

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION) OF THE EL PASO CITY CODE BY CREATING CHAPTER 18.46 (LANDSCAPE) IN ORDER TO ESTABLISH THE MINIMUM STANDARDS FOR INSTALLATION AND MAINTENANCE OF IRRIGATION AND LANDSCAPE WITHIN THE CORPORATE LIMITS OF THE CITY; AND PROVIDING FOR A CRIMINAL PENALTY, CLASS C MISDEMEANOR NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00), AND CIVIL PENALTY UP TO FIVE HUNDRED DOLLARS (\$500.00) FOR VIOLATION OF THE 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. 014090 enacted June 1, 1999, 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**, there have been extensive meetings with applicable industries and public meetings held regarding these amendments; 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 Title 18 (Building and Construction) shall be and hereby is amended by adding Chapter 18.46 (Landscape) to read as follows:

**“Chapter 18.46**

**LANDSCAPE**

**Article I – General Provisions**

- 18.46.010 Title
- 18.46.020 Purpose
- 18.46.030 Rules of Construction
- 18.46.040 Interpretation
- 18.46.050 Definitions
- 18.46.060 Application

**Article II – Design Requirements**

- 18.46.070 Plans required
- 18.46.080 Required Landscapable Areas
- 18.46.090 Required Plants

**Article III – Standards**

- 18.46.100 Landscape Standards
- 18.46.110 Irrigation Standards
- 18.46.120 Installation Standards
- 18.46.130 Maintenance Standards

**Article IV - Alternative Compliance**

- 18.46.140 Alternative Compliance
- 18.46.150 Fees in lieu of Installation

**Article V – Administration**

- 18.46.160 Enforcement
- 18.46.170 Appeals
- 18.46.180 Violations - Penalty
- 18.46.190 Severability

**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 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 storm water run-off, noise reduction and heat abatement while conserving energy, water and other natural resources.

B. In addition, landscape designers and commercial 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 for apartments, commercial and industrially zoned properties. The quality and quantity of El Paso's water supply is limited. To assist in ensuring adequate supplies 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 proper design, 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 the El Paso City 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.
  - D. Where any provision of federal or state law conflicts with any provision of this chapter, the most restrictive provision shall apply, unless otherwise regulated by law.

**18.46.050 Definitions.**

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

- A. **“Approved Irrigator”** - A Texas Licensed Irrigator.
- B. **“Approved Plant List”** - The list of plants and shrubs prepared by Tree Board and Development Services Department, and on file with the Development Services Department, and as may be amended from time to time.
- C. **“Automatic controller”** - 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.
- D. **“Back flow prevention device”** - 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.
- E. **“Berm, earthen”** - An earthen mound designed to provide visual interest or screen undesirable views and decrease noise.
- F. **“Caliper”** – is 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.
- G. **“Deciduous”** - A plant that sheds its foliage annually.
- H. **“Development - Commercial”** - All developments zoned or used for commercial uses as described under Title 20 (Zoning)
- I. **“Evergreen”** - A plant with foliage that persists and remains green year round.
- J. **“Finish grade”** - The ground elevation in its final and finished state before any landscape is installed.
- K. **“Frontage”** The property line where a parcel of land, lot, or site abuts a public right-of-way.
- L. **“Grass”** - See turf or turf grass.
- M. **“Gross Building Area”** - The total enclosed area of a building exterior dimensions, excluding covered walkways or exterior fire escapes.
- N. **“Ground Covering”** - Organic or inorganic material such as mulches and or gravel used as ground covering.
- O. **“Ground Cover Organic”** – Low growing plant material, other than turf grasses, installed in such a manner as to provide continuous cover of the ground surface.
- P. **“Hardscape”** - The use of solid non-organic materials such as rock or stone, concrete, asphalt, brick, or other similar type material.

- Q. **“Impervious Soil”** - Soil which is extremely dense (cementitious sedimentary soil) through which water will not readily penetrate adding to potential stormwater runoff.
- R. **“Impervious surfaces”** - 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.
- S. **“Landscapable area”** - Any area of ground that can support vegetative groundcover and other landscaping plant materials. Sidewalks and other impervious surfaces are not considered landscapable areas. For the purposes of this ordinance, the landscaped edge and landscaped areas within parking lots are contained within this definition.
- T. **“Landscaping”** - The improvement of a section of ground by contouring the land and planting any combination of living plants, such as trees, shrubs, vines, ground cover or grass, natural features such as rock, stone, bark chips or shavings.
- U. **“Median”** - The area within the public right-of-way, which separates two (2) opposite directions of traffic.
- V. **“Mulch”** - Organic and/or inorganic material, which is placed, to prevent erosion, lower soil temperature and maintain soil moisture levels.
- W. **“Official”** - The Building Official or his designee.
- X. **“Palm”** - A long-lived plant of the family Palmae having a minimum eight feet (8') unbranched clear trunk crowned by large pinnate or palmate leaves.
- Y. **“Parkway”** - That area of the street right-of-way between the edge of the property line and the curb, or the edge of the pavement.
- Z. **“Parking Spaces”** - Those spaces for the parking of any vehicle excluding 18-wheel tractors and their trailers.
- AA. **“Permeable Paving”** - Materials such as brick pavers set in sand or other permeable base.
- BB. **“Plant, Native or Adapted”** - 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.
- CC. **“Plant Unit”** - One deciduous tree, twenty (5) gallon shrubs, and ten (1) gallon shrubs shall be provided for every thousand square feet of landscapable area or a portion thereof.
- DD. **“Pond”** - A depression in the soil intended to retain and/or detain both storm water and all excess irrigation water.
- EE. **“Project”** - a specific development which is subject the requirements as stated herein.
- FF. **“Shrub”** - A woody plant, deciduous or evergreen, generally multi-stemmed with small branches near the ground, and smaller growing than a tree.
- GG. **“Stormwater”** - A build up of naturally occurring precipitation (water), which falls on any parcel of land (site or watershed) of any given size.
- HH. **“Swale”** - 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.
- II. **“Tree, Parking Lot”** - A deciduous or evergreen tree, which is capable of obtaining a minimum canopy, spread of twenty feet (20.0') at maturity. Branching structure shall be maintained at a minimum height of seven feet (7') above the sidewalk area ground, three feet from the trunk; which is installed and located in a parking lot.

- JJ. **“Tree, Project”** - means a deciduous or evergreen tree having a minimum of 2” cal. 10’ in height, which is capable of obtaining a minimum canopy spread of twenty feet (20.0’) 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 (7’) above the sidewalk area ground, three feet from the trunk. Such trees shall be healthy and vigorous at time of planting.
- KK. **“Turf or Turf Grass”** - A surface layer of soil bound by grass and its roots into a thick mat that requires regular maintenance, mowing and watering.
- LL. **“Unmanned facility”** – a structure which does not require a certificate of occupancy and is not occupied by any persons.
- MM. **“Vehicular Loading Area”** - A paved area designed to accommodate the maneuvering, loading and unloading and parking of commercial vehicles having a length of less than twenty-seven (27) feet.
- NN. **“Vehicular Use Area”** - 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.
- OO. **“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.
- PP. **“Water Harvesting”** - 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.
- QQ. **“Weed barrier”** - A porous overlay material used beneath mulch materials to reduce the germination and growth of unwanted plant material while allowing the percolation of water.

#### **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 building or structure for which a building permit is required and zoned for a commercial use as defined under Title 20 (Zoning) of the El Paso City Code.

a. For all sites, except zero lot line street frontage sites, the landscaping must be located in the area between the street frontage and the building wall furthest from the street, and may be located in the parkway, subject to all requirements provided for herein.

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

c. In order to be considered as landscapable area there must be at least a 10’ distance between the walls of buildings, and may include the parkway. Trees planted in areas less

than twenty feet (20') 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 structure at a rate of 0.075 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; provided however, fees may be paid in lieu of installation as provided herein.

3. Parking Lots

a. Any construction of a new parking lot is required to install 1 tree per 15 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.

b. Any expansion of an existing parking lot is required to install 1 tree per 15 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. For existing parking lots or vehicular use areas not equipped with an existing irrigation system, the owner may pay fees in lieu of installation as provided herein.

d. In no instance shall the required on-site parking be required to be reduced to satisfy the landscaping requirements of this Chapter.

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

Parkway area ground treatment shall include decomposed granite, or other permeable surfacing, not to include raw soil. Permeable surfacing and plant material that does not exceed twenty-four inches (24") in mature height may be located anywhere in the parkway. Plant material that exceeds twenty-four inches (24") in mature height shall be located a minimum of five feet (5') from the back of the curb or the edge of pavement.

### **B. Exemptions**

The following Projects are exempt from the requirements of this Chapter:

- A. Building restoration projects for historic structures as defined under Title 20 (Zoning);
- B. Projects on land owned by the Federal or State of Texas governments;
- C. Any existing development, which changes its use from an approved use to any other, approved use within the same zoning category;
- D. 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.
- E. Projects which are zoned or used for residential use as defined under Title 20 (Zoning) of the El Paso City Code; if such residential use Single Family, Duplex, Tri-Plex, Quadra-Plex or condominiums do not have common use facilities.
- F. Residential uses that are rezoned to commercial uses after the effective date of this ordinance, with existing structures, unless the square footage of the structures is increased.
- G. Covered parking lots, in which all parking spaces are covered and parking garages.
- H. Delivery, loading including grade, ramp or dock, or trailer storage areas.

## **ARTICLE II – DESIGN REQUIREMENTS**

### **18.46.70 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 \$50,000.00 with the City of El Paso as a certificate holder.
- 4. Contractor shall also obtain a construction blanket bond of \$10,000.00.

Each plan shall be at a minimum scale of one-inch equals forty feet (1"= 40'0"), preferably (1"= 20'0). No architectural scaling shall be allowed. Plan size shall be on paper size twenty-four by thirty-six inches (24" x 36").

**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);
6. Landscape Phasing Plan (Short Term);
7. Location of existing and proposed structures, signs, trees, shrubs, swales, berms and fire hydrants existing at the time of plan submission;
8. Show all curb cuts ingress and egress and distances to plant material; and,
9. Show a five foot (5') 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 or 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. (Manned Facilities)**

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 0.075= 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 1 unit of plant material or 4 (four) trees.
  - d. Required area over 0.99 of a unit shall comply at a rate of 1 unit of plant material for each thousand square feet of required landscapable area or portion thereof.

- e. The project trees shall be placed within the first twenty feet (20') of the property line adjacent to the street at a rate of one (1) tree per fifty linear feet (50') of frontage.

**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. One project deciduous or evergreen tree having a minimum caliper size of 2" and a minimum height of 10' to 12'.
- b. A minimum of twenty live shrubs of five-gallon size, which are a minimum of eighteen inches in height.
- c. Ten (10) one-gallon size ground cover plants.
- d. Within the first twenty feet (20') of the property abutting a street, measured from the property line to the interior of the lot, a minimum of one (1) tree shall be installed for every fifty linear feet (50') of frontage, with a minimum size of two inch (2") caliper, and at least ten (10) to twelve (12) feet high.

2. Substitution of plant materials may be made according to the following ratios:

- a. For each required project tree, ten (10) five-gallon shrubs may be substituted for up to fifty (50) percent of the required trees.
- b. For each ten (10) five-gallon shrubs required, one project tree may be substituted.
- c. For each five-gallon shrub required, five one-gallon shrubs may be substituted for up to seventy-five (75) percent of the required five-gallon shrubs.
- d. No substitution for required parking lot trees shall be allowed.
- e. Ten (10) five-gallon shrubs may be substituted for each tree placed within the parkway.
- f. Large shrubs in containers larger than five gallon shall receive appropriate credit against the shrub requirement, gallon for gallon. For example, one (1) twenty gallon shrub would be the equivalent of providing four (4) five gallon shrubs against the landscape requirement.
- g. Palms may be installed in satisfaction of the required plant material for a Project; however, palms shall not satisfy the Project Tree requirement and each palm shall counted as the equivalent of three shrubs each five gallon size.
- h. Preservation or relocation of existing healthy trees and shrubs subject to review by the landscape plan reviewer on a one to one basis, and shall be based on equivalent size and type of plant material.

3. 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 more than fifteen parking spaces or an area greater than two thousand seven hundred (2,700) square feet shall be provided with at least one parking lot tree for every fifteen parking spaces or two thousand seven hundred (2,700) square feet of vehicular use area or portion thereof.
- b. Truck courts and truck-trailer parking lots shall not be required to have parking lot trees placed within the parking lot. They shall however be required to be placed at the outside perimeter of the parking lot based on the following calculation:
  - (1) One (1) parking lot tree per twenty (20) trailer storage or parking spaces or fraction thereof; or
  - (2) One (1) parking lot tree per twenty-eight thousand square feet (28,000) of the truck area or fraction thereof whichever is greater.
- 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: All plants to be used in the landscape design shall be selected from the Approved Plant List on file and maintained in the Development Services 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 (50%) of the plants installed shall be plant material be of the low water, drought tolerant variety.

C. Turf: Turf shall not be installed on slopes exceeding 20%, unless approved by the Building Official 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 (6").

D. Trees: Trees in pedestrian areas shall be planted and maintained, with the mature branching structure having a minimum of seven feet (7') 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 (36) square feet of surface area with no interior dimension less than four (4) feet measured at 90 degrees to the interior edges

E. Shrubs: Shrubs shall be a minimum size of a five (5) gallon container and a minimum plant height of 18” (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 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.

G. Plant material shall be installed to ensure that at maturity there is a five-foot (5’) 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.

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:

(a) Plant material spaced less than eighteen inches (18”) center to center.

(b) Spray head system has head to head coverage.

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

1. Parkways; and

2. Medians; and

3. In areas less than ten feet (10’) in any dimension; and

4. On slopes exceeding 20%.

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**

A. Landscape and Irrigation Systems shall be installed in accordance with the approved plan.

B. 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.

C. Minor modifications shall be allowed within the landscapable 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.

D. Installation shall be completed prior to the Building final inspection.

E. An individual with a state irrigator, installer, 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 (60) days after notification from the Official. The Official may extend this time period up to an additional thirty (30) days due to weather or due to events outside of the control of the property owner.

### **ARTICLE IV. ALTERNATIVE COMPLIANCE.**

#### **18.46.140 Alternative Compliance.**

A. All projects subject to this chapter shall comply with the minimum required square footage and plant material quantities required under this chapter; however, the minimum requirements may be reduced if in compliance with the provisions of this section and based on the calculations of the table contained herein. A minimum of a total of 100 points must be attained in order to utilize any one of these provisions.

B. All requests to utilize these provisions shall be submitted in writing at the time the permit is submitted and shall be accompanied by sufficient written explanations, calculations, detailed landscaping, irrigation, grading and site plans to allow appropriate evaluation.

C. Landscaping shall be located as required in Section 18.46.060.

D. Point system of alternative compliance.

1. Calculation for reductions in the minimum square footage requirements:

a. In order to reduce the required amount of square footage of landscapable area, the amount of reduction shall be calculated as determined by the following formula, and shall be in addition to the required 100 (one hundred) points for alternative compliance.

b. Up to twenty percent (20%) of the gross square footage requirements of the landscapable area may be reduced if in compliance with this section.

c. The calculation rate is 0.2 points per square foot of reduction.

d. Example calculation:

Lot size = 400' x 200' = 80,000 square feet

80,000 x .075 = 6,000 square feet required landscapable area.

6,000 x 20% = 1,200 square feet allowed reduction

1,200 x .2 = 240 points

240 points plus 100 points for normal alternative compliance

Total required for 20% reduction = 340 points.

e. Under alternative compliance the frontage requirements may be reduced to one (1) tree per one hundred (100') feet.

E.

<b>ALTERNATIVE COMPLIANCE TABLE</b>	<b>POINTS</b>
For each required tree installed meets or exceeds a minimum caliper of 3".	30
All parking lot trees within a project planted in a well area greater than 64 square feet per tree. Exclusive of onsite ponding planting areas.	20
Artificial turf with a permeable base used in parkways and narrow areas 3' or less in any dimension, including all areas of the parkway.	10
Preservation or relocation of existing healthy trees 2" caliper or greater.	10
Turf irrigation using subsurface irrigation for all turf located on the project site.	20
Onsite ponding in planting area exclusive of parkway. Parkway are not allowed to be used as ponding area, and are not included in the calculation allowed for the reduction.	10

All additional trees, installed over the required minimum number, 2" or greater in caliper, that are installed within the site.	10
For irrigation systems that will utilize a combination of ET controllers, moisture sensors, or wind and/or rain shut-off switch equipment having the capability to override the irrigation cycle of the irrigation system when adequate precipitation, soil moisture or climate conditions occur.	10
Turf water audit report performed by a Texas licensed auditor or attaining a minimum Distribution Uniformity Rate/low quartile (DU/ <sub>lq</sub> ) of fifty-five percent (55%). Parks and Schools shall meet 65-70% of uniformity	20
Landscape plan designed and sealed by a registered landscape architect, when not required.	20
For adding 1 gallon shrubs and or ground cover above the required number, per 20 additional shrubs	10
For adding 5 gallon shrubs and or ground cover above the required number, per 20 additional shrubs	15
For planting parking lot trees in all islands created by parking lot layout.	20
Installation of wetland islands in the front of or between parking rows with a minimum width of 15' graded to trap on site rainwater. Minimum to qualify, 15% of parking area.	25
For the installation of each additional parking lot trees above the minimum requirements.	5
Use of low water consumption plants from the Approved Plant List for all planting material per plant installed above the required number.	5
Turf allowance for every 100 (one hundred) square feet.	3

F. Sites that are unable to provide the required landscapable area in excess of the 20% allowed under alternative compliance may pay fees in lieu of installation as provided for in Section 18.46.150 or appeal the Building Official's decision as provided for in section 18.46.170.

G. Palm trees may be substituted for Project Trees as a design function, however there shall be no reduction in the total number of Trees required and shall be located equally throughout the Project. A Project Tree may be substituted by two palm trees. Palm trees must be in clusters of two and have a minimum trunk height of eight feet (8') and a maximum of six feet (6') apart. A palm tree may be substituted for a parking lot tree; however, for each parking lot tree substitution there shall be a cluster of three palm trees with a minimum trunk height of eight feet (8') and a maximum of six feet (6') apart.

**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. Permitted expansion of a legal nonconforming structure or parking lot.

2. Existing parking lots which are not equipped with an existing irrigation system.
3. Unmanned Facilities
4. 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. Permitted expansion of a legal nonconforming structure or parking lot.
  - a. Based on the number of units of plant material required. This calculation shall be based on \$5000.00 per unit of plant material.

2. Existing Parking Lots. For existing parking lots or vehicular use areas not equipped with an existing irrigation system, the owner may pay fees in lieu of installation at a rate of \$350.00 per parking lot tree based on a calculation of parking lot trees required in the landscapable area.

3. 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 \$5,000.00 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 \$5,000.00 per unit of plant material required.

4. 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 \$5,000.00 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 Building Official 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 Development Services Department Director 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 Development Services Department Director 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 VI. ADMINISTRATION**

### **18.46.160 Enforcement.**

**A. Revocation of Permit.** Permits may be revoked in accordance with the provisions in Section 18.02.102 (Powers And Duties Of The Building Official).

**B. Citations.** The Official shall be authorized to issue citations for violations of this chapter, which shall be prosecuted in municipal court.

### **18.46.170 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.

### **18.46.180 Violations – Penalty.**

#### **A. Civil and Criminal Penalties**

The City shall have the power to administer and enforce the provisions of this ordinance 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 this ordinance is hereby declared to be a nuisance.

#### **B. Criminal Prosecution**

Any person violating any provision of this ordinance shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00). Each day that a provision of this ordinance is violated shall constitute a separate offense. An offense under this ordinance is a Class C Misdemeanor.

#### **C. Civil Remedies**

Nothing in this ordinance shall be construed as a waiver of the City's right to bring a civil action to enforce the provisions of this ordinance 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 (\$500.00) 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 3. Effective Date.** This ordinance shall take effect on October 1, 2007.

**Section 4.** 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 \_\_\_\_\_, 2007.

THE CITY OF EL PASO

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

ATTEST:

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

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Lupe Cuellar  
Assistant City Attorney

\_\_\_\_\_  
R. Alan Shubert, P.E., C.B.O.  
Director, Development Services Department