

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES  
AMENDING TITLE 21, ZONING, OF THE MUNICIPAL CODE  
REVISING THE PROCESS AND STRENGTHENING THE FINDINGS FOR ALLOWING  
BUILDINGS TO EXCEED HEIGHT RESTRICTIONS WHEN APPROPRIATE  
(CODE AMENDMENT 02-013)

WHEREAS, as a result of:

- The Emergency Services Department purchasing new equipment; and
- Changes in the Uniform Building Code and the Uniform Fire Code,

It is no longer necessary to limit allowable building heights due to public health and safety considerations; and

WHEREAS, it is reasonable to provide the City Council with the ability to approve a development project with a building height that is over 3-stories (subject to specific findings) when it is appropriate to do so; and

WHEREAS, reliance on a case-by-case review of the specific characteristics of the project site and the project design is an appropriate way to determine the allowable building height for a specific development project; and

WHEREAS, based on the whole record before the City Council (including the Initial Study, the Staff Report, the proposed Code Amendment, and any public comments or testimony received), the City Council, using its independent judgment and analysis, finds and determines that the proposed project will not have a significant impact on the environment.

WHEREAS, at its meeting of November 26, 2002, the Planning Commission took the following actions:

- a. Considered the facts and analysis presented in the staff report and associated materials prepared for the proposed Code Amendment.
- b. Conducted a public hearing to obtain public testimony on the environmental determination and the proposed Code Amendment.
- c. Recommended that the City Council adopt a Negative Declaration and approve the proposed Code Amendment.

WHEREAS, at its meeting of January 21, 2003, the City Council took the following actions:

- a. Considered the facts and analysis presented in the staff report and associated materials prepared for the proposed Code Amendment.
- b. Considered the recommendation of the Planning Commission on the environmental determination and the proposed Code Amendment.

- c. Conducted a public hearing to obtain public testimony on the environmental determination and the proposed Code Amendment.

WHEREAS, at its meeting of January 21, 2003, the City Council adopted a Negative Declaration for the proposed Code Amendment.

NOW, THEREFORE, BE IT KNOWN that the City Council of the City of El Paso de Robles, based upon the substantial evidence presented at the afore-mentioned public hearing, including oral and written staff reports, finds as follows:

1. The afore-mentioned facts of the Code Amendment are true and correct.
2. The Code Amendment is consistent with the City's General Plan.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES ORDAIN AS FOLLOWS:

**SECTION 1.** Chapters 21.16A (Planned Development District) and 21.23B (Development Review) of the Zoning Ordinance are hereby amended to read as shown on Exhibit A.

**SECTION 2. Publication.** The City Clerk shall cause this Ordinance to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Section 36933 of the Government Code.

**SECTION 3. Severability.** If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this Ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

**SECTION 4. Inconsistency.** To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

**SECTION 5. Effective Date.** This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council of the City of El Paso de Robles held on January 21, 2003, and passed and adopted on the 4<sup>th</sup> day of February 2003 by the following roll call vote:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

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Frank R. Mecham, Mayor

ATTEST:

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Sharilyn M. Ryan, Deputy City Clerk

EXHIBIT "A"

TO ORDINANCE NO. XXX N.S.

AMENDING TITLE 21, ZONING, OF THE MUNICIPAL CODE  
REVISING THE PROCESS AND STRENGTHENING THE FINDINGS  
FOR ALLOWING BUILDINGS TO EXCEED HEIGHT RESTRICTIONS  
WHEN APPROPRIATE (CODE AMENDMENT 02-013)

SECTION 1. Section 21.16A.010, Purpose and Intent, is hereby amended to add a new Subsection (i) to read as follows:

“(i) Encourage establishment of specific building heights for an individual planned development project where it is determined that allowing the buildings to exceed the height limitations of the Zoning Ordinance would be appropriate based on due consideration of:

- The proportion, scale, and nature of the project;
- The visual quality and aesthetics of the project;
- The design of the project;
- The project’s compatibility with the established character of surrounding development; and
- The project’s ability to not create an adverse visual impact or otherwise have a negative effect on public views from nearby roads and other public vantage points
- The project’s risk to fire life-safety when considering building safety features and emergency response capability.”

SECTION 2. The last paragraph of Section 21.16A.010, Purpose and Intent, is hereby amended to read as follows:

“It shall be the discretion of the planning commission, or, upon appeal, the city council, to determine whether a proposed planned development seeking approval of different development standards as provided for in Subsections (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), and (13) of Section 21.16A.030 (Density and use limitations) complies with the purpose and intent stated in this chapter.

It shall be the discretion of the city council to determine whether a proposed planned development or a development plan seeking approval of modified building heights as provided for in Subsection (4) of Section 21.16A.030 (Density and use limitations) complies with the purpose and intent stated in this chapter. “

SECTION 3. Section 21.16A.020, Permit requirements is hereby amended to read as follows:

“In combination with any base zone, the planned development district overlay shall require approval of a development plan application by:

a. The planning commission for applications seeking approval of different development standards as provided for in Subsections (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), and (13) of Section 21.16A.030 (Density and use limitations); and

b. The city council for applications seeking approval of modified building heights as provided for in Subsection (4) of Section 21.16A.030 (Density and use limitations).”

SECTION 4. Section 21.16A.040, Development Plan Applications, is hereby amended to add a new Subsection (a)(6) to read as follows:

“(6) Applications for planned developments seeking to increase the allowable building heights beyond the existing limitations prescribed by the Zoning Ordinance shall be accompanied by: (a) a shadow diagram for the hours of 9:00 a.m., noon, and 3:00 p.m. on December 21<sup>st</sup> to determine where shadows will be cast; and (b) schematic drawings or other graphic exhibits illustrating how the project will be seen from nearby roads and other public vantage points.”

SECTION 5. Section 21.16A.060, Planned development review, is hereby amended to read as follows:

“All planned development applications seeking approval of different development standards as provided for in Subsections (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), and (13) of Section 21.16A.030 (Density and use limitations) shall be reviewed by the planning commission as development plan applications in accordance with Chapter 21.23B. The planning commission shall make the final decision to approve, conditionally approve or deny the planned development. Any planning commission action shall be appealable to the city council, subject to the provisions contained in Chapter 21.23A. All public hearings shall be noticed in the manner set forth in Section 21.23A.040.

All planned development applications seeking approval of modified building heights as provided for in Subsection (4) of Section 21.16A.030 (Density and use limitations) shall be reviewed by the city council as development plan applications in accordance with Chapter 21.23B. The city council shall make the final decision to approve, conditionally approve or deny the planned development. All public hearings shall be noticed in the manner set forth in Section 21.23A.040.”

SECTION 6. Section 21.16A.070, Required Findings of Approval, is hereby amended to read as follows:

“The planning commission shall approve or conditionally approve a planned development plan application seeking approval of different development standards as provided for in Subsections (1), (2), (3), (5), (6), (7), (8), (9), (10), (11), (12), and (13) of Section 21.16A.030 (Density and use limitations) only if it finds that all of the facts identified below exist.

The city council shall approve or conditionally approve a planned development plan application seeking approval of modified building heights as provided for in Subsection (4) of Section 21.16A.030 (Density and use limitations) only if it finds that all of the facts identified below exist.

#### FACTS

- (a) The granting of this permit will not adversely affect the policies, spirit and intent of the General Plan, applicable specific plans, the zoning code and all other adopted codes, policies and plans of the city;
- (b) The proposed project maintains and enhances significant natural resources on the site;
- (c) The proposed project is designed to be sensitive to, and blend in with, the character of the site and surround area, and would not have an adverse effect on public views from nearby roads and other public vantage points;

- (d) The proposed project's design and density of the developed portion of the site is compatible with the established character and scale of surrounding development and would not be a disharmonious or disruptive element to the neighborhood;
- (e) The development would be consistent with the purpose and intent of this chapter and would not be contrary to the public health, safety, and welfare; and
- (f) Modification of the standards as set forth in this chapter or elsewhere in the Zoning Ordinance shall only be approved upon a finding that greater public benefit would be achieved through such modifications. Additionally, for planned development projects that are seeking an increase in allowable building heights, modification of the height limitations shall only be approved upon a finding that the proportion, scale, and nature of the project is such that the modifications would not create an adverse visual impact nor compromise the safety of occupants."

**SECTION 7.** Subsection A of Section 21.23B.040, is hereby amended to read as follows:

"A. Development Plan. Discretionary review of major development projects to be conducted by the planning commission in conjunction with a noticed public hearing for commercial, industrial, and institutional projects subject to Development Plan Review except for major development projects seeking a increased building height that is greater than the existing limitations prescribed by the Zoning Ordinance that are subject to discretionary review by the City Council.

Approval of development plans shall be subject to findings:

1. Set forth in Section 21.23B.050 for major development projects subject to planning commission discretionary review; and
2. Set forth in Sections 21.23B.050 and 21.16A.070 for major development projects subject to city council discretionary review.

Conditions may be imposed in order to make the required findings."

**SECTION 8.** Section 21.23B.040, Authority and Scope, is hereby amended to add a new Subsection (A)(4) to read as follows:

"4. For Commercial, Industrial, and Institutional Projects subject to Development Plan Review pursuant to Section 21.23B(A)(5), the City Council shall have the authority to increase the allowable building heights beyond the existing limitations prescribed by the Zoning Ordinance as set forth in Section 21.16A.030 (4), subject to additional findings as set forth in Section 21.16A.070."