

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

**DEPARTMENT:** Planning & Economic Development Department

**AGENDA DATE:** Introduction: May 24, 2011  
Public Hearing: May 31, 2011

**CONTACT PERSON/PHONE:** Mathew McElroy, (915) 541-4193,  
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**DISTRICT(S) AFFECTED:** All Districts

**SUBJECT:**

An Ordinance amending Title 18 (Building and Construction), Chapter 18.46 (Landscape) of the El Paso City Code to modify and add additional definitions, to modify the landscapable area, to require parkway and frontage area landscaping and a landscape buffer between commercial and residential development, to modify the required plant units and parking lot trees, and to add provisions for street trees. The penalty being as provided in Section 18.46.180 (Violations – Penalty) of the El Paso City Code.

**BACKGROUND / DISCUSSION:**

Consistent with Smart Growth principles, this amendment revises the current landscaping ordinance to increase the landscapable area required, require street trees in the parkway at 30 ft intervals, require landscaped frontage along the property line, increase parking lot trees and increase required plant units.

**PRIOR COUNCIL ACTION:**

On November 30, 2010, the El Paso City Council approved moving forward with a Smart Growth implementation Plan. Items can be expected throughout April, May and then throughout the rest of the calendar year.

**AMOUNT AND SOURCE OF FUNDING:**

N/A

**BOARD / COMMISSION ACTION:**

Development Coordinating Committee (DCC) recommended approval on April 27<sup>th</sup> and the item will be heard by the City Planning Commission (CPC) on May 19<sup>th</sup>.

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**LEGAL:** (if required) N/A

**FINANCE:** (if required) N/A

**DEPARTMENT HEAD:** Mathew S. McElroy  
Deputy Director-Planning & Economic Development

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**APPROVED FOR AGENDA:**

**CITY MANAGER:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

2011 MAY 31 AM 11:45

**AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE), OF THE EL PASO CITY CODE, TO MODIFY AND PROVIDE ADDITIONAL DEFINITIONS, MODIFY FRONTAGE TREE AND PARKING LOT TREE REQUIREMENTS, INCREASE LANDSCAPABLE AREA REQUIREMENTS, AND ADD PROVISIONS FOR STREET TREES ON BOTH RESIDENTIAL AND COMMERCIAL DEVELOPMENT. THE PENALTY BEING AS PROVIDED IN SECTION 18.46.180 (VIOLATIONS – PENALTY) OF THE EL PASO CITY CODE.**

**WHEREAS**, by Ordinance No. 012399 enacted on May 23, 1995, the City Council of the City of El Paso, Texas, adopted the Landscape Ordinance of the City of El Paso to be effective September 1, 1995; and,

**WHEREAS**, by Ordinance No. 016654 enacted June 7, 2007, the City Council of the City of El Paso, Texas, approved modifications to the Landscape Ordinance; and,

**WHEREAS**, the City Council of the City of El Paso has determined that quality of life, increased property values and aesthetics are important issues and concerns affecting El Paso; and,

**WHEREAS**, proper landscaping and irrigation will augment those qualities while helping to improve air purification, storm water run-off, noise reduction and heat abatement while conserving energy, water and other natural resources; and,

**WHEREAS**, landscape standards can enhance the quality of life and enhance the general welfare and beauty of El Paso by creating and maintaining visual environmental amenities; and,

**WHEREAS**, the City Council adopted a Resolution on January 6, 2011 detailing the relationship between the built environment and obesity and directed the City Manager to recommend code changes to increase opportunities for physical activity; and,

**WHEREAS**, the amendments herein are necessary to promote and protect the health, safety, and welfare of the public by creating an urban environment that is aesthetically pleasing, promotes economic development and enhanced quality of life for the citizens of El Paso.

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

**SECTION 1.** That Chapter 18.46 (Landscape) of the El Paso City Code, be deleted in its entirety and replaced with the following:

Article I. - General Provisions

18.46.010 - Title.

This chapter shall be known as the landscape ordinance for the City of El Paso, Texas.

#### 18.46.020 - Purpose.

A. The purpose of this chapter is to set forth the minimum requirements for irrigation and landscape for both residential and commercial property development within the corporate limits of the city. The regulations herein are designed to enhance the quality of life, increase property values and aesthetics of the city; while helping to improve air purification, reduce stormwater run-off, noise reduction and heat abatement while conserving energy, water and other natural resources.

B. In addition, landscape designers and property owners are encouraged to design and place landscaping materials in a good, economically viable, and environmentally sensitive manner as to improve the aesthetics of development, construction, and the quality of life for all citizens. This chapter encourages the use of quantifiable, generally recognized, scientific standards and methods as well as local and state regulations and manufacturer's recommendations in evaluating all designs. This chapter shall be used to stimulate creativity and innovation in such designs.

C. This chapter is also designed to prevent soil erosion, reduce the hazards of flooding, enhance the absorption of carbon dioxide and supply of oxygen; reduce the effects of noise, glare, dust and other objectionable activities generated by some land uses; promote the pleasant appearance and character of neighborhoods and high intensity commercial and industrial corridors; provide shade; to cool superheated urban areas, and thus reduce water consumption in cooling units, as well as other energy consumption related to environmental cooling; and facilitate the safe movement of traffic in vehicular use areas.

D. This chapter is also designed to promote water conservation and water efficiency by requiring the planting of water-thrifty plants and other landscape materials. To assist in ensuring adequate supplies of water exist for El Paso's future, it is important that water conservation be promoted in landscape watering policies. Water conservation should be promoted through techniques such as the proper design of landscaped areas and plant selection, education of the public, and the proper use of irrigation of systems.

#### 18.46.030 - Rules of construction.

The following rules of construction shall apply:

A. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary;

B. Words used in the present tense include the past and future tenses, and the future the present;

C. The word "shall" is always mandatory. The word "may" is permissive.

D. Words and terms not defined herein shall be interpreted in accord with Webster's Third New International Dictionary, Copyright 1986.

#### 18.46.040 - Interpretation.

A. The provisions of this chapter shall be interpreted and applied, as the minimum requirements for landscaping and irrigation in the city and shall control over all other landscape requirements in any other ordinance in the El Paso City Code, except Chapter 15.13 (Water Conservation) of this code.

B. It is not intended that this chapter shall interfere with, abrogate or annul any restrictive covenants or other agreements between individual parties. When there is a conflict between the requirements of this chapter and any restrictive covenant, agreements or other requirements imposed on the property, the more stringent requirement shall apply.

C. The provisions of this chapter shall be subordinate to the provisions of the El Paso City Code pertaining to traffic and pedestrian traffic.

#### 18.46.050 - Definitions.

The following terms as used in this chapter shall be defined as follows:

"Approved irrigator" means a Texas licensed irrigator.

"Approved plant list" means the list of plants and shrubs prepared by the tree board or its successor the board of parks and recreation, and the building official, and on file with the building official, and as may be amended from time to time.

"Automatic controller" means a mechanical, electrical or hybrid solid state timing device, capable of operating valve stations by set days of the week and the length of time of water application.

"Backflow prevention device" means a safety device used to prevent pollution or contamination of the potable water supply due to the reverse flow of water from the irrigation system.

"Berm, earthen" means an earthen mound designed to provide visual interest or screen undesirable views and decrease noise.

"Caliper" means the measurement of the thickness of a tree; the minimum diameter of a tree as measured six inches above the grade for trees under four inches in diameter and twelve inches above grade for trees four inches in diameter and larger. For multiple trunk trees, the diameter shall be based on the caliper of the largest trunk plus half the caliper of the next three largest trunks.

"Deciduous" means a plant that sheds its foliage annually.

"Development - Commercial" means all developments zoned or used for commercial uses as described under Title 20 (Zoning).

"Director" means the city manager or designee..

"Evergreen" means a plant with foliage that persists and remains green year round.

"Finish grade" means the ground elevation in its final and finished state before any landscape is installed.

"Frontage" means the property line where a parcel of land, lot, or site abuts a public right-of-way.

"Grass". See "turf or turf grass."

"Gross building area" means the total enclosed area of a building exterior dimensions, excluding covered walkways or exterior fire escapes.

"Ground covering" means organic or inorganic material such as mulches and/or gravel used as ground covering.

"Ground cover organic" means low growing plant material, other than turf grasses, installed in such a manner as to provide continuous cover of the ground surface.

"Hardscape" means the use of solid non-organic materials such as rock or stone, concrete, asphalt, brick, or other similar type material.

"Impervious soil" means soil which is extremely dense (cementitious sedimentary soil) through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of .95 pursuant to the Drainage Design Manual.

"Impervious surfaces" means any surface such as roofing, solid surface plastic materials, solid surface oil-impregnated materials, concrete, asphalt, etc. through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of 1.0 pursuant to the Drainage Design Manual.

"Landscapable area" means any area of ground that can support vegetative groundcover and other landscaping plant materials. Sidewalks and other impervious surfaces are not considered landscapable areas.

"Landscaping" means the improvement of a section of ground by contouring the land and planting any combination of living plants, such as trees, shrubs, vines, groundcover or grass, natural features such as rock, stone, bark chips or shavings.

"Median" means the area within the public right-of-way, which separates two opposite directions of traffic.

"Mulch" means organic and/or inorganic material, which is placed, to prevent erosion, lower soil temperature and maintain soil moisture levels.

"Official" means the building official or his designee.

"Palm" means a long-lived plant of the family Palmae having a minimum eight feet unbranched clear trunk crowned by large pinnate or palmate leaves.

"Parking lot" for the purposes of this chapter, "parking lot" means any paved or unpaved area, not including a street or alley right-of-way, containing one or more parking spaces for motor vehicles, designed in accordance with the requirements of Chapter 20.14, and intended as an accommodation for patrons, customers, and employees, either with or without a charge for such accommodation.

"Parking spaces" means those spaces for the parking of any vehicle excluding eighteen-wheel tractors and their trailers.

"Parkway" means that area of street right-of-way between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.

"Permeable surfacing" means materials with a permeable base.

"Plant, native or adapted" means a commercially grown or legally harvested plant material hardy to the natural conditions of the region, which once established is capable of sustaining growth without supplemental watering.

"Plant unit" means one deciduous tree, twenty five-gallon shrubs, and ten one-gallon shrubs shall be provided for every thousand square feet of landscapable area or a portion thereof.

"Pond" means a depression in the soil intended to retain and/or detain both stormwater and all excess irrigation water.

"Project" means a specific development which is subject the requirements as stated herein.

"Shrub" means a woody plant, deciduous or evergreen, generally multi-stemmed with small branches near the ground, and smaller growing than a tree.

"Stormwater" means a build up of naturally occurring precipitation (water), which falls on any parcel of land (site or watershed) of any given size.

"Structure" for the purposes of this chapter, "structure" means that which is built or constructed, an edifice or building of any kind, with four walls and a roof that encloses the interior space from the outside elements, or other artificially built or constructed work.

"Swale" means a landscape design using raised or depressed earthen channel of any depth or width designed to direct or move water to or from ponds, other swales, channels, arroyos or other drainage conveyance.

"Texas Licensed Irrigator" means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

"Tree, parking lot" means a deciduous tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy, spread of twenty feet at

maturity. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk; which is installed and located in a parking lot.

"Tree, project" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy spread of twenty feet at maturity that is required based on calculations determined by the provisions of this chapter. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk. Such trees shall be healthy and vigorous at time of planting.

"Tree, frontage" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height which is planted within the front landscape buffer or within twenty feet of the property line along the street frontage.

"Tree, street" means a deciduous tree growing within the parkway of a street having a minimum of two inches caliper and ten feet in height, except that a street tree shall be three inches caliper and ten feet in height for development along any arterial.

"Turf or turf grass" means a surface layer of soil bound by grass and its roots into a thick mat that requires regular maintenance, mowing and watering.

"Unmanned facility" means a structure which does not require a certificate of occupancy and is not occupied by any persons.

"Vehicular loading area" means a paved area designed to accommodate the maneuvering, loading and unloading and parking of commercial vehicles having a length of less than twenty-seven feet.

"Vehicular use area" means any area, excluding public rights-of-way, used for the purpose of driving, maneuvering, parking, storing or display of motor vehicles, boats, trailers, mobile homes and recreational vehicles, including new and used automobile lots, and other parking lot uses.

"Visibility triangle" means the area formed by the intersecting property lines and a diagonal line joining the property lines at the points twenty feet from their intersection on the corner lot at the intersecting corner.

"Water harvesting" means the process of intercepting irrigation or stormwater from a surface such as a roof, parking area or land surface and putting it to beneficial use thereby reducing runoff and making maximum use of irrigation and rain water.

"Weed barrier" means a porous overlay material used beneath mulch materials to reduce the germination and growth of unwanted plant material while allowing the percolation of water.

"Tree grate" means a barrier with parallel or crossed bars blocking a passage but allows for tree trunk diameter growth.

"Tree well" means the basin where the root ball of the tree is planted.

## 18.46.060 - Application.

A. Except as provided herein, this chapter shall apply to the incorporated area of the City of El Paso, Texas, and to all projects listed below. All projects listed below shall provide landscaping in accordance with the requirements of this chapter, and an underground automatic irrigation system, shall be provided for all required landscapable areas in compliance with the requirements of this chapter, and shall comply with the requirements of 30 Texas Administrative Code, Chapter 344, §§ 344.72 — 344.77, and as may be amended.

1. The construction or erection of any new development, building, or structure, for which a building permit is required and zoned for a commercial use as defined under Title 20 (Zoning) of this Code.

a. For all sites, except zero lot line street frontage sites, the landscaping shall be located in the area between the street frontage and the building wall furthest from the street.

b. In addition to the required landscapable area, the parkway shall be landscaped per Section 18.46.060 and street trees must be provided as required by Section 18.46.200.

c. On zero lot line street frontage lots the landscaping shall be located within and throughout the site.

d. In order to be considered as landscapable area there shall be at least a ten feet distance between the walls of buildings. Trees planted in areas less than twenty feet between structures will not be given credit in satisfaction of the landscape requirements.

2. The expansion of an existing building or parking lot, regardless of the amount of the increase in size.

a. Landscaping shall be calculated based on the square footage of the new development or structure at a rate of 9.0 percent per square feet. A minimum of one unit of plant material shall be required.

b. If the site satisfied the code requirements prior to the enactment of this chapter and is deemed legal nonconforming, and if expanded in use as permitted by Title 20 (Zoning), then, only the additional square footage of expansion of landscapable area shall be required to satisfy the requirements of this chapter.

3. Off-street parking.

a. Any construction of off-street parking or a new parking lot is required to install one tree per ten parking spaces or portion thereof (within and throughout), whether they are required parking spaces or not. Tractor trailer parking lots require one tree for every ten parking spaces. (See Section 18.46.090). This is in addition to the required landscapable area.

b. Any expansion of an existing parking lot is required to install one tree per ten spaces. The number of trees required shall be based on the calculation of the total of all spaces both new and existing (within and throughout) the site, whether they are required parking spaces or not.

c. No parking space shall be more than 100 feet from a tree.



#### 4. Unmanned Facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

#### 5. Parkways.

a. Parkway area ground treatment shall include permeable surfacing, not to include raw soil. With the exception of street trees, plant material shall be maintained in the parkway so that it does not exceed three feet. Landscaping of the parkway, including any frontage landscape buffers, shall count towards up to 1.5% of the required landscapable area.

b. Parkways shall contain street trees as required by Section 18.46.200.

#### 6. Frontage Landscape Buffers.

a. Frontage Landscaping. The frontage along any street shall consist of a minimum ten foot landscape buffer. The frontage landscape buffer may be crossed by driveways and pedestrian walkways connecting to adjacent land; however, no parking is permitted within a required frontage landscaping buffer. The frontage area buffer shall also include the entire area within the visibility triangle at the intersection of any roadways. Along freeways or any frontage roads, the frontage landscaping buffer shall be fifteen feet.

b. The frontage landscape buffer shall contain the required plant units based on Section 18.46.090 and the required frontage trees as required by Section 18.46.200. Ground treatment shall include decomposed granite, or other permeable surfacing, not to include raw soil. Landscaping of the frontage landscape buffer, including any parkways, shall count towards up to 1.5% of the required landscapable area.

7. Residential development shall comply with the street trees requirement under Article IV of this Chapter.

B. Exemptions. The following projects are exempt from the requirements of this chapter:

1. Building restoration projects for historic structures as defined under Title 20 (Zoning);
2. Projects on land owned by the federal or state of Texas governments;
3. Any existing development, which changes its use from an approved use to any other, approved use within the same zoning category;
4. Expansion of an existing structure or parking lot if the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new project;

5. Projects which are zoned or used for residential use as defined under Title 20 (Zoning) of this code; if such residential use single-family, duplex, triplex, quadraplex or condominium, except that street trees are required and cannot be exempted for new development based on Section 18.46.200;

6. Existing buildings or parking lot areas that add a delivery or loading area, ramp or dock, or trailer storage area to an existing asphalt or concrete surface.

7. The addition of a building or buildings on a commercial lot when the additional building or buildings have a combined square footage of less than 1,200 square feet of floor area.

## Article II. - Design Requirements

18.46.070 - Plans required.

18.46.080 - Required landscapable areas.

18.46.090 - Required plants.

18.46.070 - Plans required.

Projects that are subject to the requirements of this chapter, shall require the submission of a separate landscape plan and an irrigation plan sealed by a landscape architect registered in the state of Texas, or a landscape contractor registered with the city. In order to register with the city, a landscape contractor shall comply with the following:

1. Contractor shall be a licensed by the state as a landscape irrigator or shall employ at least one licensed landscape irrigator full time. The license number shall be submitted at the time of permit application;
2. Contractor shall have a valid d/b/a registered with the county;
3. Contactor shall have general liability insurance of fifty thousand dollars with the City of El Paso as a certificate holder;
4. Contractor shall also obtain a construction blanket bond of ten thousand dollars. Each plan shall be at a minimum scale of one-inch equals forty feet, preferably one inch equals twenty feet. No architectural scaling shall be allowed. Plan size shall be on paper size twenty-four by thirty-six inches.

A. Landscape Plan. The landscape plan shall include the following information:

1. Date, scale, north arrow, project title and project address; and landscape designer with their address, phone number;
2. Name, address and telephone number of the property owner(s) representative;
3. Botanical name and common name, plant tag showing plant type, legend reference, size, height, quantity and location of proposed landscape materials to be used;

4. Landscape calculations, minimum required square footage of the landscapable area, total square footage of the landscapable area, parking provided, vehicular loading area, minimum required quantity of landscape materials, provided quantity of landscape materials;

5. Landscape master plan (long-term) with phasing plan;

6. Location of existing and proposed structures, signs, trees, shrubs, swales, berms, frontage trees, parking lot trees, street trees, and fire hydrants existing at the time of plan submission;

7. Show all curb cuts ingress and egress and distances to plant material; and

8. Show a five-foot clearance at maturity for all landscape material adjacent to any utility box, hydrant, meter or access point.

B. Irrigation Plan. The irrigation plan shall be designed and sealed by an irrigator licensed by or recognized by the state of Texas, and shall include the following information:

1. Type, size and location of piping and sleeving;

2. Type, size, radius, gpm, precipitation rate, design pressure and location of irrigation heads;

3. Type, size, gph, details of installation, design pressure and the location of emitters or subsurface equipment;

4. Drip and/or subsurface installation detail;

5. Type, size and location of backflow prevention devices, valves, wiring and controllers;

6. Backflow installation detail; and

7. Arc spray pattern for all turf areas.

18.46.080 - Required landscapable areas.

A. New Commercial Development.

1. The required landscapable area shall be calculated as follows:

a. The square footage of the entire lot(s) in which the project is located on, multiplied by 9.0 percent equals the required landscapable area;

b. If required area is 0.5 of a unit of plant material or less, fees in lieu of installation may be paid as provided herein;

c. If required area is 0.51 to 0.99 it must comply by providing one unit of plant material or four trees;

d. Required area over 0.99 of a unit shall comply at a rate of one unit of plant material for each thousand square feet of required landscapable area or portion thereof;

e. The number of frontage trees required shall be one tree per every fifty (50) linear feet of all street frontages, including any easements. The frontage trees are required to be located within the frontage landscape buffer or within twenty feet of the property line along

the street frontage. A minimum of one frontage street tree shall be installed if the property has less than fifty feet of frontage. If street trees are being placed within property along the street frontage based on the requirements of Section 18.46.200, then the required frontage trees may be distributed within and throughout the property.

#### 18.46.090 - Required plants.

A. The following plant materials shall be installed within the required landscapable area as follows:

1. For every one thousand square feet, or portion thereof, of landscapable area, the following plant material shall be required:

- a. Two project deciduous or evergreen trees having a minimum caliper size of two inches and a minimum height of ten feet to twelve feet;
- b. A minimum of forty plant material of five-gallon size, which are a minimum of eighteen inches in height.
- c. A minimum of twenty plant material of one-gallon size;
- d. Palms may be installed on the property on a one to one basis as a five gallon shrub but shall only count toward ten percent of the required five gallon plant material;
- e. For project trees, two one inch caliper trees at a height of ten feet to twelve feet may be substituted for a two inch caliper project tree.
- f. Substitution of plant materials may be allowed for the preservation or relocation of existing healthy trees and shrubs based on equivalent size and type of plant material and shall be subject to review by the landscape plan reviewer on a one-to-one basis.

2. Parking Lots and Vehicular Use Areas.

- a. Shading shall be required for parking lots and vehicular use areas that are located within the project, with ten parking spaces or more shall be provided with at least one parking lot tree for every ten parking spaces.
- b. Truck courts and truck-trailer parking lots shall be required to have parking lot trees placed within the parking lot.
- c. Parking lot trees may be placed within the parking area or vehicular use area with due consideration for vehicle movement and maneuvering or directly adjacent to the vehicular use area.
- d. Parking lot trees shall be located with respect to the location of parking lot light fixtures in such a manner as to not impede the distribution of light throughout the parking lot, unless the lighting is placed in the canopy of the trees.

### Article III. - Standards

#### 18.46.100 - Landscape standards.

A. Water Harvesting. The landscapable area shall be designed to ensure the most beneficial design for surface collection of water to include swales, parking lot islands, bar ditches, detention or retention ponds and constructed wetlands.

B. Plants. Seventy-five percent of all plants to be used in the landscape design shall be selected from the approved plant list on file and maintained in the department. No artificial plant materials shall be used to satisfy the requirements of this chapter. All plants and trees shall be healthy and vigorous at the time of planting. At least fifty percent of the plants installed shall be plant material of low water, drought-tolerant variety.

C. Turf. Turf shall not be installed on slopes exceeding twenty percent, unless approved by the City Engineer or designee to match existing conditions or surrounding development. Turf grass is specifically prohibited in parkways. Turf shall have an amended soil base of a minimum of six inches.

D. Trees. Trees in pedestrian areas shall be planted and maintained, with the mature branching structure having a minimum of seven feet clearance from ground level within three feet from the trunk. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of thirty-six square feet of surface area with no interior dimension less than four feet measured at ninety degrees to the interior edges.

E. Shrubs. Shrubs shall be a minimum size of a five-gallon container and a minimum plant height of eighteen inches (except for dwarf species and low growing species). Existing shrubs should be preserved and incorporated into the site landscaping.

F. Organic/Inorganic Ground Covering/Permeable Paving.

1. Inorganic coverings such as gravel, river rock, shell, recycled glass and similar materials may be used as a landscape groundcover.

2. Organic ground covering such as organic mulch, wood chips or bark may be used as a landscape ground covering.

3. Non-porous materials shall not be installed under organic or inorganic ground covering.

4. Any weed barrier materials used must allow the percolation of standing water within seventy-two hours.

G. Plant material shall be installed to ensure that at maturity there is a five-foot clearance adjacent to any utility box, fire hydrant, utility meter or access point.

18.46.110 - Irrigation standards.

A. All irrigation plans shall be designed and sealed by an irrigator licensed in the state of Texas.

B. Irrigation systems shall be installed in accordance with the standards and requirements of the irrigation equipment manufacturer, the Texas Commission on Environmental Quality, and the International Plumbing Code, and as may be amended, and all applicable regulations and laws.

C. The source of irrigation water, whether potable or reclaimed, as provided by the City of El Paso water utilities, shall be indicated on the irrigation plans.

D. When using a potable irrigation water source, an approved backflow prevention device shall be installed in accordance with the City of El Paso Plumbing Code.

E. Such device shall be a pressure vacuum breaker or a reduced pressure assembly as appropriate for the project location. No other type of backflow prevention device shall be permitted.

F. All backflows shall be protected from freezing with an enclosure that is ASSE certified or equal and shall be screened or concealed from street view with plants or other landscaping.

G. All irrigation systems shall include:

1. An automatic controller with multiple programs, multiple repeat cycle capabilities and a flexible calendar program. Power may be provided by either electricity or solar;

2. Spray head type irrigation systems may be used in planting beds when:

i. Plant material spaced less than eighteen inches center to center.

ii. Spray head system has head to head coverage.

H. Spray heads shall not be used in the following locations:

1. Parkways;

2. Medians;

3. In areas less than ten feet in any dimension; and

4. On slopes exceeding twenty percent.

I. Drip and spray systems shall:

1. Be placed on separate valves;

2. All components on drip systems shall be measured in gallons per hour.

J. Wiring and sleeving:

1. All wire shall be direct burial. Multi-strand shall not be allowed for direct burial;

2. Hard wire installations shall have a cutoff switch installed within sight of the controller;

3. Irrigation piping and wiring installed under any hardscaped areas shall be within sleeving.

K. Storm retention pond areas that are irrigated shall incorporate, in the design, separate valves for the basin and slope areas. A moisture sensor shall be installed in the basin.

L. Flood irrigation water from a water improvement district is not an approved method of irrigation, and shall not satisfy the requirements of this chapter.

#### 18.46.120 - Installation Standards.

Landscape and irrigation systems shall be installed in accordance with the approved plan.

A. Minor modifications may be made to the landscape design (plant materials and irrigation system), by the landscape architect or designer, so long as the changes comply with the minimum standards applicable to this chapter.

B. Minor modifications shall be allowed within the landscape area as long as those changes do not affect the plant size, landscapable area, or required quantity and that the irrigation changes do not affect the hydraulic integrity of the system.

C. Installation shall be completed prior to the building final inspection.

D. Reserved.

E. An individual with a state irrigator, installer [only allowed through December 31, 2009], Irrigation Technician, master plumber, or journeyman plumber license shall be on the project site during all irrigation installation work to review and inspect all progress and aspects of the installation.

#### 18.46.130 - Maintenance standards.

A. Landscaping and irrigation shall be regularly and properly maintained to ensure healthy and vigorous plant material. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pest prevention, pruning, and other maintenance of all plantings as needed. Trees may not be trimmed beyond national nursery standards for any reason.

B. Landscaping which dies shall be replaced by the owner with another living plant that is comparable to the existing plant or plant materials specified in the approved landscape plan as expeditiously as possible, but in any event no later than sixty days after notification from the director. The director may extend this time period up to an additional thirty days due to weather or due to events outside of the control of the property owner.

#### 18.46.150 - Fees in lieu of installation.

A. When Applicable. The following projects may pay fees in lieu of installation of the required landscaping material and irrigation system, and shall not be subject to the requirements of this chapter if such fees are paid in accordance with the following provisions.

1. Unmanned facilities.

2. Manned facilities, if the required landscapable area requires 0.5 of a unit of plant material or less.

B. Fee Calculation. Where the city accepts payment of cash in lieu of the installation of landscape material and irrigation system, such payment shall be equivalent to the following:

1. Unmanned Facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less, shall pay fees in the amount of five thousand dollars per site.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may pay fees based on five thousand dollars per unit of plant material required.

2. Manned Facilities. Any manned facility with a calculated landscapable area requiring 0.5 of a unit of plant material or less, may pay fees based on five thousand dollars per unit of plant material required.

C. Form Tendered. A cash payment made pursuant to this section shall be tendered in the form of a cashier's check, payable to the City of El Paso. The cashier's check shall be submitted to the director and shall accompany the building permit application.

D. Special Fund.

1. Special Fund Established. The city shall establish a special fund for the deposit of all sums paid in lieu of installation pursuant to this chapter. The city shall account for all sums paid with reference to the individual property involved, and all sums received shall be committed by the city to be dedicated to the installation and planting of landscaping and plant material. In no case shall the funds be used for routine park, landscaping maintenance or other recreational facility maintenance. The fees shall be spent in locations as reasonably close as possible to the project which elected to pay such fees; however, the city shall not be restricted to spending the funds throughout the city so long as visible by the general public and in conformance with the purposes set forth in this chapter.

2. Accountability. The City Engineer or designee shall maintain a written record of all moneys received in lieu of installation, including, at a minimum, the total amount of fees received, the property address generating the fees and the date the fees were received. The City Engineer or designee shall maintain a record of all expenditures incurred from these funds and shall also perform a periodic reconciliation to the general ledger system of the city to ensure accountability of these funds.

3. Return of Monies Paid. Any monies not used as stated above within one year of payment to the city may be returned to the original individual or group that made payment upon application by said individual or group for a refund. Monies shall be returned upon refund application after one year unless said monies have been encumbered for use prior to application.

Article V. - Administration

18.46.160 - Enforcement.



A. Revocation of Permit. Permits may be revoked in accordance with the provisions in chapter 18.02 of this Code.

B. Citations. The city engineer and any person designated by the city engineer, to include but not be limited to the building official and the code enforcement division, are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

#### 18.46.170 - 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 construction board of appeals.

#### 18.46.180 - Violations—Penalty.

A. Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, or who shall have erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, or has erected, constructed, altered, repaired, moved or demolished any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

B. Criminal Prosecution. Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor.

C. Civil Remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

1. Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and
2. A civil penalty up to five hundred dollars a day when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and
3. Other available relief.

#### 18.46.190 - Severability.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

## Article VI. Street Trees.

### 18.46.200 – Required Street Trees.

A. Street trees are required on all city streets and arterials based on the requirements of this section. Maintenance and trimming of street trees and replacement of dead trees are the responsibility of the owner of the lot adjacent to or on which the trees are located. Street trees shall be maintained alive and healthy by the property owner of the lot adjacent parkway or on which the tree is located.

B. Street trees shall be selected from the Approved Tree and Plant List of the City of El Paso maintained by the Parks and Recreation Department. The street trees to be installed must be a designated as a preferred (x) or allowed (o) medium or large deciduous tree from the Approved Tree or Plant List.

### 18.46.210 – Street Tree Standards.

A. Street trees shall be installed for new residential development prior to the issuance of a certificate of occupancy. For commercial development, street trees shall be installed per this chapter when any landscape is required per Chapter 18.46.

B. The spacing for all street trees shall be at 30 feet or less for all streets. Every lot over 20 feet wide shall have at least one street tree.

C. Adequate vertical clearance below the branches must be maintained for pedestrians, cars, and bicyclists. The minimum height to the lowest branch overhanging a sidewalk shall be seven feet; the lowest height overhanging a street shall be 14 feet.

D. Street trees shall be a minimum of two inches caliper and ten feet in height, except that a street tree shall be a minimum of three inches caliper and ten feet in height for development along any arterial.

E. Street trees shall be placed in the parkway of the street, unless the Department of Transportation Director and the Deputy Director for Planning, requires different locations of trees based on topography or a uniquely shaped lot.

F. The standard setback of trees located between the curb and the sidewalk shall be based on the following standards.

1. Where more than four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted with their centerline equal distance from the curb and sidewalk.

2. Where three to four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted two feet from tree centerline to back of curb.

3. Where less than three feet of space exists between the back of curb and the sidewalk, street tree placement will vary depending on the space available. A solution shall be selected from the following criteria:

a. The minimum distance between the back of curb and centerline of the tree shall be two feet;

b. The minimum distance between the centerline of the tree and the property-side edge of the sidewalk shall be four feet;

c. If items one and two cannot be met, then street trees shall be planted at least two feet beyond the property-side edge of the sidewalk.

4. Where the sidewalk is at the curb, a solution shall be selected from the following criteria:

a. If the sidewalk is less than six feet wide, the tree shall be planted at least two feet beyond the property-side edge of the sidewalk; or

b. If the sidewalk is six feet wide or wider, street trees shall be planted in cutouts in the sidewalk. The centerline of the tree shall be at least two feet from the back of curb, and at least four feet from the property-side edge of the sidewalk. If the remaining clear sidewalk space between the tree planter and the property-side edge of the sidewalk is less than four feet, a grate shall be used to cover the planting hole. The grate shall be of a size and design approved by the Department of Transportation. In all cases, the minimum effective clear sidewalk width shall be five feet.

G. On sites where evenly-spaced street trees are not possible due to topography or a uniquely shaped lot, random clustering of street trees may be acceptable, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly-spaced. Such arrangement must be approved by the Department of Transportation Director and the Deputy Director for Planning.

H. A tree well shall be as deep as the root ball and at least twice as wide as the root ball. The bottom of the tree well should be convex and a minimum of four inches of mulch should be placed on the top of the well.

**Section 2.** Except as herein amended, Title 18 (Building and Construction) of the El Paso City Code shall remain in full force and effect.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**THE CITY OF EL PASO**

\_\_\_\_\_  
John Cook, Mayor

**ATTEST:**

\_\_\_\_\_  
Richarda Momsen, City Clerk

CITY CLERK DEPT.  
2011 MAY 31 AM 11:45

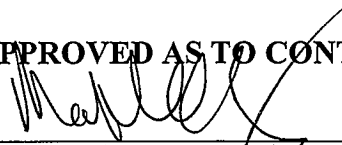
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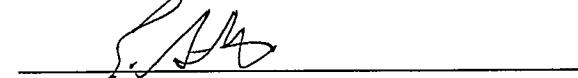
Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**



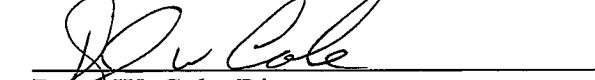
Mathew McElroy, Deputy Director  
Planning and Economic Development  
Department

**APPROVED AS TO CONTENT:**



R. Alan Shubert, P.E.  
City Engineer  
Department

**APPROVED AS TO CONTENT:**



Daryl W. Cole, Director  
Department of Transportation

CITY CLERK DEPT.  
2011 MAY 31 AM 11:45

**AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE), OF THE EL PASO CITY CODE, TO MODIFY AND PROVIDE ADDITIONAL DEFINITIONS, MODIFY FRONTAGE TREE AND PARKING LOT TREE REQUIREMENTS, INCREASE LANDSCAPABLE AREA REQUIREMENTS, AND ADD PROVISIONS FOR STREET TREES ON BOTH RESIDENTIAL AND COMMERCIAL DEVELOPMENT. THE PENALTY BEING AS PROVIDED IN SECTION 18.46.180 (VIOLATIONS – PENALTY) OF THE EL PASO CITY CODE.**

**WHEREAS**, by Ordinance No. 012399 enacted on May 23, 1995, the City Council of the City of El Paso, Texas, adopted the Landscape Ordinance of the City of El Paso to be effective September 1, 1995; and,

**WHEREAS**, by Ordinance No. 016654 enacted June 7, 2007, the City Council of the City of El Paso, Texas, approved modifications to the Landscape Ordinance; and,

**WHEREAS**, the City Council of the City of El Paso has determined that quality of life, increased property values and aesthetics are important issues and concerns affecting El Paso; and,

**WHEREAS**, proper landscaping and irrigation will augment those qualities while helping to improve air purification, storm water run-off, noise reduction and heat abatement while conserving energy, water and other natural resources; and,

**WHEREAS**, landscape standards can enhance the quality of life and enhance the general welfare and beauty of El Paso by creating and maintaining visual environmental amenities; and,

**WHEREAS**, the City Council adopted a Resolution on January 6, 2011 detailing the relationship between the built environment and obesity and directed the City Manager to recommend code changes to increase opportunities for physical activity; and,

**WHEREAS**, the amendments herein are necessary to promote and protect the health, safety, and welfare of the public by creating an urban environment that is aesthetically pleasing, promotes economic development and enhanced quality of life for the citizens of El Paso.

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

**SECTION 1.** That Chapter 18.46 (Landscape) of the El Paso City Code, be deleted in its entirety and replaced with the following:

Article I. - General Provisions

18.46.010 - Title.

This chapter shall be known as the landscape ordinance for the City of El Paso, Texas.

18.46.020 - Purpose.

A. The purpose of this chapter is to set forth the minimum requirements for irrigation and landscape for both residential and commercial property development within the corporate limits of

the city. The regulations herein are designed to enhance the quality of life, increase property values and aesthetics of the city; while helping to improve air purification, reduce stormwater run-off, noise reduction and heat abatement while conserving energy, water and other natural resources.

B. In addition, landscape designers and property owners are encouraged to design and place landscaping materials in a good, economically viable, and environmentally sensitive manner as to improve the aesthetics of development, construction, and the quality of life for all citizens. This chapter encourages the use of quantifiable, generally recognized, scientific standards and methods as well as local and state regulations and manufacturer's recommendations in evaluating all designs. This chapter shall be used to stimulate creativity and innovation in such designs.

C. This chapter is also designed to prevent soil erosion, reduce the hazards of flooding, enhance the absorption of carbon dioxide and supply of oxygen; reduce the effects of noise, glare, dust and other objectionable activities generated by some land uses; promote the pleasant appearance and character of neighborhoods and high intensity commercial and industrial corridors; provide shade; to cool superheated urban areas, and thus reduce water consumption in cooling units, as well as other energy consumption related to environmental cooling; and facilitate the safe movement of traffic in vehicular use areas.

D. This chapter is also designed to promote water conservation and water efficiency by requiring the planting of water-thrifty plants and other landscape materials. To assist in ensuring adequate supplies of water exist for El Paso's future, it is important that water conservation be promoted in landscape watering policies. Water conservation should be promoted through techniques such as the proper design of landscaped areas and plant selection, education of the public, and the proper use of irrigation of systems.

#### 18.46.030 - Rules of construction.

The following rules of construction shall apply:

A. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary;

B. Words used in the present tense include the past and future tenses, and the future the present;

C. The word "shall" is always mandatory. The word "may" is permissive.

D. Words and terms not defined herein shall be interpreted in accord with Webster's Third New International Dictionary, Copyright 1986.

#### 18.46.040 - Interpretation.

A. The provisions of this chapter shall be interpreted and applied, as the minimum requirements for landscaping and irrigation in the city and shall control over all other landscape requirements in any other ordinance in the El Paso City Code, except Chapter 15.13 (Water Conservation) of this code.

B. It is not intended that this chapter shall interfere with, abrogate or annul any restrictive covenants or other agreements between individual parties. When there is a conflict between the requirements of this chapter and any restrictive covenant, agreements or other requirements imposed on the property, the more stringent requirement shall apply.

C. The provisions of this chapter shall be subordinate to the provisions of the El Paso City Code pertaining to traffic and pedestrian traffic.

#### 18.46.050 - Definitions.

The following terms as used in this chapter shall be defined as follows:

"Approved irrigator" means a Texas licensed irrigator.

"Approved plant list" means the list of plants and shrubs prepared by the tree board or its successor the board of parks and recreation, and the building official, and on file with the building official, and as may be amended from time to time.

"Automatic controller" means a mechanical, electrical or hybrid solid state timing device, capable of operating valve stations by set days of the week and the length of time of water application.

"Backflow prevention device" means a safety device used to prevent pollution or contamination of the potable water supply due to the reverse flow of water from the irrigation system.

"Berm, earthen" means an earthen mound designed to provide visual interest or screen undesirable views and decrease noise.

"Caliper" means the measurement of the thickness of a tree; the minimum diameter of a tree as measured six inches above the grade for trees under four inches in diameter and twelve inches above grade for trees four inches in diameter and larger. For multiple trunk trees, the diameter shall be based on the caliper of the largest trunk plus half the caliper of the next three largest trunks.

"Deciduous" means a plant that sheds its foliage annually.

"Development - Commercial" means all developments zoned or used for commercial uses as described under Title 20 (Zoning).

"Director" means the city manager or designee.-

"Evergreen" means a plant with foliage that persists and remains green year round.

"Finish grade" means the ground elevation in its final and finished state before any landscape is installed.

"Frontage" means the property line where a parcel of land, lot, or site abuts a public right-of-way.

"Grass". See "turf or turf grass."

"Gross building area" means the total enclosed area of a building exterior dimensions, excluding covered walkways or exterior fire escapes.

"Ground covering" means organic or inorganic material such as mulches and/or gravel used as ground covering.

"Ground cover organic" means low growing plant material, other than turf grasses, installed in such a manner as to provide continuous cover of the ground surface.

"Hardscape" means the use of solid non-organic materials such as rock or stone, concrete, asphalt, brick, or other similar type material.

"Impervious soil" means soil which is extremely dense (cementitious sedimentary soil) through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of .95 pursuant to the Drainage Design Manual.

"Impervious surfaces" means any surface such as roofing, solid surface plastic materials, solid surface oil-impregnated materials, concrete, asphalt, etc. through which water will not readily penetrate adding to potential stormwater runoff and consists of a rainfall coefficient of 1.0 pursuant to the Drainage Design Manual.

"Landscapable area" means ~~any area of ground that can support vegetative groundcover and other landscaping plant materials. Sidewalks and other impervious surfaces are not considered landscapable areas.~~ that area of the lot that is required by this Chapter to be landscaped. It does not include the parkway, the frontage landscape buffer, or the parking lot trees.

"Landscaping" means the improvement of a section of ground by contouring the land and planting any combination of living plants, such as trees, shrubs, vines, groundcover or grass, natural features such as rock, stone, bark chips or shavings.

"Median" means the area within the public right-of-way, which separates two opposite directions of traffic.

"Mulch" means organic and/or inorganic material, which is placed, to prevent erosion, lower soil temperature and maintain soil moisture levels.

"Official" means the building official or his designee.

"Palm" means a long-lived plant of the family Palmae having a minimum eight feet unbranched clear trunk crowned by large pinnate or palmate leaves. Palms are permitted on property but will not receive credit as plant material or any type of tree.

"Parking lot" for the purposes of this chapter, "parking lot" means any paved or unpaved area, not including a street or alley right-of-way, containing one or more parking spaces for motor vehicles, designed in accordance with the requirements of Chapter 20.14, and intended as an accommodation for patrons, customers, and employees, either with or without a charge for such accommodation.

"Parking spaces" means those spaces for the parking of any vehicle excluding eighteen-wheel tractors and their trailers.



"Parkway" means that area of street right-of-way between the property line and the curb or, in the absence of a curb, between the property line and the nearest edge of the street paving.

"Permeable surfacing" means materials with a permeable base.

"Plant, native or adapted" means a commercially grown or legally harvested plant material hardy to the natural conditions of the region, which once established is capable of sustaining growth without supplemental watering.

"Plant ~~unit~~" ~~means one deciduous tree, twenty five-gallon shrubs, and ten one-gallon shrubs shall be provided~~ material" means the required trees and other plants that are required to be installed for every thousand square feet of landscapable area or a portion thereof.

"Pond" means a depression in the soil intended to retain and/or detain both stormwater and all excess irrigation water.

"Project" means a specific development which is subject the requirements as stated herein.

"Shrub" means a woody plant, deciduous or evergreen, generally multi-stemmed with small branches near the ground, and smaller growing than a tree.

"Street oriented building" means the placement of a building on a lot such that its principal orientation is toward the street and the principal entrance is from the sidewalk. Street oriented buildings prohibit parking in any space between the sidewalk and the building.

"Stormwater" means a build up of naturally occurring precipitation (water), which falls on any parcel of land (site or watershed) of any given size.

"Structure" for the purposes of this chapter, "structure" means that which is built or constructed, an edifice or building of any kind, with four walls and a roof that encloses the interior space from the outside elements, or other artificially built or constructed work.

"Swale" means a landscape design using raised or depressed earthen channel of any depth or width designed to direct or move water to or from ponds, other swales, channels, arroyos or other drainage conveyance.

"Texas Licensed Irrigator" means a person who sells, designs, offers consultations regarding, installs, maintains, alters, repairs, services or supervises the installation of an irrigation system, including the connection of such system to a private or public, raw or potable water supply system or any water supply, and who is required to be licensed under Title 30, Texas Administrative Code, Chapter 30.

"Tree, parking lot" means a deciduous tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy, spread of twenty feet at maturity. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk; which is installed and located in a parking lot.

"Tree, project" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height, which is capable of obtaining a minimum canopy spread of twenty feet at maturity that is required based on calculations determined by the provisions of this chapter. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk. Such trees shall be healthy and vigorous at time of planting.

"Tree, frontage" means a deciduous or evergreen tree having a minimum of two inches caliper and ten feet in height which is planted within the front landscape buffer or within twenty feet of the property line along the street frontage.

"Tree, street" means a deciduous tree growing within the parkway of a street having a minimum of two inches caliper and ten feet in height, except that a street tree shall be three inches caliper and ten feet in height for development along any arterial.

"Turf or turf grass" means a surface layer of soil bound by grass and its roots into a thick mat that requires regular maintenance, mowing and watering.

"Unmanned facility" means a structure which does not require a certificate of occupancy and is not occupied by any persons.

"Vehicular loading area" means a paved area designed to accommodate the maneuvering, loading and unloading and parking of commercial vehicles having a length of less than twenty-seven feet.

"Vehicular use area" means any area, excluding public rights-of-way, used for the purpose of driving, maneuvering, parking, storing or display of motor vehicles, boats, trailers, mobile homes and recreational vehicles, including new and used automobile lots, and other parking lot uses.

"Visibility triangle" means the area formed by the intersecting property lines and a diagonal line joining the property lines at the points twenty feet from their intersection on the corner lot at the intersecting corner.

"Water harvesting" means the process of intercepting irrigation or stormwater from a surface such as a roof, parking area or land surface and putting it to beneficial use thereby reducing runoff and making maximum use of irrigation and rain water.

"Weed barrier" means a porous overlay material used beneath mulch materials to reduce the germination and growth of unwanted plant material while allowing the percolation of water.

"Tree grate" means a barrier with parallel or crossed bars blocking a passage but allows for tree trunk diameter growth.

"Tree well" means the basin where the root ball of the tree is planted.

18.46.060 - Application.

A. Except as provided herein, this chapter shall apply to the incorporated area of the City of El Paso, Texas, and to all projects listed below. All projects listed below shall provide landscaping in accordance with the requirements of this chapter, and an underground automatic irrigation system,

shall be provided for all required landscapable areas in compliance with the requirements of this chapter, and shall comply with the requirements of 30 Texas Administrative Code, Chapter 344, §§ 344.72 — 344.77, and as may be amended.

1. The construction or erection of any new development, building, or structure, for which a building permit is required and zoned for a commercial use as defined under Title 20 (Zoning) of this Code.

a. For all sites, except zero lot line street frontage sites, the landscaping shall be located in the area between the street frontage and the building wall furthest from the street.

b. In addition to the required landscapable area, the parkway shall be landscaped per Section 18.46.060 and street trees must be provided as required by Section 18.46.200.

c. On zero lot line street frontage lots the landscaping shall be located within and throughout the site.

d. In order to be considered as landscapable area there shall be at least a ten feet distance between the walls of buildings. Trees planted in areas less than twenty feet between structures will not be given credit in satisfaction of the landscape requirements.

2. The expansion of an existing building or parking lot, regardless of the amount of the increase in size.

a. Landscaping shall be calculated based on the square footage of the new development or structure at a rate of 9.0 percent per square feet. A minimum of one unit of plant material and street trees within the parkway shall be required.

b. If the site satisfied the code requirements prior to the enactment of this chapter and is deemed legal nonconforming, and if expanded in use as permitted by Title 20 (Zoning), then, only the additional square footage of expansion of landscapable area shall be required to satisfy the requirements of this ~~chapter.~~

chapter at a rate of 9.0 percent per square foot..

3. Off-street parking.

a. Any construction of off-street parking or a new parking lot is required to install one tree per ten parking spaces or portion thereof (within and throughout), whether they are required parking spaces or not. Tractor trailer parking lots require one tree for every ten parking spaces. (See Section 18.46.090). This is in addition to the required landscapable area.

b. Any expansion of an existing parking lot is required to install one tree per ten spaces. The number of trees required shall be based on the calculation of the total of all spaces both new and existing (within and throughout) the site, whether they are required parking spaces or not.

c. No parking space shall be more than 100 feet from a tree.

4. Unmanned Facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may install the plant material and irrigation system, or pay fees in lieu of installation as provided herein.

## 5. Parkways.

a. Parkway area ground treatment shall include permeable surfacing, not to include raw soil. With the exception of street trees, plant material shall be maintained in the parkway so that it does not exceed three feet. Landscaping of the parkway, including any frontage landscape buffers, shall count towards up to 1.5% of the required landscapable area.

b. Parkways shall contain street trees as required by Section 18.46.200.

## 6. Frontage Landscape Buffers.

a. Frontage Landscaping. The frontage along any street shall consist of a minimum ten foot landscape buffer, except as provided in paragraph c below. The frontage landscape buffer may be crossed by driveways and pedestrian walkways connecting to adjacent land; however, no parking is permitted within a required frontage landscaping buffer. The frontage area buffer shall also include the entire area within the visibility triangle at the intersection of any roadways. Along freeways or any frontage roads, the frontage landscaping buffer shall be fifteen feet.

b. The frontage landscape buffer shall contain the required plant units based on Section 18.46.090 and the required frontage trees as required by Section 18.46.200. Ground treatment shall include decomposed granite, or other permeable surfacing, not to include raw soil. Landscaping of the frontage landscape buffer, including any parkways, shall count towards up to 1.5% of the required landscapable area.

c. A building may be located within the required ten foot frontage landscape buffer and any remaining portion within the ten foot landscape buffer not occupied by of the building shall be landscaped.

7. Residential development shall comply with the street trees requirement under Article IV of this Chapter.

B. Exemptions. The following projects are exempt from the requirements of this chapter:

1. Building restoration projects for historic structures as defined under Title 20 (Zoning);
2. Projects on land owned by the federal or state of Texas governments;
3. Any existing development, which changes its use from an approved use to any other, approved use within the same zoning category;
4. Expansion of an existing structure or parking lot if the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new project;
5. Projects which are zoned or used for residential use as defined under Title 20 (Zoning) of this code; if such residential use single-family, duplex, triplex, quadraplex or condominium, except that street trees are required and cannot be exempted for new development based on Section 18.46.200;

6. Existing buildings or parking lot areas that add a delivery or loading area, ramp or dock, or trailer storage area to an existing asphalt or concrete surface.

7. The addition of a building or buildings on a commercial lot when the additional building or buildings have a combined square footage of less than 1,200 square feet of floor area.

#### Article II. - Design Requirements

18.46.070 - Plans required.

18.46.080 - Required landscapable areas.

18.46.090 - Required plants.

18.46.070 - Plans required.

Projects that are subject to the requirements of this chapter, shall require the submission of a separate landscape plan and an irrigation plan sealed by a landscape architect registered in the state of Texas, or a landscape contractor registered with the city. In order to register with the city, a landscape contractor shall comply with the following:

1. Contractor shall be a licensed by the state as a landscape irrigator or shall employ at least one licensed landscape irrigator full time. The license number shall be submitted at the time of permit application;

2. Contractor shall have a valid d/b/a registered with the county;

3. Contactor shall have general liability insurance of fifty thousand dollars with the City of El Paso as a certificate holder;

4. Contractor shall also obtain a construction blanket bond of ten thousand dollars. Each plan shall be at a minimum scale of one-inch equals forty feet, preferably one inch equals twenty feet. No architectural scaling shall be allowed. Plan size shall be on paper size twenty-four by thirty-six inches.

A. Landscape Plan. The landscape plan shall include the following information:

1. Date, scale, north arrow, project title and project address; and landscape designer with their address, phone number;

2. Name, address and telephone number of the property owner(s) representative;

3. Botanical name and common name, plant tag showing plant type, legend reference, size, height, quantity and location of proposed landscape materials to be used;

4. Landscape calculations, minimum required square footage of the landscapable area, total square footage of the landscapable area, parking provided, vehicular loading area, minimum required quantity of landscape materials, provided quantity of landscape materials;

5. Landscape master plan (long-term) with phasing plan;

6. Location of existing and proposed structures, signs, project trees, shrubs, plant material, swales, berms, frontage trees, parking lot trees, street trees, and fire hydrants existing at the time of plan submission;

7. Show all curb cuts ingress and egress and distances to plant material; and

8. Show a five-foot clearance at maturity for all landscape material adjacent to any utility box, hydrant, meter or access point.

B. Irrigation Plan. The irrigation plan shall be designed and sealed by an irrigator licensed by or recognized by the state of Texas, and shall include the following information:

1. Type, size and location of piping and sleeving;
2. Type, size, radius, gpm, precipitation rate, design pressure and location of irrigation heads;
3. Type, size, gph, details of installation, design pressure and the location of emitters or subsurface equipment;
4. Drip and/or subsurface installation detail;
5. Type, size and location of backflow prevention devices, valves, wiring and controllers;
6. Backflow installation detail; and
7. Arc spray pattern for all turf areas.

18.46.080 - Required landscapable areas.

A. New Commercial Development. All new commercial development shall be required to comply with the landscapable area requirements, the parkway landscaping requirements, the frontage landscape buffer requirements and the parking lot tree requirements.

1. The required landscapable area shall be calculated as follows:

a. The square footage of the entire lot(s) in which the project is located on, multiplied by 9.0 percent equals the required landscapable area;

b. If required area is 0.5 of a unit of plant material or less, fees in lieu of installation may be paid as provided herein;

c. If required area is 0.51 to 0.99 it must comply by providing one unit of plant material or four trees;

d. Required area over 0.99 of a unit shall comply at a rate of one unit of plant material for each thousand square feet of required landscapable area or portion thereof;

e. The number of frontage trees required shall be one tree per every fifty (50) linear feet of all street frontages, including any easements. The frontage trees are required to be located within the frontage landscape buffer or within twenty feet of the property line along the street frontage. A minimum of one frontage street tree shall be installed if the property has less than fifty feet of frontage. If street trees are being placed within property along the street frontage based on the

requirements of Section 18.46.200, then the required frontage trees may be distributed within and throughout the property.

f. The parkway and frontage landscape buffer combined shall count up to a maximum of 1.5 percent of the required 9.0 percent landscapable area.

18.46.090 - Required plants.

A. The following plant materials shall be installed within the required landscapable area as follows:

1. For every one thousand square feet, or portion thereof, of landscapable area, the following plant material shall be required:

a. Two project deciduous or evergreen trees having a minimum caliper size of two inches and a minimum height of ten feet to twelve feet;

b. A minimum of forty plant material of five-gallon size, which are a minimum of eighteen inches in height.

c. A minimum of twenty plant material of one-gallon size;

~~d. Palms may be installed on the property on a one to one basis as a five gallon shrub but shall only count toward ten percent of the required five gallon plant material;~~

~~e. For project trees, two one inch caliper trees at a height of ten feet to twelve feet may be substituted for a two inch caliper project tree.~~

~~f.e.~~ Substitution of plant materials may be allowed for the preservation or relocation of existing healthy trees and shrubs based on equivalent size and type of plant material and shall be subject to review by the landscape plan reviewer on a one-to-one basis.

f. Palms may be installed on the property but will not count toward any type of plant material or tree.

2. Parking Lots and Vehicular Use Areas.

a. Shading shall be required for parking lots and vehicular use areas that are located within the project, with ten parking spaces or more shall be provided with at least one parking lot tree for every ten parking spaces.

b. Truck courts and truck-trailer parking lots shall be required to have parking lot trees placed within the parking lot.

c. Parking lot trees may be placed within the parking area or vehicular use area with due consideration for vehicle movement and maneuvering or directly adjacent to the vehicular use area.

d. Parking lot trees shall be located with respect to the location of parking lot light fixtures in such a manner as to not impede the distribution of light throughout the parking lot, unless the lighting is placed in the canopy of the trees.

3. Street-Oriented Buildings.

a. In cases where a building is oriented toward the street, the required landscapable area shall be reduced by 60% if the building meets the following standards:

1. The building spans is 80% of the width of the lot at the street .

2. The principal entrance is from the sidewalk that is the recipient of 80 percent span coverage

3. That no parking is located between the street and the building along any portion of the 80 percent span.

4. That at least 60 percent of the building façade is glass.

b. Any side off-street parking abutting the property line shall have the required frontage landscape buffer area and applicable frontage trees and plant units.

Article III. - Standards

18.46.100 - Landscape standards.

A. Water Harvesting. The landscapable area shall be designed to ensure the most beneficial design for surface collection of water to include swales, parking lot islands, bar ditches, detention or retention ponds and constructed wetlands.

B. Plants. Seventy-five percent of all plants to be used in the landscape design shall be selected from the approved plant list on file and maintained in the department. No artificial plant materials shall be used to satisfy the requirements of this chapter. All plants and trees shall be healthy and vigorous at the time of planting. At least fifty percent of the plants installed shall be plant material of low water, drought-tolerant variety.

C. Turf. Turf shall not be installed on slopes exceeding twenty percent, unless approved by the City Engineer or designee to match existing conditions or surrounding development. Turf grass is specifically prohibited in parkways. Turf shall have an amended soil base of a minimum of six inches.

D. Trees. Trees in pedestrian areas shall be planted and maintained, with the mature branching structure having a minimum of seven feet clearance from ground level within three feet from the trunk. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of thirty-six square feet of surface area with no interior dimension less than four feet measured at ninety degrees to the interior edges.

E. Shrubs. Shrubs shall be a minimum size of a five-gallon container and a minimum plant height of eighteen inches (except for dwarf species and low growing species). Existing shrubs should be preserved and incorporated into the site landscaping.

F. Organic/Inorganic Ground Covering/Permeable Paving.

1. Inorganic coverings such as gravel, river rock, shell, recycled glass (polished with rounded edges) and similar materials may be used as a landscape groundcover.

2. Organic ground covering such as organic mulch, wood chips or bark may be used as a landscape ground covering.

3. Non-porous materials shall not be installed under organic or inorganic ground covering.

4. Any weed barrier materials used must allow the percolation of standing water within seventy-two hours.

G. Plant material shall be installed to ensure that at maturity there is a five-foot clearance adjacent to any utility box, fire hydrant, utility meter or access point.

18.46.110 - Irrigation standards.



A. All irrigation plans shall be designed and sealed by an irrigator licensed in the state of Texas.

B. Irrigation systems shall be installed in accordance with the standards and requirements of the irrigation equipment manufacturer, the Texas Commission on Environmental Quality, and the International Plumbing Code, and as may be amended, and all applicable regulations and laws.

C. The source of irrigation water, whether potable or reclaimed, as provided by the City of El Paso water utilities, shall be indicated on the irrigation plans.

D. When using a potable irrigation water source, an approved backflow prevention device shall be installed in accordance with the City of El Paso Plumbing Code.

E. Such device shall be a pressure vacuum breaker or a reduced pressure assembly as appropriate for the project location. No other type of backflow prevention device shall be permitted.

F. All backflows shall be protected from freezing with an enclosure that is ASSE certified or equal and shall be screened or concealed from street view with plants or other landscaping.

G. All irrigation systems shall include:

1. An automatic controller with multiple programs, multiple repeat cycle capabilities and a flexible calendar program. Power may be provided by either electricity or solar;

2. Spray head type irrigation systems may be used in planting beds when:

i. Plant material spaced less than eighteen inches center to center.

ii. Spray head system has head to head coverage.

H. Spray heads shall not be used in the following locations:

1. Parkways;

2. Medians;

3. In areas less than ten feet in any dimension; and

4. On slopes exceeding twenty percent.

I. Drip and spray systems shall:

1. Be placed on separate valves;

2. All components on drip systems shall be measured in gallons per hour.

J. Wiring and sleeving:

1. All wire shall be direct burial. Multi-strand shall not be allowed for direct burial;

2. Hard wire installations shall have a cutoff switch installed within sight of the controller;
3. Irrigation piping and wiring installed under any hardscaped areas shall be within sleeving.

K. Storm retention pond areas that are irrigated shall incorporate, in the design, separate valves for the basin and slope areas. A moisture sensor shall be installed in the basin.

L. Flood irrigation water from a water improvement district is not an approved method of irrigation, and shall not satisfy the requirements of this chapter.

#### 18.46.120 - Installation Standards.

Landscape and irrigation systems shall be installed in accordance with the approved plan.

A. Minor modifications may be made to the landscape design (plant materials and irrigation system), by the landscape architect or designer, so long as the changes comply with the minimum standards applicable to this chapter.

B. Minor modifications shall be allowed within the landscape area as long as those changes do not affect the plant size, landscapable area, or required quantity and that the irrigation changes do not affect the hydraulic integrity of the system.

C. Installation shall be completed prior to the building final inspection.

D. Reserved.

E. An individual with a state irrigator, installer [only allowed through December 31, 2009], Irrigation Technician, master plumber, or journeyman plumber license shall be on the project site during all irrigation installation work to review and inspect all progress and aspects of the installation.

#### 18.46.130 - Maintenance standards.

A. Landscaping and irrigation shall be regularly and properly maintained to ensure healthy and vigorous plant material. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pest prevention, pruning, and other maintenance of all plantings as needed. Trees may not be trimmed beyond national nursery standards for any reason.

B. Landscaping which dies shall be replaced by the owner with another living plant that is comparable to the existing plant or plant materials specified in the approved landscape plan as expeditiously as possible, but in any event no later than sixty days after notification from the director. The director may extend this time period up to an additional thirty days due to weather or due to events outside of the control of the property owner.

#### 18.46.150 - Fees in lieu of installation.

A. When Applicable. The following projects may pay fees in lieu of installation of the required landscaping material and irrigation system, and shall not be subject to the requirements of this chapter if such fees are paid in accordance with the following provisions.

1. Unmanned facilities.

2. Manned facilities, if the required landscapable area requires 0.5 of a unit of plant material or less.

B. Fee Calculation. Where the city accepts payment of cash in lieu of the installation of landscape material and irrigation system, such payment shall be equivalent to the following:

1. Unmanned Facilities.

a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less, shall pay fees in the amount of five thousand dollars per site.

b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may pay fees based on five thousand dollars per unit of plant material required.

2. Manned Facilities. Any manned facility with a calculated landscapable area requiring 0.5 of a unit of plant material or less, may pay fees based on five thousand dollars per unit of plant material required.

C. Form Tendered. A cash payment made pursuant to this section shall be tendered in the form of a cashier's check, payable to the City of El Paso. The cashier's check shall be submitted to the director and shall accompany the building permit application.

D. Special Fund.

1. Special Fund Established. The city shall establish a special fund for the deposit of all sums paid in lieu of installation pursuant to this chapter. The city shall account for all sums paid with reference to the individual property involved, and all sums received shall be committed by the city to be dedicated to the installation and planting of landscaping and plant material. In no case shall the funds be used for routine park, landscaping maintenance or other recreational facility maintenance. The fees shall be spent in locations as reasonably close as possible to the project which elected to pay such fees; however, the city shall not be restricted to spending the funds throughout the city so long as visible by the general public and in conformance with the purposes set forth in this chapter.

2. Accountability. The City Engineer or designee shall maintain a written record of all moneys received in lieu of installation, including, at a minimum, the total amount of fees received, the property address generating the fees and the date the fees were received. The City Engineer or designee shall maintain a record of all expenditures incurred from these funds and shall also perform a periodic reconciliation to the general ledger system of the city to ensure accountability of these funds.

3. Return of Monies Paid. Any monies not used as stated above within one year of payment to the city may be returned to the original individual or group that made payment upon application by said individual or group for a refund. Monies shall be returned upon refund application after one year unless said monies have been encumbered for use prior to application.

## Article V.—Administration

### ~~18.46.160—Enforcement.~~

~~A. Revocation of Permit. Permits may be revoked in accordance with the provisions in chapter 18.02 of this Code.~~

~~B. Citations. The city engineer and any person designated by the city engineer, to include but not be limited to the building official and the code enforcement division, are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.~~

### ~~18.46.170—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 construction board of appeals.~~

### ~~18.46.180—Violations—Penalty.~~

~~A. Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, or who shall has erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, or has erected, constructed, altered, repaired, moved or demolished any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.~~

~~B. Criminal Prosecution. Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor.~~

~~C. Civil Remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:~~

~~1. Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and~~

~~2. A civil penalty up to five hundred dollars a day when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and~~

~~3. Other available relief.~~

~~18.46.190 – Severability.~~

~~If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.~~

Article VI.IV. Street Trees.

18.46.200 – Required Street Trees.

A. Street trees are required on all city streets and arterials based on the requirements of this section. Maintenance and trimming of street trees and replacement of dead trees are the responsibility of the owner of the lot adjacent to or on which the trees are located. Street trees shall be maintained alive and healthy by the property owner of the lot adjacent parkway or on which the tree is located.

B. Street trees shall be selected from the Approved Tree and Plant List of the City of El Paso maintained by the Parks and Recreation Department. The street trees to be installed must be a designated as a preferred (x) or allowed (o) medium or large deciduous tree from the Approved Tree or Plant List.

18.46.210 – Street Tree Standards.

A. Street trees shall be installed for ~~commercial development new residential development~~ per this chapter when any landscape is required per Chapter 18.46. For new residential development, street trees shall be installed by the property owner prior to the issuance of a certificate of occupancy. ~~The required street trees and irrigation system shall be shown on occupancy.~~ For commercial all building permit applications on the site plan. If the developer elects to install the street trees, then the street trees and irrigation system shall be shown on the subdivision improvement plans and must be installed and completed as part of the subdivision improvements for the subdivision. An underground automatic irrigation system shall be required for new residential development and must comply with the standard specified in this Chapter.

B. The spacing for all street trees shall be at 30 feet or less for all streets. Every lot over 20 feet wide shall have at least one street tree.

C. Adequate vertical clearance below the branches must be maintained for pedestrians, cars, and bicyclists. The minimum height to the lowest branch overhanging a sidewalk shall be seven feet; the lowest height overhanging a street shall be 14 feet.

D. Street trees shall be a minimum of two inches caliper and ten feet in height, except that a street tree shall be a minimum of three inches caliper and ten feet in height for development along any arterial.

E. Street trees shall be placed in the parkway of the street, unless the Department of Transportation Director and the Deputy Director for Planning, requires different locations of trees based on topography or a uniquely shaped lot.

F. The standard setback of trees located between the curb and the sidewalk shall be based on the following standards.

1. Where more than four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted with their centerline equal distance from the curb and sidewalk.

2. Where three to four feet of space of parkway exists between the back of curb and the sidewalk, street trees shall be planted two feet from tree centerline to back of curb.

3. Where less than three feet of space exists between the back of curb and the sidewalk, street tree placement will vary depending on the space available. A solution shall be selected from the following criteria:

a. The minimum distance between the back of curb and centerline of the tree shall be two feet;

b. The minimum distance between the centerline of the tree and the property-side edge of the sidewalk shall be four feet;

c. If items one and two cannot be met, then street trees shall be planted at least two feet beyond the property-side edge of the sidewalk.

4. Where the sidewalk is at the curb, a solution shall be selected from the following criteria:

a. If the sidewalk is less than six feet wide, the tree shall be planted at least two feet beyond the property-side edge of the sidewalk; or

b. If the sidewalk is six feet wide or wider, street trees shall be planted in cutouts in the sidewalk. The centerline of the tree shall be at least two feet from the back of curb, and at least four feet from the property-side edge of the sidewalk. If the remaining clear sidewalk space between the tree planter and the property-side edge of the sidewalk is less than four feet, a grate shall be used to cover the planting hole. The grate shall be of a size and design approved by the Department of Transportation. In all cases, the minimum effective clear sidewalk width shall be five feet.

G. On sites where evenly-spaced street trees are not possible due to topography or a uniquely shaped lot, random clustering of street trees may be acceptable, provided that the number of trees planted equals or exceeds the number that would be required if the trees were evenly-spaced. Such arrangement must be approved by the Department of Transportation Director and the Deputy Director for Planning.

H. A tree well shall be as deep as the root ball and at least twice as wide as the root ball. The bottom of the tree well should be convex and a minimum of four inches of mulch should be placed on the top of the well.

#### Article V. - Administration

##### 18.46.160 - Enforcement.

A. Revocation of Permit. Permits may be revoked in accordance with the provisions in chapter 18.02 of this Code.

B. Citations. The city engineer and any person designated by the city engineer, to include but not be limited to the building official and the code enforcement division, are authorized to enforce the

provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

18.46.170 - 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 construction board of appeals.

18.46.180 - Violations—Penalty.

A. Civil and Criminal Penalties. The city shall have the power to administer and enforce the provisions of this chapter as may be required by governing law. Any person, firm, corporation or agent who shall violate a provision of this code, or fails to comply therewith, or with any of the requirements thereof, or who shall have erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, or has erected, constructed, altered, repaired, moved or demolished any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of the ordinance codified in this chapter is declared to be a nuisance.

B. Criminal Prosecution. Any person violating any provision of chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars. Each day that a provision of this chapter is violated shall constitute a separate offense. An offense under this chapter is a Class C misdemeanor.

C. Civil Remedies. Nothing in this chapter shall be construed as a waiver of the city's right to bring a civil action to enforce the provisions of this chapter and to seek remedies as allowed by law, including, but not limited to the following:

1. Injunctive relief to prevent specific conduct that violates the ordinance or to require specific conduct that is necessary for compliance with the ordinance; and

2. A civil penalty up to five hundred dollars a day when it is shown that the defendant was actually notified of the provisions of the ordinance and after receiving notice committed acts in violation of the ordinance or failed to take action necessary for compliance with the ordinance; and

3. Other available relief.

18.46.190 - Severability.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

**Section 2.** Except as herein amended, Title 18 (Building and Construction) of the El Paso City Code shall remain in full force and effect.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**THE CITY OF EL PASO**

---

John Cook, Mayor

**ATTEST:**

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Richarda Momsen, City Clerk

**APPROVED AS TO FORM:**

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Lupe Cuellar  
Assistant City Attorney

**APPROVED AS TO CONTENT:**

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R. Alan Shubert, P.E.  
City Engineer