changes shown **IN BOLD**



Supplemental Use Regulations

- Sets standards for grading a property zoned NOS;
- Requires a site plan for all properties zoned NOS;
- Requires all parking surfaces on a property zoned NOS be pervious paving;
- Defines a wildlife sanctuary; and
- Enumerates incentives for rezoning to NOS; and,
- Establishes requirements for utility and wastewater utility facilities.



20.16 (Screening and Fencing)

- Removes screening wall requirement between residential zoning districts and NOS.
- Requires a 6-foot rockwall between all other districts and an NOS-zoned property.
- An 8-foot rockwall is required instances where the NOS-zoned property is designated as a wildlife sanctuary.



20.18 (Sign Regulations)

- Permits properties zoned NOS the same signage standards as the Residential and PMD zoning districts.