



**Item From Council  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**

**AGENDA ITEM NO.: 40  
AGENDA DATE: Thu 09/01/2005  
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**Item From Council**

**Posting Language:** Approve an ordinance on second/third reading amending Title 2 of the City Code to add a new Chapter 2-12 relating to eminent domain powers.

**Proposed meeting date:** THU 09/01/2005

**Sponsor:** Council Member Brewster McCracken

**Co-sponsor 1:** Mayor Will Wynn

**Co-sponsor 2:** Council Member Lee Leffingwell

**Date by which the City Manager is requested to report back to Council:**

**Draft Resolution/Ordinance attached:**

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**ORDINANCE NO. 20050901-**

**AN ORDINANCE AMENDING TITLE 2 OF THE CITY CODE TO ADD A NEW CHAPTER 2-12 RELATING TO EMINENT DOMAIN POWER.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Title 2 of the City Code is amended to add a new Chapter 2-12 to read:

**CHAPTER 2-12. EMINENT DOMAIN.**

**§ 2-12-1     USE OF EMINENT DOMAIN POWER.**

(A) In this section, ECONOMIC DEVELOPMENT means an activity to increase tax revenue, the tax base, employment, or general economic health.

(B) Except as otherwise provided in this section, the City shall not use the power of eminent domain to acquire private real property primarily for the purpose of economic development, without the consent of the property owner.

(C) Subsection (B) does not limit the City's use of eminent domain power for any of the following public purpose projects:

- (1) a transportation project, including a railroad, airport, transit facility, public road or highway, parking lot or garage, sidewalk, bus turn-in, or trail;
- (2) a water supply, wastewater, flood control, water quality, drainage, water detention, stream bank stabilization, electric power, district cooling, combined heat and power, thermal energy storage, or telecommunication project;
- (3) a project related to annexation;
- (4) environmental remediation;
- (5) the provision of utility service;
- (6) a public facility, including a library, office, vehicular storage or maintenance, hospital, convention center, or recreational facility;
- (7) a park or park facility;

- (8) a common carrier or energy transporter;
- (9) noise mitigation;
- (10) clearing a land title;
- (11) urban renewal or revitalization;
- (12) a housing project;
- (13) a project authorized or required by state or federal law;
- (14) acquiring an interest in property owned by a governmental entity;
- (15) acquiring abandoned property; or
- (16) a project to remove:
  - (a) a harmful use;
  - (b) a nuisance; or
  - (c) a structure that is unfit for human habitation or use.

(D) Subsection (B) does not affect the City's right to alienate property.

(E) This section does not create a cause of action against the City, a council member, or a City official, employee, agent, or contractor.

**PART 2.** This ordinance takes effect on September 12, 2005.

**PASSED AND APPROVED**

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September 1, 2005

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§ \_\_\_\_\_  
Will Wynn  
Mayor

**APPROVED:** \_\_\_\_\_  
David Allan Smith  
City Attorney

**ATTEST:** \_\_\_\_\_  
Shirley A. Brown  
City Clerk