

**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

RECEIVED

By City Clerks at 11:28 am, Jun 26, 2025

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 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code); Chapter 18.08 (Building Code); Chapter 18.18 (Outdoor Lighting Code); Chapter 18.44 (Grading); Chapter 18.46 (Landscape); and Chapter 18.60 (Flood Damage Prevention) of the El Paso City Code to perform the following: amend Section 18.02.105.27 (Appeals to the Construction Board Of Appeals) to replace Construction Board of Appeals with appeals officer; amend Section 18.02.107.15.5 (Third Party Service Provider Audit Process) to replace Construction Board of Appeals with appeals officer; amend Section 18.02.111.13 (Appeals to the Construction Board of Appeals) to replace Construction Board of Appeals with appeals officer; amend Section 18.08.080 Section 501.2.4 (Appeals) to replace Construction Board of Appeals with appeals officer; amend Section 18.08.140 Section 1101.4 (Variances) to replace Construction Board of Appeals with appeals officer; amend Section 18.18.380 (Appeals) to replace Construction Board of Appeals with appeals officer; amend Section 18.44.120 (Appeals) to replace Construction Board of Appeals with appeals officer amend Section 18.46.310 (Appeals), Paragraph A to replace Construction Board Of Appeals with appeals officer; and amend Section 18.60.180 (Development Permit Procedures) Section C Paragraphs 1, 2, 3 and 7 to replace Construction Board of Appeals with appeals officer.

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)

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.02 (BUILDING AND CONSTRUCTION ADMINISTRATIVE CODE); CHAPTER 18.08 (BUILDING CODE); CHAPTER 18.18 (OUTDOOR LIGHTING CODE); CHAPTER 18.44 (GRADING); CHAPTER 18.46 (LANDSCAPE); AND CHAPTER 18.60 (FLOOD DAMAGE PREVENTION) OF THE EL PASO CITY CODE TO PERFORM THE FOLLOWING: AMEND SECTION 18.02.105.27 (APPEALS TO THE CONSTRUCTION BOARD OF APPEALS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.02.107.15.5 (THIRD PARTY SERVICE PROVIDER AUDIT PROCESS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.02.111.13 (APPEALS TO THE CONSTRUCTION BOARD OF APPEALS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.08.080 SECTION 501.2.4 (APPEALS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.08.140 SECTION 1101.4 (VARIANCES) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.18.380 (APPEALS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AMEND SECTION 18.44.120 (APPEALS) TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER AMEND SECTION 18.46.310 (APPEALS), PARAGRAPH A TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER; AND AMEND SECTION 18.60.180 (DEVELOPMENT PERMIT PROCEDURES) SECTION C PARAGRAPHS 1, 2, 3 AND 7 TO REPLACE CONSTRUCTION BOARD OF APPEALS WITH APPEALS OFFICER.

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 Const4ruction 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 Section 18.02.105.27 – Appeals to construction board of appeals, of the El Paso City Code be amended and renamed as follows:

Section 18.02.105.27 – Appeals.

SECTION 2: That Section 18.02.111.13 – Appeals to the construction board of appeals, is amended as follows:

18.02.111.13 – Appeals.

In any case where a decision of the building official, regarding adequacy or quality of public or private improvements, prevents the issuance of a permit or certificate of occupancy, the permit applicant may appeal the decision to the Appeals Officer in accordance with the requirements and procedures of Chapter 2.30 of the City Code.

SECTION 3: That Section 18.08.080 Section 501.2.5 – Appeals is amended as follows:

The owner of a property may appeal the determination of the location or color for building numbering by the Fire Code Official to the Appeals Officer in accordance with Chapter 2.30 of the City Code.

SECTION 4: That Section 18.08.140 Section 1101.4 – Variances is amended as follows

Variances. Any exemptions from or modifications of the requirements of the TAS obtained for any project through a variance granted by the Texas Department of Licensing and Regulation (TDLR) shall be deemed a variance under this chapter and approval by the Appeals Officer as described in City Code Chapter 2.30 shall not be required. The building official may issue a conditional building permit, pending final determination from TDLR, provided the applicant submits proof that a variance application for the requested exemption or modification has been submitted to TDLR.

SECTION 5: That Section 18.18.380 – Appeals, is amended as follows:

Any person aggrieved by any decision of the director made in administration or enforcement of this Code has the right of appeal to the Appeals Officer.

SECTION 6: That Section 18.44.120 – Appeals, is amended as follows:

Any permittee aggrieved by the decision of the permit official concerning the issuance, denial, revocation or suspension of a permit may appeal such decision to the Appeals Officer.

SECTION 7: That Section 18.46.310 – Appeals, is amended as follows:

18.46.310 - Appeals.

A. When the Director does not approve a landscape or irrigation plan, or the installation of these improvements, the owner or duly authorized representative may appeal in writing that decision to the Appeals Officer in accordance with the requirements and procedures of Chapter 2.30 of the City Code. Where topography or the unique characteristics of a particular lot are such that the landscape requirements cannot be met, the director of the city development department or designee may waive up fifteen percent of the parking requirement below the minimum so that the minimum landscape requirement can be met or alternatively the missing landscape percentage can be waived up to fifteen percent of the total square footage required. In cases where the property owner disagrees with the determination of the director of the city development department or other designee of the city manager, the decision may be appealed to the Appeals Officer in accordance with the requirements and procedures of Chapter 2.30 of the City Code.

SECTION 8: That Section 18.60.180 Section C – Variance Procedures is amended as follows

- 1.The Appeals Officer shall hear and render judgment on requests for variances from the requirements of this chapter.
- 2.The Appeals Officer shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- 3.Any person or persons aggrieved by the decision of the Appeals Officer may appeal such decision in the courts of competent jurisdiction.
- 4.The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- 5.Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this chapter.
- 6.Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection B of this section have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

7. Upon consideration of the factors noted above and the intent of this chapter, the Appeals Officer may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

SECTION 9. Except as herein amended, Title 18 of the El Paso City Code shall remain in full force and effect.

ADOPTED this _____ day of _____, 2025.

CITY OF EL PASO

Renard U. Johnson, Mayor

ATTEST:

Laura D. Prine, City Clerk

APPROVED AS TO FORM:

Robert Aguinaga Jr

Robert Aguinaga
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe

Philip F. Etiwe, Director
Planning & Inspections Department