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## CITY OF EL PASO, TEXAS AGENDA ITEM DEPARTMENT HEAD SUMMARY FORM

**DEPARTMENT:** PLANNING & INSPECTIONS DEPARTMENT

**AGENDA DATE:** **INTRODUCTION:** July 12, 2016  
**PUBLIC HEARING:** July 26, 2016

**CONTACT PERSON NAME AND PHONE NUMBER:**  
LARRY F. NICHOLS, (915) 212-1550, [nicholslf@elpasotexas.gov](mailto:nicholslf@elpasotexas.gov)  
LAURA FOSTER, (915) 212-238-3514, [fosterla@elpasotexas.gov](mailto:fosterla@elpasotexas.gov)

**DISTRICTS AFFECTED:** ALL

**SUBJECT:**  
An Ordinance amending Title 18 (Building and Construction), Chapter 18.46 (Landscape Code), reformatting existing provisions, adding variances, adjusting calculations based on land use and expanding plant selection options.

**BACKGROUND DISCUSSION:**  
The updated scoping and requirements in these amendments reflect user feedback for the past two years that the current ordinance has been in place.

**PRIOR COUNCIL ACTION:**  
N/A

**AMOUNT AND SOURCE OF FUNDING:**  
N/A

**BOARD/COMMISSION ACTION:**  
N/A

### REQUIRED AUTHORIZATION

**DEPARTMENT HEAD:** \_\_\_\_\_

Larry F. Nichols – Department Head

City 3 | 801 Texas Ave. | El Paso, Texas 79901 | (915) 212-0083

*"Delivering Outstanding Services"*

**AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE), REFORMATTING EXISTING PROVISIONS, ADDING VARIANCES, ADJUSTING CALCULATIONS BASED ON LAND USE AND EXPANDING PLANT SELECTION OPTIONS, THE PENALTY BEING AS PROVIDED IN SECTION 18.46.320 (VIOLATIONS-PENALTY) OF THE EL PASO CITY CODE**

WHEREAS, the El Paso City Code was adopted to promote the health, safety, morals and general welfare of the community; and

WHEREAS, Title 18 (Building and Construction) CHAPTER 18.46 (Landscape) provides for the administration and enforcement of landscaping in residential subdivision and non-residential development in the city; and

WHEREAS El Paso's Strategic Plan 2015 asks for economically viable policy with implementation that improves El Paso's quality of life and visual image; and

WHEREAS El Paso's Strategic Plan 2015 calls for sustainable policies based on collaboration among Council, city staff and the community;

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

**SECTION 1. That Title 18, (Building and Construction), Chapter 18.46 (Landscape) is hereby amended as follows:**

**Chapter 18.46 - LANDSCAPE**

**Article I. - General Provisions**

**18.46.010 - Title.**

This chapter shall be known as the Landscape Ordinance for the City of El Paso, Texas.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.020 - Purpose.**

- A. The purpose of this chapter is to set forth the minimum requirements for landscape and irrigation of residential subdivision and commercial property development within the corporate limits of the city. The regulations herein prescribe standards that create aesthetic

value, conserve water, improve air quality, reduce heat island effect and soil erosion and manage stormwater.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.040 - Interpretation.**

- A. The provisions of this chapter shall control over all other landscape requirements in any other ordinance in the El Paso City Code, except Chapter 15.13 (Water Conservation) and Title 21 (Smart Code) 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.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.050 - Definitions.**

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

"Approved Plant List" means the combined lists of plants and shrubs contained in both the University of Texas at El Paso Desert Plant List and the City of El Paso Plant List, and on file with the building official, and as may be amended from time to time.

"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.

"Canopy Tree" means any tree having a minimum of two inches caliper and at least five feet in height, which is capable of obtaining a minimum canopy spread of twenty feet at maturity.

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

"Frontage Landscape Buffer " means the ten foot wide area from the public right-of-way line into the parcel, along a frontage street.

"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 similar 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 that area of the parcel that is required by this chapter to be landscaped, to include the frontage buffer, used to meet the landscape requirements specified in this chapter. It does not include the parkway or parking lot trees or the sidewalk.

"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 and natural features such as rock, stone, bark chips or shavings.

"Low Impact Development (LID)" means small scale and site-integrated storm water management strategies that imitate predevelopment hydrology. Best LID practices include bioretention and engineered soil, vegetated swales, vegetated filter strips, storm water planters, green roofing and rainwater harvesting. Low Impact Development practices are distinct from conventional stormwater infrastructure such as large single detention/retention ponds.

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

"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.

"Parcel" means a lot or property envelope defined by property lines.

"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.

"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 (or pervious) surface" consists of a variety of types of pavement, pavers and other devices that provide stormwater infiltration while serving as a structural surface.

"Perimeter Screening" means the use of planting, sculptural element or an architectural feature, 3' - 4' in height, placed along a parking area where the parking area abuts a frontage, used to mitigate view of vehicles and parking surface from the streetscape.

**"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 material"** means the required trees and other plants that are required to be installed.

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

**"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 buildup of naturally occurring precipitation (water), which falls on any parcel of land (site or watershed) of any given size.

**"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"** means a deciduous or evergreen tree having a minimum of two inches caliper and at least five feet in height or a tree documented on the Approved Plant List as native to the Chihuahuan desert having a minimum one-and-one-half inch caliper

**"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.

**"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.

**"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.

(Ord. No. 18026, § 1, 6-4-2013)

#### **18.46.060 - Application.**

A. Except as provided herein, this chapter shall apply to residential subdivision development and non-residential development described under Title 20 (Zoning), within the incorporated area of the City of El Paso, Texas. Application includes the new construction of or addition to any building or structure, or change of occupancy classification for which a building permit is required. All non-residential development covered by this chapter shall be required to provide irrigation and landscaping for the parcel areas to include the frontage buffer, and parking lot trees, as well as the parkway and the sidewalk. An automatic irrigation system, where provided, shall be in compliance with the requirements of 18.47, Irrigation Systems, and shall comply with the requirements of 30 Texas Administrative Code, as may be amended.

##### **1. Exemptions**

- a. Projects on land owned by the federal or State of Texas governments.
- b. Single family residences, owned by an individuals as their primary residence in a platted subdivision.
- c. 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.
- d. The addition of a new building or buildings of less than (1000 S.F.) one thousand square feet of floor area.
- e. Temporary placements not exceeding (6) six months in duration.

##### **2. Variances**

- a. For a property within the designated landscape infill development area, as shown in Appendix A attached to Ordinance Number 17656. [A copy of Ordinance 17656, Ex. A can be found in the city offices]; the required landscapable area may be reduced up to (30%) thirty percent.
- b. Parkway within or abutting TXDoT right-of-ways shall defer to TXDoT standards.
- c. Structures built from property line to property line (100% build out) shall only be required street trees and parkway landscape.

- d. Where a building is street -oriented and meets the following standards , the required landscapable area shall be reduced by (60%) sixty percent:
  - 1. The building span is (70%) seventy percent of the width of the lot at the street; and
  - 2. The principal entrance is from the sidewalk facing the street; and
  - 3. No parking is located between the street and the building along any portion of the (70%) seventy percent span; and
  - 4. At least (30%) thirty percent of the building facade is glass.
  - 5. Any side off-street parking abutting the property line shall have the required frontage landscape buffer area and required buffer trees
- e. Where Low Impact Development measures achieve (100%)one hundred percent storm water retention within the development envelope, then required plant material may be of any type as long as coverage at maturity reaches (50%) fifty percent of the required landscape and the following LID practices are demonstrated in the drawings and project:
  - 1. Minimize total impervious area
  - 2. Disconnect impervious surfaces
  - 3. Use distributed small-scale controls or Integrated Management Practices (IMPs)
  - 4. Create multi-functional landscape and hardscape
- f. Where topography, a utility easement or the unique characteristics of a particular parcel are such that the landscape requirements cannot be met, the building official may waive up (15%) fifteen percent of the parking requirement below the minimum so that the minimum landscape requirement can be met or alternatively the missing landscape percentage can be waived up to (15%) fifteen percent of the total square footage required.
- g. Where utility companies install perimeter walls exceeding (6) six feet in height, interior landscape shall not be required

**18.46.070 - Landscape plans required.**

- A. The landscape plan shall comply with the Texas State Occupations Code 1052.003, Sec. 1052.003, Practice of Landscape Architecture, and as may be amended.
- B. The landscape plan shall include the following information:
  - 1. Construction documents drawn to a legible scale, current line type and notation conventions;
  - 2. Date, scale, north arrow, project title and project address; and landscape designer or owner's representative, with their address, phone number;

parking provided, vehicular loading area, minimum required quantity of landscape materials, provided quantity of landscape materials;

5. Location of existing and proposed structures, signs, trees, plant material, swales, berms, frontage trees, parking lot trees, curb-cuts, street trees, and fire hydrants existing at the time of plan submission;
6. Location of all curb cuts, ingress and egress, visibility triangles and metrics related to this chapter and distances to plant material;
7. Notation showing a five-foot clearance at maturity for all landscape material adjacent to any utility box, hydrant, meter, substation wall or access point.

(Ord. No. 18026, § 1, 6-4-2013)

## **Article II. - Design Requirements**

### **18.46.080 - Required Landscapable Areas.**

**A. The Parcel, which includes the Frontage Buffer:** Plant material and trees used as result of the coverage calculation shall be shrubs, ground cover and trees from the approved plant list. Quantity of required plant units shall be based on Sections 18.46.080 and 18.46.090. Ground treatment that is not plant material shall employ permeable pavers, gravel mulch, or other permeable surfacing. The required shrubs and ground cover of the parcel shall be distributed across the parcel and the landscape buffer and shall be calculated as follows:

1. Landscapable area for new development shall be calculated based on the square footage of the entire parcel on which the project is located, minus the square footage of the building(s) footprint and any covered walkways and/or covered patios that are an occupied extension of the structure, multiplied by (15%) fifteen percent.
2. Landscapable area for the expansion of an existing building or parking lot exceeding 1000 square feet shall be calculated based on the square footage of the expansion multiplied by (15%) fifteen percent. For expansions of an existing building or parking lot where the original development was not required to comply with any landscaping requirements, the required landscaping for the expansion may be located on any portion of the parcel or in the parkway.
  - a. When landscapable area for the expansion of an existing building or parking lot yields a calculation of 1000 square feet or less, a minimum of one unit of plant material that includes a canopy tree, shall be required for every (1000) one thousand square feet of landscapable area. Fees as per schedule C may be paid in lieu of installation and no separate irrigation drawings shall be required. Irrigation design may be shown on the architect's site plan and installed by a master plumber.



installation and no separate irrigation drawings shall be required. Irrigation design may be shown on the architect's site plan and installed by a master plumber.

3. Landscapable area for self-storage warehouses (as defined by Title 20) shall be calculated based on the square footage of the entire parcel on which the project is located, minus the square footage of the building(s) footprint multiplied by (12%) twelve percent.
4. Landscapable area for High Hazard Group (H), Storage Group (S), and Utility (U) occupancy classifications, as defined in the International Building Code, in manufacturing and industrial zoning districts shall be calculated based on the square footage of the entire lot(s) on which the project is located, minus the square footage of the building(s) footprint multiplied by (8%) eight percent and required parkway trees may be counted toward the required tree count for the project.
5. Phased Development. If a project is developed in phases, the required landscaping and screening must be completed per phase of development.
  - a. A master landscape plan shall be provided for the entire development and shall include a landscape phasing schedule per phase of development. Each phase of the development shall comply with all the provisions of this code as required for new development to include all applicable provisions pertaining to all landscapable areas of the parcel as well as the parkway and sidewalk.

**B. The Frontage Buffer.** The frontage along any street shall consist of a minimum (10') ten-foot buffer, except where the buffer abuts freeways or frontage roads, where the frontage buffer shall be (15') fifteen feet. The frontage buffer may be crossed by driveways and pedestrian walkways connecting to adjacent land; however, no parking is permitted within a required frontage buffer. The frontage buffer shall also include the entire area within the visibility triangle at the intersection of any roadways.

1. In addition to required shrubs and groundcover, trees as specified by this title, are required within the frontage buffer at every (40') forty linear feet of frontage minus driveway widths. If canopy trees are being placed in the parkway, then up to (50%) fifty-percent of the required buffer trees may be distributed within and throughout the parcel. If the property has less than (50') fifty feet of frontage then a minimum of (1) one canopy tree shall be installed in the buffer.
2. A building may be located within the required (10') ten foot frontage landscape buffer and any remaining portion within the (10') ten-foot landscape buffer not occupied by [any] of the building shall be landscaped.
3. For shopping centers on properties with a lot depth of less than (200') two hundred feet, the frontage buffer area may be reduced to (7') seven feet on an arterial street. This provision does not apply to the following circumstances:
  - a. A shopping center where platted lots are further divided by metes and bounds.
  - b. A shopping center that is located on more than one lot, whether the lots are platted or divided by metes and bounds.

- c. A shopping center that has detached buildings, whether those buildings are on the same building as the main shopping center building or whether the detached buildings are on separate lots that are platted or divided by metes and bounds.
4. On irregularly shaped sites less than (200') two-hundred feet deep, with any use, the Frontage Buffer may be reduced to (5') five feet and required frontage buffer landscape reduced in proportion.
- C. **Parking Lots.** Parking lots should be hardscaped and landscaped for both vehicle and pedestrian uses, providing shading and pedestrian paths to the building entrance and other site elements served by the lot. Parking lots or the frontage buffers that abut them may employ perimeter screening to mitigate the view of cars and pavement from the streetscape.
  1. Except where canopy trees could obscure permanent business signage, trees placed in the parking lot shall be canopy trees and each parking space shall be within (100') one hundred feet from a tree.
  2. Any construction of off-street parking or a new parking lot or expansion of an existing parking lot is required to install (1) one canopy tree per (10) ten parking spaces or portion thereof (within and throughout), whether they are required parking spaces or not. This is in addition to the required landscapable area. The number of trees required shall be based on the calculation of the total of all spaces both new and existing within the site.
  3. Parking space maximums under Title 20.14 shall apply to this ordinance and additional trees shall be required, (1) one Tree for every (5) five spaces over the maximum parking spaces allowed.
  4. High Hazard Group (H), Storage Group (S) and Utility (U) Occupancy classifications as defined by the International Building Code, in manufacturing and industrial zoning districts may group parking lot trees at parcel perimeter.
  5. Truck courts and truck-trailer parking lots in any zoning district shall be required to have trees placed around the perimeter of the parking lot.
- D. **The Parkway.** The parkway shall require landscaping and placement of trees.
  1. The parkway square footage shall not be included when calculating the required percentage of landscapable area.
  2. The number of trees required in the parkway shall be (1) one tree per every (40) forty linear feet of all street frontages and trees may be spaced at designer's discretion. Every parcel over (20') twenty feet wide shall have at least (1) one tree selected from the approved plant list.
  3. Trees placed in the parkway shall have a minimum of (2") two inches caliper and (7') seven feet in height.

4. Parkway area ground treatment shall employ permeable and pervious surfacing, not to include raw or uncovered, seeded soil. With the exception of trees, plant material shall be maintained in the parkway so that it does not exceed (3') three feet in height.
  5. Up to 50% of the ground cover and shrubs calculated to satisfy parcel and frontage buffer requirements may be relocated to the parkway.
- E. **Sidewalks.** Where there is no parkway and the sidewalk is at the curb, and does not abut a frontage buffer, a street tree planting solution shall be selected from the following criteria:
1. If the sidewalk is (6') six feet wide or wider, then canopy trees shall be planted in cutouts in the sidewalk at (30') thirty foot intervals. The centerline of the tree shall be at least (2') two feet from the back of curb, and at least (4') 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 (4') four feet, a grate shall be used to cover the planting hole. In all cases, the minimum effective clear sidewalk width shall be (5') five feet.
  2. If the sidewalk is less than (6') six feet wide and does not abut a frontage buffer, any type of tree from the approved plant list shall be planted at least (2') two feet within the property line; or
  3. 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.

(Ord. No. 18026, § 1, 6-4-2013)

#### **18.46.090 - Required plants.**

- A. Plant material used in the coverage calculation shall be shrubs or ground cover from the Approved Plant List. For every (1000) one thousand square feet of landscapable area, one unit of plant material shall be required. One unit of plant material consists of the following:
1. **One tree.**
    - a. Trees placed within (5') five feet of a pedestrian path or in a parking lot must be canopy trees.
    - b. For trees located within the parcel and frontage buffer, (2) two (1")one-inch caliper trees at a minimum height of (5') five feet may be substituted for (1) one two-inch caliper tree for up to (50%) fifty percent of the required trees.
  2. **A minimum of (30) thirty plants of five-gallon size, which are a minimum of eighteen inches in height.**

- a. Ten one-gallon shrubs may be substituted for one five-gallon shrub for up to fifty percent (50%) of the required five gallon shrubs.
  - b. Where a canopy tree is not required, (5) Five five-gallon shrubs may be substituted for one tree for up to (50%) fifty percent of the required trees.
  - c. Palms may be installed on the property but will only count as (3) three five-gallon plants and may only be substituted for up to (50%) fifty percent of the required five gallon plants.
- B. 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 case by case basis.

(Ord. No. 18026, § 1, 6-4-2013)

### **Article III. - Standards**

#### **18.46.100 - Landscape standards.**

- A. Water harvesting. The landscapable area shall be designed to ensure the most beneficial design for on-site surface collection of water to include swales, parking lot islands, bar ditches, detention or retention ponds and constructed wetlands.
- B. Plants. (75%) Seventy-five percent of all plants to be used in the landscape design shall be selected from the approved plant list. 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.
- C. Turf. Turf shall not be installed on slopes exceeding (20%) twenty percent, unless approved by the building official or other designee of the city manager 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 (6") six inches.
- D. Trees. Trees shall be planted and maintained, with the mature branching structure having a minimum of (7') seven feet clearance from ground level within (3') three feet from the trunk. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of (36 sq. ft.) thirty-six square feet of surface area with no interior dimension less than (4') four feet measured at (90) ninety degrees to the interior edges.
- E. Shrubs. Shrubs shall be a minimum height of (18") eighteen inches (except for dwarf 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. Nonporous materials shall not be installed under organic or inorganic ground covering.

2. Organic ground covering such as organic mulch, wood chips or bark may be used as a landscape ground covering. Seeding on raw soil without additional inorganic or organic groundcover shall not be permitted.
  3. 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, FDC connection, utility meter or access point.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.110 - Irrigation standards.**

For irrigation standards see 18.47.090.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.120 - Installation standards.** Landscape and irrigation systems shall be installed in accordance with the approved plan.

- A. Minor modifications at the time of installation may be made to the landscape design (plant materials and irrigation system), by the designer, as long as the changes comply with the minimum standards applicable to this chapter.
- B. Installation shall be completed prior to the building final inspection.
- C. An individual with a state irrigator, 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.

(Ord. No. 18026, § 1, 6-4-2013)

**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.
- B. Maintenance and trimming of street trees and replacement of dead trees are the responsibility of the owner of the property adjoining the parkway or sidewalk on which the trees are located.
- C. 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 building official. The building official 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.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.140 - Fees in lieu of installation.**

- A. Manned and Unmanned facilities requiring one unit of plant material or less, may pay fees based on the amount established in Schedule C in lieu of installation.
- B. 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.
- C. Special fund. 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 the installation of landscaping. 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.
- D. Accountability. The building official 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 building official 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.

(Ord. No. 18026, § 1, 6-4-2013)

**Article V. - Administration**

**18.46.150 - Enforcement.**

- A. Revocation of permit. Permits may be revoked in accordance with the provisions in Chapter 18.02 of this Code.
- B. Citations. 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.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.160 - Appeals.**

- A. When the building official 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.

(Ord. No. 18026, § 1, 6-4-2013)

**18.46.170 - 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 chapter, 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 a provision 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.
- 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

-(Ord. No. 18026, § 1, 6-4-2013)

**18.46.180 - Severability.**

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

(Ord. No. 18026, § 1, 6-4-2013)

**SECTION 2.** That except as herein amended, Title 18 (Building and Construction), Chapter 18.46 (Landscape) of the El Paso City Code shall remain in full force and effect.

CITY CLERK DEPT.

2016 JUL -6 AM 9:35

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

THE CITY OF EL PASO

\_\_\_\_\_  
Oscar Leeser, Mayor

ATTEST:

\_\_\_\_\_  
Richarda Duffy Momsen  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John R. Batoon  
Assistant City Attorney

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Larry Nichols, Director  
City Development Department