

22.3
ORDINANCE NO. 019079

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.02 (BUILDING AND CONSTRUCTION ADMINISTRATIVE CODE), SECTION 18.02.106 (PERMIT FEES), SUBSECTION 18.02.106.12 (PLAN REVIEW OPTIONS AVAILABLE TO THE APPLICANT); AND TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.60 (FLOOD DAMAGE PREVENTION), ARTICLE IV (ADMINISTRATION), SECTION 18.60.180 (DEVELOPMENT PERMIT PROCEDURES) TO CLARIFY THAT FEES SHALL BE IN THE AMOUNTS ESTABLISHED IN THE ANNUAL BUDGET RESOLUTION ADOPTED BY CITY COUNCIL AND TO ESTABLISH NEW PROCEDURES FOR EXPEDITED REVIEW.

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

Section 1. Title 18 (Building and Construction), Chapter 18.02 (Building and Construction Administrative Code), Section 18.02.106 (Permit Fees), Subsection 18.02.106.12 (Plan review options available to the applicant) is amended to read as follows:

18.02.106.12 - Plan review options available to the applicant.

The following optional preliminary plan review processes are available to all applicants. To take advantage of one of the optional plan reviews mentioned below an applicant shall pay the fee established by City Council in the annual budget resolution for the requested preliminary plan review prior to application for a master building permit.

1. Expedited Review 1 – The fee as prescribed in the annual budget resolution, shall apply to all construction/building permits with a valuation equal to or greater than \$300,000.00, excluding one and two family dwellings
2. Expedited Review 2 – The fee as prescribed in the annual budget resolution, shall apply to all construction/building permits with a valuation less than \$300,000.00, including one and two family dwellings regardless of valuation.

Section 2. Title 18 (Building and Construction), Chapter 18.60 (Flood Damage Prevention), Article IV (Administration), Section 18.60.180 (Development Permit Procedures) is amended to add a new subsection D that reads as follows:

D. Development permit review fees for any Federal Emergency Management Agency (FEMA) applications shall be as established by City Council in the annual budget resolution.

Section 3. Except as herein amended, Title 18 remains in full force and effect.

ADOPTED this 4th day of August, 2020.

ORDINANCE NO. 019079
20-1007-2630 | 1003908
Title 18 Fee Amendment
OAR



THE CITY OF EL PASO:

Dee Margo
Mayor

CITY CLERK:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

Omar A. De La Rosa
Assistant City Attorney

APPROVED AS TO CONTENT:

Philip F. Etiwe, Director
Planning & Inspections Department

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Title 18 Fee Amendment
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18.02.106.12 - Plan review options available to the applicant.

The following optional preliminary plan review processes are available to all applicants. To take advantage of one of the optional plan reviews mentioned below an applicant shall pay the established fee for the requested preliminary plan review prior to application for a master building permit.

1. ~~Custom plan review (CPR): The custom plan review process will be used to expedite the review of construction documents for new construction projects, major additions to existing facilities and for complex projects.~~

Expedited Review 1 – The fee as prescribed in Schedule C, shall apply to all construction/building permits with a valuation equal to or greater than \$300,000.00, excluding one and two family dwellings

2. ~~Permit by appointment (PBA): The permit by appointment process will be used to expedite the review of any construction documents for permits issued by the department other than those specifically addressed under the customized plan review process.~~

Expedited Review 2 – The fee as prescribed in Schedule C, shall apply to all construction/building permits with a valuation less than \$300,000.00, including one and two family dwellings regardless of valuation.

18.60.180 - Development permit procedures.

- A. Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
 1. Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be flood proofed;
 3. A certificate from a Texas licensed professional engineer that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 18.60.200(B) of this chapter;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
 5. Maintain a record of all such information in accordance with Section 18.60.150(A) of this chapter.
- B. Approval or denial of a building or grading permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
 1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development as determined by the planning official;
5. The safety of access to all buildings in the time of flood;
6. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
7. The justification of the proximity of the facility to the abutting floodway, where applicable;
8. The availability of alternate locations, not subject to flooding or erosion damage, for the proposed use;
9. The relationship of the proposed use to the comprehensive plan for that area.

C. Variance Procedures.

1. The construction board of appeals shall hear and render judgment on requests for variances from the requirements of this chapter.
2. The construction board of appeals 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 construction board of appeals 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 construction board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.
8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon: (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with the El Paso City Code.

- c. Any application to which a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- 11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria outlined in subsections (C)(1) through (9) of this section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- D. **(NEW section)** Development permit review fees for any Federal Emergency Management Agency (FEMA) applications shall be as established by City Council in the annual budget resolution.