

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



DEPARTMENT: Planning and Inspections and City Attorney's Office

AGENDA DATE: 6/24/25

PUBLIC HEARING DATE: 7/22/25

CONTACT PERSON NAME: Javier A. De La Cruz

PHONE NUMBER: 915-212-1589

2nd CONTACT PERSON NAME: Robert Aguinaga - CAO

PHONE NUMBER: 915-212-1117

DISTRICT(S) AFFECTED: All Districts

STRATEGIC GOAL:

Goal 5- Promote Transparent & Consistent Communication Amongst all Members of the Community

SUBGOAL:

5.1 Set a climate of respect, collaboration and team spirit among Council, city staff and the community

SUBJECT:

APPROVE ordinance related to the Sunsetting of the Construction Board of Appeals.

An Ordinance amending Title 2 (Administration and Personnel), Chapter 2.30 (Construction Board of Appeals); Section 2.30.020 (Appointment); Section 2.30.030 (Membership and Terms); Section 2.30.040 (Quorum and Voting); Section 2.30.050 (Secretary of the board); Section 2.30.060 (Powers); Section 2.30.070 (Appeals); and Section 2.30.080 (Procedures of the board) to dissolve the Construction Board of Appeals and reorganize into a new chapter 2.30 Titled Construction Appeals.

BACKGROUND / DISCUSSION:

On May 12, 2025- Motion made by Representative Canales, seconded by Representative Limón, and unanimously to ACCEPT Staff's recommendations AS REVISED to:
....
Sunset of the Construction Board of Appeals

COMMUNITY AND STAKEHOLDER OUTREACH:

None

PRIOR COUNCIL ACTION:

Motion made by Representative Canales, seconded by Representative Limón, and unanimously to ACCEPT Staff's recommendations AS REVISED to:
• Develop and adopt a uniform Ordinance to standardize boards and commissions by addressing
Membership requirements and composition
Board terms
Responsibilities of board members to include a Code of Conduct agreement, handbook
Clarification of operational and advisory roles
Standardize boards to be enacted by Resolution instead of Ordinance
Closed session guidelines
Mandatory annual training for all board liaisons and relevant City staff
Streamline directives, reports and communications from boards/commissions via City Manager's Office ... Sunset of the

AMOUNT AND SOURCE OF FUNDING:

None

REPORTING OF CONTRIBUTION OR DONATION TO CITY COUNCIL:

None

NAME	AMOUNT (\$)
N/A	\$ 0.00

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

DEPARTMENT HEAD: Kevin Smith
(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

AN ORDINANCE AMENDING TITLE 2 (ADMINISTRATION AND PERSONNEL), CHAPTER 2.30 (CONSTRUCTION BOARD OF APPEALS), SECTION 2.30.020 (APPOINTMENT) SECTION 2.30.030 (MEMBERSHIP AND TERMS) SECTION 2.30.040 (QUORUM AND VOTING), SECTION 2.30.050 (SECRETARY OF THE BOARD), SECTION 2.30.060 (POWERS), SECTION 2.30.070 (APPEALS), SECTION 2.30.080 (PROCEDURES OF THE BOARD) SECTION 2.30.090 (RESERVED) IN ORDER TO DISSOLVE THE CONSTRUCTION BOARD OF APPEALS AND REORGANIZE INTO A NEW CHAPTER 2.30 TITLED CONSTRUCTION APPEALS.

WHEREAS, by Ordinance No. 015962, the El Paso City Council created the Building Board of Appeals for the purpose of providing for reasonable due process of law through the appeal of orders, decisions or determinations made by city officials relative to the application and interpretations of the requirements in the codes specified in section 2.30.060A for specific projects, without further appeal to the city council; and

WHEREAS, by Ordinance No. 016492, the El Paso City Council renamed the Board as the Construction Board of Appeals; expanded the duties of the Board to include the ability to hear requests for variances and appeals involving staff interpretations of the El Paso City Code Chapters on grading stormwater management, outdoor lighting, landscaping, and flood damage prevention and named the members of the Building Board of Appeals as the members of the Construction Board of Appeals; and

WHEREAS, by Ordinance No. 016658, the El Paso City Council added additional powers to the Construction Board of Appeals; and

WHEREAS, the Construction Board of Appeals has not been required to meet to resolve an appeal on an order, decision or determination made by city officials in the last ten years; and

WHEREAS, appeals of orders, decisions or determinations made by city officials will be handled administratively by the El Paso City Manager or designee; and

WHEREAS, on May 12, 2025, the El Paso City Council voted to sunset the Construction Board of Appeals.

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

SECTION 1: That the title of Chapter 2.30, Construction Board of Appeals, of the El Paso City Code is amended and renamed as follows:

Chapter 2.30 – CONSTRUCTION APPEALS.

SECTION 2: That Section 2.30.020 – Appointment, is amended as follows:

2.30.020. Appointment of Appeals Officer.

The City Manager or designee shall be the designated Appeals Officer on all construction appeals.

SECTION 3: That Section 2.30.030 – Membership and Terms, is amended as follows:

2.30.030 – Reserved

SECTION 4: That Section 2.30.040 – Quorum and voting, is amended as follows:

2.30.040 – Reserved

SECTION 5: That Section 2.30.050 – Secretary of the board, is amended as follows:

2.30.050 – Reserved

SECTION 6: That Section 2.30.060 – Powers, is amended as follows:

2.30.060 – Powers

A. The Appeals Officer is authorized to hear appeals from decisions issued by:

1. The building official in connection with administrative or enforcement of Chapter 18.02 (Building and Construction Administrative Code), Chapter 18.08 (Building Code), Chapter 18.10 (Residential Code), Chapter 18.12 (Mechanical Code), Chapter 18.16 (Electrical Code), Chapter 18.18 (Outdoor Lighting Code), Chapter 18.20 (Plumbing Code), Chapter 18.24 (Gas Code), Chapter 18.28 (Existing Building Code), and Chapter 18.46 (Landscaping), Chapter 5.32 (Public Swimming Pool Licenses), Chapter 5.90 (Security Alarm Systems) and Chapter 5.108 (Servicing Cesspools, Grease Traps and Septic Tanks) or such chapters that may succeed these chapters.
2. The fire official in connection with administration of Chapter 9.52 (Fire Protection Code);
3. The stormwater administrator in connection with administration or enforcement of Chapter 15.20 (Stormwater Management);
4. The floodplain administrator in connection with the administration of Chapter 18.60 (Flood Damage Prevention).
5. The City Engineer regarding the issuance, denial, revocation or suspension of a permit issued under Chapter 18.44 (Grading), Chapter 13.08 (Excavation) or Section 13.04.010 (Sidewalk and Curb Permit).

B. An application for appeal shall be based on a claim that the intent of an identified code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of the code do not fully apply, or an equivalent method of protection or safety is proposed. The Appeals Officer is authorized to impose reasonable conditions or safeguards as necessary to ensure that the purpose and intent of this Code are satisfied. The Appeals Officer consideration of an appeal pursuant to this section shall not be construed as a waiver of any other requirement of the code. The power of the Appeals Officer to interpret, determine applicability and equivalent measures under the code shall not be interpreted to allow the Appeals Officer to modify any fees required to be paid in accordance with the code.

C. The Appeals Officer may:

1. Make recommendations to the building official, the floodplain administrator, the stormwater administrator, and the fire official with respect to changes in the codes listed in Section 2.30.060 A.1. through 4.;
2. Make recommendations to the building official, the floodplain administrator, the stormwater administrator, and the fire official regarding the appropriateness of materials, methods, or equipment for use in the city; and
3. Recommend standards for safety of life and property, and workmanship for grading, stormwater management, flood prevention, fire prevention and residential and commercial construction in the city.

SECTION 7: That Section 2.30.070 – Appeals, is amended as follows:

2.30.070 – Appeals

A. The owner of a property, building, structure or service system, or duly authorized agent of such, may appeal a decision concerning any matter for which the Appeals Officer is authorized to hear appeals under Section 2.30.060, whenever any one of the following circumstances exists:

1. When the city official rejects or refuses to approve the design or method of construction proposed to be used in the construction or alteration of a building, structure or service system;
2. When the city official rejects the material proposed to be used in the construction or alteration of a building, structure or service system;
3. When the city official refuses to extend a permit when the applicable provision of the code allows an extension of the permit;
4. When the city official refuses to issue a permit or suspends a permit or revokes a permit;
or
5. When the city official refuses to issue a license, suspends a license, or revokes a license.

B. Appeal procedures:

1. The appeal shall be filed in writing with the city clerk within thirty consecutive days from the date the appellant receives written notice from the city of the decision being appealed. If the thirty consecutive days ends on a legal holiday or a weekend, then the last time to file the appeal with the city clerk shall be 5:00 p.m. on the next city working day.
2. The appeal shall be signed by the owner of the property that is the subject of the decision being appealed, the applicant for a permit application that was denied or the permittee of a permit that has been suspended, revoked or that was not extended;
3. The established filing fee shall accompany the appeal.
4. The appeal shall specify the action by the city that is being appealed, attach a copy of the decision by the city that is being appealed and specify the reasons why the decision should be reversed.

C. In considering an appeal of a decision of a city official, the Appeals Officer shall have the same authority to decide the issue as the official making the decision being appealed.

D. The Appeals Officer is authorized to hear and grant appeals to utilize structures for a limited period of time that do not comply with the provision of an identified technical code. The procedures for appealing for such temporary exceptions are as follows:

1. An application for appeal shall be signed by the owner of the subject property;
2. Applications shall be accompanied by sufficient documentation confirming the validity of the proposed temporary structures, property lines, setbacks and off-street parking;
3. Application shall be accompanied by a plot plan drawn to scale indicating the location of proposed temporary structures, property lines, setbacks and off-street parking; and
4. Application shall be accompanied by drawings or other documentation describing the construction of the proposed temporary facility.

E. In considering an appeal, other than from Chapter 18.60 (Flood Damage Prevention), the Appeals Officer shall consider the following where appropriate:

1. The sufficiency of technical, architectural, engineering or fire prevention methods presented by the appellant offered in support of the request to interpret, determine applicability and equivalent measures under the applicable code;
2. That special conditions and circumstances exist which are unique to the site, building, structure or service system and are not applicable to others;
3. That the special conditions and circumstances do not result from the action or inaction of the applicant;
4. That granting the appeal requested does not confer on the applicant any special privilege that has been previously denied by the board Appeals Officer to other similarly situated sites, building structures or service systems;
5. That the appeal will make possible the reasonable use of the site, building, structure or service system; and
6. That granting an appeal will be in harmony with the general intent and purpose of the identified code and will not be detrimental to the public health, safety and welfare.

F. In granting an appeal, the Appeals Officer may prescribe a reasonable time limit within which the action for which the appeal is required shall be commenced or completed or both. In addition, the Appeals Officer may prescribe reasonable conditions and safeguards in conformity with the intent of the code.

G. In reviewing an appeal under Chapter 18.60 (Flood Damage Prevention), the Appeals Officer shall follow the procedures as identified in Chapter 18.60.180.

SECTION 8: That Section 2.30.080 – Procedures of the board, is amended as follows:

2.30.080 – Procedures

A. The appeal shall be heard within fifteen calendar days after the date the completed application for appeal is received.

B. The Appeals Officer shall reach a decision without unreasonable or unnecessary delay. A copy of the decision shall be delivered by certified mail or personal delivery to the applicant. The decision of the Appeals Officer shall be final and shall not be appealed to the city council but may be appealed to a court of competent jurisdiction.

ADOPTED this _____ day of _____, 2025.

THE CITY OF EL PASO

Renard U. Johnson, Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Sarah L. Hartnett

Sarah L. Hartnett
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe

Philip F. Etiwe, Director
Planning & Inspections Department