

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

**DEPARTMENT:**        **Development Services**

**AGENDA DATE:**     **June 9, 2009 Introduction**  
                             **July 7, 2009 Public Hearing**

**CONTACT PERSON/PHONE:**        **John Neal, (915) 541-4285**

**DISTRICT(S) AFFECTED:**        **All**

**SUBJECT:**

An Ordinance repealing Ordinance 8397 which established procedures for annexation and amending Title 20 (ZONING) Chapter 20.06 (Zoning Districts and Maps) of the El Paso City Code to establish annexation procedures.

**BACKGROUND / DISCUSSION:**

The annexation procedures have not been updated since Ordinance 8397 was adopted in 1985. There have been significant changes to the state statutes which govern a municipalities' authority to annex property into the municipalities' corporate limits. This will be a companion item to City Council consideration of a new annexation policy scheduled for the public hearing date of this item.

**PRIOR COUNCIL ACTION:**

See above.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Planning and Development LRC reviewed and recommends approval.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

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

**DEPARTMENT HEAD:** \_\_\_\_\_

**APPROVED FOR AGENDA:** \_\_\_\_\_

**CITY MANAGER:** Patricia D. Adauto, Deputy City Manager **DATE:** May 29, 2009 \_\_\_\_\_

**``AN ORDINANCE REPEALING ORDINANCE 8397 WHICH ESTABLISHED  
PROCEDURES FOR ANNEXATION AND AMENDING TITLE 20 (ZONING)  
CHAPTER 20.06 (ZONING DISTRICTS AND MAPS) OF THE EL PASO CITY  
CODE TO ESTABLISH ANNEXATION PROCEDURES**

**WHEREAS**, in 1985, the City Council adopted Ordinance 8397 to establish procedures for the annexation of property into the city's corporate limits; and,

**WHEREAS**, since the adoption of Ordinance 8397, there have been significant changes to the state statutes which govern a municipalities' authority to annex property into the municipalities' corporate limits; and,

**WHEREAS**, Chapter 43 of the Local Government Code governs the procedures which municipalities must follow in order to annex land into the municipalities' corporate limits; and,

**WHEREAS**, the City desires to establish annexation procedures and have such procedures codified in the City of El Paso City Code;

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

**Section 1.** That Title 20, Zoning, Chapter 20.06, Zoning Districts and Maps, of the El Paso City Code shall be amended to add the following Section 20.06.075, Annexation Procedures:

20.06.075 Annexation Procedures.

A. Annexation of Land contained in the City's Annexation Plan. Annexation of property contained in the City's Annexation Plan shall follow the procedures stated in Subchapter C, Annexation Procedure for Areas Annexed under Municipal Annexation Plan, of the Local Government Code.

B. Annexation of Land Excepted from Annexation Plan. Annexations that fall within one of the statutory exceptions which exclude the territory from the requirement of being included in the City' Annexation Plan shall follow the following procedures:

1. By petition of the Landowner
  - a. The owners of an area meeting the following criteria, may petition the city in writing to annex the area. The area must be:
    - (1) one-half mile or less in width; and,
    - (2) contiguous to the city; and,
    - (3) vacant and without residents or on which fewer than three qualified voters reside.

b. The petition must describe the area by metes and bounds and must be acknowledged in the manner required for deeds by each person having an interest in the area.

c. The petition must be filed with the Planning Development Services Department.

d. The Planning Development Services Department shall forward the petition to City Council. City Council shall hear the petition and the arguments for and against the annexation, after the 5th day but on or before the 30th day after the date the petition is filed, and shall either grant or refuse the petition.

e. If the petition is granted, City Council shall direct the Director of the Planning Development Services Department to initiate the annexation procedures required under Sub Chapter C-1, Annexation Procedure for Areas Exempted from Municipal Annexation Plan, of the Local Government Code and the annexation petition shall be processed in accordance with the provisions of subsection B3 below.

2. Other exceptions. Annexation of property meeting the following criteria shall follow the procedures in subsection B3.

a. the area contains fewer than 100 separate tracts of land on which one or more residential dwellings are located on each tract;

b. the area will be annexed by petition of more than 50 percent of the real property owners in the area proposed for annexation or by vote or petition of the qualified voters or real property owners as provided by Subchapter B;

c. the area is or was the subject of:

(1) an industrial district contract under Section 42.044 of the Local Government Code; or

(2) a strategic partnership agreement under Section 43.0751 of the Local Government Code; or

d. the area is located in a colonia, as that term is defined by Section 2306.58142.044 of the Government Code; or

e. the area is annexed under Section 42.023, 43.027, 42.029, or 43.031 of the Local Government Code; or

f. the area is located completely within the boundaries of a closed military installation; or

g. the municipality determines that the annexation of the area is necessary to protect the area proposed for annexation or the municipality from:

(1) imminent destruction of property or injury to persons; or

(2) a condition or use that constitutes a public or private nuisance as defined by background principles of nuisance and property law of this state.

3. Application. The owner(s) of a tract of land, or the owner's agent if authorized in writing, who desires that the tract be annexed into the corporate limits of the City, shall submit an annexation application, using the application form prescribed by the Planning Development Services Department to the Planning Development Services Department. However, if the proposed annexation is a result of an annexation petition granted by City

Council, no application shall be required, but the petitioners shall submit all other information and documentation required in this subsection.

b. The applicant shall also submit along with the application, the following:

- (1) Legal description of the property.
- (2) Metes and bounds description of the property, sealed by a registered public surveyor licensed in the State of Texas. The metes and bound
- (3) 15 copies of a general development plan drawn at a scale of at least 1"=50' showing
  - (a) the boundaries of the property
  - (b) location of existing structures.
  - (c) General arrangement of existing and proposed land uses, including any zoning proposed, and including but not limited to, parks, schools, public facilities and civic places sites; open space, trails, bikeways, major drainage ways and transit corridors.
  - (d) The proposed density expressed in units per acre and population by land use projected for the next 10 years.
  - (e) Proposed phasing of the development, if any.
  - (f) The proposed traffic circulation, layout, and width of all collector streets and arterial street classifications. The proposed street layout must comply with the adopted thoroughfare plan for the City of El Paso as to location and size of roadways, unless an amendment to such Plan will be proposed and stated in the application. If sidewalks, trails, bikeways or bike paths are proposed for collectors and arterial streets, they shall be so stated or shown.
  - (g) Layout and relationship of the proposed development to surrounding development, including the location, width, and names of all existing and platted streets, subdivisions, public ways, drainage channels, and other relevant features;
  - (h) Layout and relationship of the proposed development to surrounding land uses, including zoning and items in number one above.
  - (i) Dimensions and boundaries of the property.
  - (j) Existing major water and sanitary sewer facilities, public streets and other public improvements.
  - (k). Existing buildings and structures
  - (l) Other submittal requirements as specified in State law and municipal ordinances or regulations.
- (4) one copy of a location map at a scale of 1"=600'
- (5) a certification from a title company authorized to do business in the State of Texas that the applicant is the owner of the property.

(6) An application fee of \$609 or as otherwise subsequently determined by resolution of City Council. Annexations as a result of a petition shall also be required to file a processing fee in the same amount.

c. Within 5 days of receipt of the application, the Planning Development Services Department shall review the application and determine whether the application is complete. If the application is not complete, the application will be returned to the applicant with a statement of what information is missing.

4. Annexation Policy. Except for annexations meeting the criteria of B1 above, the completed application shall then be reviewed to determine whether the proposed annexation complies with the requirements of the City's Annexation Policy. If the proposed annexation complies with the Annexation Policy, then the application shall be processed in accordance with the provisions of Chapter 43 of the Local Government Code. If the proposed annexation does not comply the Annexation Policy, then the applicant shall be advised of the reasons why and the application process shall cease, unless the applicant appeals to the City Council. An appeal to City Council should be submitted to the Deputy Director for the Planning Development Services Department who shall place the appeal on the Council Agenda. City Council shall review the proposed annexation to determine whether it is in compliance with the policy, or if there are extraordinary circumstances which merit that the property be annexed. If City Council determines that the property should be annexed, then the Deputy Director for the Planning Development Services Department shall continue with processing the application.

5. Annexation Agreement. Each annexation shall include an annexation agreement which shall establish the terms and conditions in which the land shall be annexed into the City. Once the terms and conditions of the annexation agreement have been determined, the annexation agreement shall be forwarded to City Council for approval. If approved, the annexation agreement shall be attached to the ordinance annexing the area. Upon City Council approval of the annexation agreement, City Council shall direct the Deputy Director for the Planning Development Services Department to prepare an annexation service plan in accordance with Section 43.056 of the Local Government Code. The annexation service plan shall provide for the extension of full municipal services to the area to be annexed. The annexation agreement shall be attached to the ordinance annexing the area.

6. Public Hearings. All public hearings shall be conducted in accordance with the procedures of Section 43.063, Annexation Hearing Requirements, of the Local Government Code or any successor statute. The proposed annexation service plan prepared by the Director for the Planning Development Services Department must be made available for public inspection and explained to the inhabitants of the area at the public hearings. The plan may be amended through negotiation at the hearings, but the provision of any service may not be deleted. On completion of the public hearings, the annexation service plan shall be attached to the ordinance annexing the area and approved as part of the ordinance.

7. Institution of Annexation. Annexation proceedings shall be instituted by the City Council's introduction of the annexation ordinance. Annexation must be completed within ninety (90) days of the institution of annexation proceedings, except that any period during which the City is restrained or enjoined by a court from annexing the area is not included in computing the 90-day period.

8. Procedures after Annexation. If City Council approves the annexation ordinance, the City Attorney's office shall apply for preclearance under Section 5, Voting Rights Act of 1965, 42 USC Section 1973c, from the United States Department of Justice on the earliest date permitted under federal law. Within 30 days after receiving preclearance, the Director for the Planning Development Services Department shall prepare for the Mayor's signature a letter, including as attachments certified copies of documents showing the change in boundaries, which shall be sent to the County Clerk within 30 days of receiving preclearance. If the annexation was initiated by petition of the property owners in accordance with Section B1 above, a copy of the petition shall also be attached to the ordinance.

The City Clerk shall send certified copies of the annexation ordinance to the Texas Comptroller of Public Accounts, Sales Tax Division notifying the Comptroller of the change in city boundaries. The Director for the Planning Development Services Department shall send certified copies of the ordinance to Bureau of the Census, Secretary of State, Department of Transportation, Planning and Program Division, Texas Commission on Fire Protection, Department of Insurance, County Tax Assessor, County Commission, any impacted School District, and the Central Appraisal District.

#### **Section 4. Severability**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance be severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, and the remainder of this ordinance shall be enforced as written.

**Section 5.** Except as herein amended, Title 20, Zoning, Chapter 20.06, Zoning Districts and Maps 15, of the El Paso City Code shall remain in full force and effect.

**PASSED and APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

**THE CITY OF EL PASO**

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John Cook, Mayor

**ATTEST**

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Richarda Duffy Momsen  
City Clerk

**APPROVED AS TO FORM**

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John Batoon  
Assistant City Attorney

**APPROVED AS TO CONTENT**

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Patricia D. Adauto, Deputy City Manager  
Development & Infrastructure Services