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

DEPARTMENT: **Engineering & Construction Management**

AGENDA DATE: **Introduction 03/08/2011, Public Hearing 03/29/2011**

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert, 541-4423

DISTRICT(S) AFFECTED: Citywide

SUBJECT:

DISCUSSION AND ACTION ON AN ORDINANCE CREATING UNIFORM GRADING REQUIRMENTS BY AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.44 (GRADING) IN ITS ENTIRETY TO PROVIDE FOR GRADING PERMITS, FEES, INSURANCE, BONDS, INDEMNIFICATION AND ENFORCEMENT REQUIREMENTS; AND TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT), SECTION 9.04.860, BY PROHIBITING EROSION AND SECTION 9.04.870, EXEMPTING LAND THAT HAS NEVER BEEN GRADED; THE PENALTY BEING AS PROVIDED IN SECTIONS 9.04.630, 18.02.107 AND 18.44.210 OF THE EL PASO CITY CODE.

BACKGROUND / DISCUSSION:

The proposed ordinance provides a comprehensive rewrite of the existing Grading Ordinance, Title 18.44. The intent of the recommended revisions is to address ongoing City Council and resident requests to better maintain the ecology and topography of land, minimize neighborhood nuisances and provide for improved erosion control measures related to grading operations. The revisions also clarify the chapter purpose, definitions and technical requirements and address precision changes in Title 9.04. (Solid Waste Management). The proposed ordinance was vetted with numerous industry and community representatives during its refinement.

PRIOR COUNCIL ACTION:

N/A

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

**********REQUIRED AUTHORIZATION**********

DEPARTMENT HEAD: _____

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

ORDINANCE NO._____

AN ORDINANCE TO CREATE UNIFORM GRADING REQUIRMENTS BY AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.44 (GRADING) IN ITS ENTIRETY TO PROVIDE FOR GRADING PERMITS, FEES, INSURANCE, BONDS, INDEMNIFICATION AND ENFORCEMENT REQUIREMENTS; AND TITLE 9 (HEALTH AND SAFETY), CHAPTER 9.04 (SOLID WASTE MANAGEMENT), SECTION 9.04.860, BY PROHIBITING EROSION AND SECTION 9.04.870, EXEMPTING LAND THAT HAS NEVER BEEN GRADED; THE PENALTY BEING AS PROVIDED IN SECTIONS 9.04.630, 18.02.107 AND 18.44.210 OF THE EL PASO CITY CODE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

Section 1. That Title 18 (Building and Construction), Chapter 18.44 (Grading), of the El Paso City Code shall be and hereby is amended by replacing all sections of Chapter 18.44 to read as follows:

Section 18.44.010: Short title

This Chapter shall be known and may be cited as the "grading ordinance".

Section 18.44.020 Purpose.

The provisions of this Chapter are to complement the subdivision ordinance and the zoning ordinance, and to make the uses permitted by these ordinances more feasible and acceptable in the interest of the individual property owner, the adjacent property owner and the general public. It shall be the purpose of this Chapter:

A. To protect life, limb, property, the public welfare and the physical environment by regulating grading on public and private property;

B. To ensure that proposed grading shall result in the minimum possible disturbance of terrain and natural land features necessary to construct residences or other permitted buildings or structures, or to conduct other legal land uses;

C. In conjunction with Chapter 18.46 – Landscaping, to prevent grading which unnecessarily changes the physical character of terrain, mountains, and natural features;

D. To ensure that the grading will not adversely affect the natural topographic drainage features, result in excessive erosion, degrade natural drainage paths or other drainage features or alter natural surface runoff creating flood problems or irreparable scars;

E. To stabilize steep hillsides and ensure that lateral support to either public or private property is not endangered;

F. To regulate grading in a manner that stabilizes sites to prevent soil erosion both during construction and after construction;

G. To encourage harvesting and preservation of rainwater within the project site, reduce dependence on groundwater, and reduce potential off-site flooding and erosion;

H. To ensure proper method and construction for clearing, grubbing, excavating, filling and land grading operations;

I. To prevent grading that unnecessarily changes open spaces and to mitigate any adverse effects by retaining and/or restoring trees and vegetation;

J. In conjunction with Chapter 15 - Stormwater Management, to prevent erosion; and

K. In conjunction with the Drainage Design Manual and Design Standards for Construction - to use sustainability goals to stabilize graded sites.

Section 18.44.030 Definitions.

For the purpose of this Chapter, the following words have the meaning set forth in this section:

A. "Best management practices" ("BMP") means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices such as effective integration of storm water management

systems (storage/controlled discharge), with appropriate combinations of landscape conservation, enhancement, structural controls, and impervious cover, which provide an optimum way to eliminate soil erosion and prevent soil from leaving the site though water runoff and/or wind during construction.

B. "Clearing" means the removal of surface vegetation without modifying, impacting or improving the drainage pattern.

C. "Dripline" means a vertical line run through the outermost portion of the crown of a tree and extending to the ground.

D. "Engineer" means a professional engineer currently licensed and registered with the state of Texas.

E. "Excessive Erosion" – soil particle movement from a destabilized graded site that causes an offsite impact, public nuisance and/or creates a hazardous condition as determined by the permit official.

F. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of waters or (2) the unusual and rapid accumulation of runoff of surface waters from any source.

G. "Grading" means any disturbance of the surface of the land with heavy equipment that may modify or impact existing drainage patterns.

H. "Grading Stabilization Plan" ("GSP") means a plan for the purposes of stabilizing sites after completion of the grading operation or if the site becomes idle for more than one hundred eighty (180) calendar days to prevent excessive erosion.

I. "Heavy Equipment" means self powered, self propelled or towed mechanical devices, equipment and vehicles of the nature customarily for

use in agriculture, mining, industry, business, transportation, building or construction such as tandem axle trucks, backhoes, trenchers, loaders, tractors, bulldozers, graders, cranes, forklifts, or similar like equipment but excluding automobiles, recreational vehicles and boats and their trailers.

J. "Natural Drainage Path – a flowpath/ channel/ watercourse/ wash/ stream as delineated in the City's Natural Drainage Path Map, plus an additional twenty (20') feet buffer on each side of the rim, as delineated in said map.

K. "Natural state" means the topography that existed prior to any disturbance of land as certified by a licensed surveyor.

L. "Owner" shall mean the person or entity that has any ownership interest in the property on which grading is proposed or has taken place or such owner's authorized agent.

M. "Permitee" means the governmental entity, utility company, contractor, person or business entity that has received a permit pursuant to this Chapter.

N. "Processed material" means naturally occurring, materials such as sand, gravel and rock that have been subjected to any process other than initial excavation such as, but not limited to, screening, crushing, washing and segregating.

O. "Revegetation" means the restoration of formerly undisturbed areas through the replanting of appropriate native, non-invasive, adaptive and drought tolerant vegetation.

P. "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land and slopes used in connection with the facility or activity.

Q. "Slope" means the ratio of elevation change to horizontal distance, expressed as a percentage. The slope is computed by dividing the vertical distance by the horizontal distance and multiplying the ratio by one hundred (100).

R. "Soil" means dirt, sand and other similar earth matter, rocks and other solid or semisolid mass material, whether produced by man or nature, but shall not include the matter consisting of the infrastructure or appurtenances thereto.

S. "Special Flood Hazard Area" is defined in Chapter 18.60.

T. "Stabilization Measure" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices such as effective integration of storm water management systems (storage/controlled discharge), with appropriate combinations of landscape conservation, enhancement, structural controls, and impervious cover, which provide an optimum way to eliminate soil erosion and prevent soil from leaving the site though water runoff and/or wind after the grading is complete or the site becomes idle for more than 180 calendar days.

U. "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.

V. "Structurally Stabilized Site" means a slope that is constructed with a factor of safety as established in this Chapter

Section 18.44.040 Compliance with provisions.

A. No grading shall be done within the city without complying with the requirements of this Chapter. All approvals of the Permit Official shall be in writing and issued in advance of the activity being approved.

B. Posting Permit. A copy of the grading permit issued pursuant to this Chapter shall be posted on the grading site during all hours of operation.

C. No blasting shall be permitted under this chapter.

D. At any time that a permit is required by this Chapter, the applicant requesting the permit shall be responsible for contacting the "one call" notification system for the area and shall be required to furnish a verification number confirming that such a "one call" has been made as part of the application for grading permit. This requirement shall create no

duty, express or implied, on the part of the City to verify that such a "one call" has been made by the applicant.

E. Work for which a grading permit has been issued under this Chapter shall be executed in conformance with the grading plan approved by the Permit Official and shall not be abandoned or left incomplete.

1. Failure to continue significant work on a grading site once grading has begun or failure to complete the work within the time allowed in the Grading Permit, as limited in this Chapter, may be determined by the Permit Official to be an abandonment of the work required by the permit, and such abandonment will constitute a violation of this Chapter.
2. Having persons or equipment at a site but not executing the work shall not be construed to be significant work.

F. The Grading Stabilization Plan (GSP) shall conform to the guidelines provided by this Chapter.

G. In conjunction with this Chapter, the applicant must comply with the requirements of the Storm Water Pollution Prevention Plan (SWPPP) as defined in Chapter 15.

H. No grading shall be done in an area of special flood hazard unless permitted and the grading meets the requirements of Chapter 18.60.

Section 18.44.050 Permits required.

A. A grading permit is required and may be issued by the Permit Official for the following activities:

1. The reshaping of the land to conform to approved plans for construction on the property;

2. If a borrow or waste permit is required as part of the grading, a grading permit is required for the borrow and/or the waste site as well as a grading permit for the site at which the grading takes place. All

requirements of the grading permit as part of a borrow or waste site shall be observed except that earthwork need not balance within the borrow or waste site.

B. When materials are to be borrowed from or wasted to a development site, a borrow or waste grading permit is required and may be issued by the Permit Official.

C. Proposed Subdivisions

If property is required to be subdivided pursuant to Title 19, grading permits are required and shall be issued when the following requirements are met:

1. A grading permit shall not be issued by the Permit Official until preliminary approval on a subdivision/plat application or final approval on a combination plat application (as allowed in Chapter 19.01.060) has been granted by the city plan commission or administrative approval on a minor subdivision has been granted by the subdivision coordinator as applicable;
2. If the grading plan and/or drainage plan changes after the preliminary plat approval was granted by the city plan commission or administratively by the subdivision coordinator as applicable, such changes shall not be allowed until approved by the Permit Official;
3. A borrow or waste permit meeting the requirements of this Chapter may be issued by the Permit Official pursuant to the requirements of this Chapter.

Section 18.44.060 Exceptions from permits.

Permits will not be required under the exceptions listed hereafter. The exceptions concern only the obligation to apply for a permit and the exemption from the requirement of obtaining a permit does not relieve the Owner from complying with the remaining provisions of this Chapter. A Storm Water Pollution Prevention Plan and authorization to discharge storm water under the TPDES Construction General Permit shall be required when required by state

regulations. The City Engineer reserves the right to require a Grading Stabilization Plan if it is determined that the excepted grading activity has the potential to cause off-site impacts. The person engaged in grading shall have the burden of establishing that he qualifies under any of the following exceptions:

A. If the work is to be performed in connection with construction on a legally platted residential lot or an unplatted residential lot not exceeding one acre in size, and the grading is included as part of a valid building permit, a grading permit shall not be required. This exception shall not apply to any lot of any size within the Mountain Development Area.

B. Where the work to be performed is routine agricultural or land management operations necessary for cultivation of the soil of a farm or ranch;

C. Where the work is performed as part of a city solid waste disposal operation;

D. Where the work is small in depth, area or impact. It includes landscaping that does not impact existing drainage patterns, such as tree planting, on a residentially used property or interment in properly zoned cemeteries.

E. Demolition of existing buildings and structures including removal of the foundation system, provided that the original grades and drainage shall not be modified.

F. Quarry operations.

G. Road access to the area being surveyed and/or is the subject of geotechnical work, provided that grading for such access is less than twenty feet in width.

H. Maintenance activities to restore a site to the previously approved grading plan.

I. If the work is to be performed in connection with an existing commercial building permitted as determined by the Permit Official.

Section 18.44.070 Permit application.

Any person desiring a permit under this Chapter shall apply to the Permit Official upon forms furnished by the City. The application will be signed by the owner of the property where the work is to be performed or by his duly authorized agent. The applicant shall assure that all application data are correct. Any falsification of application data shall invalidate the permit. Areas within the designated Mountain Development Area must meet the requirements of this Chapter and Chapter 19.24. Every application shall contain the following information:

A. The location, nature and extent of the proposed work and a statement as to the intended use of the site. Changes in the intended use of the land involved will require reapplication for a permit;

B. The name and address of the owner of record (and owners, if more than one) of the property on which the work is to be performed;

C. The names, addresses and phone numbers of the persons or organizations that will perform the work and of the person who will be in effective control of the work;

D. The amount of material to be excavated, moved or filled and the proposed schedule of the work;

E. A verification number confirming that the applicant has contacted a "one call" notification system as required by this Chapter;

F. Grading Plan. The following are requirements to be included in the grading plan:

1. Existing and proposed contours that will shape the site, showing in detail the contours, grades, elevations and all facilities for control and disposition of stormwater runoff; the extent of all cuts and fills,

2. Boundaries of the property involved,

3. The location of all buildings and structures on-site and those on adjacent properties within a horizontal distance equal to three times the height of the proposed slope;

4. The plans and profiles for any facilities, walls, storm drains or other protective measures to be constructed as part of or in connection with the proposed work;

5. Plans and drawings shall be prepared, sealed, signed and dated by an Engineer;

6. Shall indicate where the borrow is to be used, if applicable, and a separate grading plan for the waste of the borrow site shall be submitted if the site is unbalanced by more than 10%;

7. The grading plan shall indicate where the source of the waste is located and a separate grading plan for the site where the waste will be taken shall be submitted.

8. The grading plan shall clearly identify the areas to remain undisturbed and manner in which they will be protected.

9. Where a natural drainage path will be crossed by construction vehicles regularly during construction, a temporary crossing shall be designed by an Engineer and included in the grading plan. It shall be stabilized immediately after completing the grading operation in accordance with the GSP.

10. Prior to any disturbance in waters of the United States, the waters of the state of Texas or federally regulated wetlands, the permittee must verify whether a permit will be required from the U.S. Army Corps of Engineers (USACOE) and the Texas Commission for Environmental Quality (for the Environmental Protection Agency). Formal determination from the USACOE on jurisdiction or a permit from the USACOA must be provided.

11. Vertical and horizontal benchmark information.

12. Any additional information required by the Permit Official, that may be required to carry out the purpose and intent of this Chapter.

G. Drainage Plan. The following information is required to be included in the drainage plan:

1. Existing watersheds/drainage areas and how stormwater falling on or through the site will be contained or handled after grading has been completed;

2. Sufficient drainage information to demonstrate proper interim and final handling of stormwater runoff, including existing contours to a point where offsite flow pattern impacts can be determined;

3. A drainage study by an Engineer where the proposed work covered by the application results in changes to existing patterns of drainage or results in the requirement for storm drainage facilities in accordance with the Drainage Design Manual;

4. Grading details for grading conducted in natural drainage ways shall be specifically identified in plans and drawings.

H. Grading Stabilization Plan (GSP). GSP is for the stabilization of the site/slopes after the grading operation is complete (post construction) or if the site becomes idle for more than 180 consecutive calendar days. These requirements are in addition to meeting the requirements of Chapter 15 which govern construction activities and erosion control BMPs. The following information is required to be included in the GSP:

1. Show all disturbed areas that will be exposed to erosion for more than one hundred eighty (180) consecutive calendar days, including finalized graded areas.

2. The location and description of stabilization measures to be implemented to stabilize the site and prevent excessive erosion and degradation of the areas adjacent to the site specifying the methods to be used for water erosion, wind erosion and sediment control;

3. Detail the maintenance measures, sequencing/scheduling plan, inspections, verification procedures and documentation that will be followed to ensure that grading and erosion controls are in place and functioning effectively. Ongoing maintenance measures after the site has been stabilized must be included.

4. Certification that the GSP was prepared by an Engineer.

5. The GSP may be combined with the grading plan if all facilities and measures are shown on the grading sheets without obscuring the clarity of either the grading plan or the GSP;

I. Storm Water Pollution Prevention Plan (SWPPP) shall be required by the Permit Official when required by state regulations. Requirements for the SWPPP are defined in Chapter 15.

J. Geotechnical Investigation. A geotechnical report prepared by an Engineer indicating the types and characteristics of the soil formations with substantiating data and opinion as to slopes, fills, excavations to safely construct the proposed development of the site and the Stabilization Measure to be used. The minimum requirements for the geotechnical report include, but are not limited to slope stability, fill compaction requirements, grading operation restrictions and guidelines, soil type and stabilization requirements. In the event that a geotechnical investigation is not necessary, adequate documentation/justification must be provided to the Permit Official for evaluation.

K. A borrow or waste grading application shall include a projected land use plan for the borrow or waste area.

L. Permit application documents required by this Chapter shall be submitted to the City in one hard copy and one electronic copy in pdf format.

M. All bonds and insurance as required in this Chapter before issuance of the permit.

Section 18.44.080 Insurance and Bonds

A. **Insurance requirements.** No permit applicant shall be issued a permit until the applicant presents evidence satisfactory to the Permit Official that the applicant meets the following minimum insurance requirements:

1. Insurance shall not be required for projects less than one acre in size of disturbed land.

2. The applicant shall procure and shall maintain during the term of the permit such Commercial General Liability, Property Damage Liability and Vehicle Liability Insurance, naming the Permittee and any

subcontractor performing work associated with the Permit as insured, co-insured or additional insured for claims for damages for personal injury, including accidental death, as well as from claims for property damage that arise from work associated with the permit.

3. Minimum limits of liability and coverage shall be Two Hundred Fifty Thousand and no/100 Dollars ($250,000.00) for bodily injury liability, including death, for each person and Five Hundred Thousand and No/100 Dollars ($500,000.00) in the aggregate and One Hundred Thousand and No/100 Dollars ($100,000.00) for property damage for each occurrence and One Hundred Thousand and No/100 Dollars ($100,000.00) in the aggregate.

4. Such insurance shall be written by an accredited insurance company under the supervision of the Board of Insurance Commissioners of the state of Texas. Evidence of compliance with these insurance requirements shall be considered as having been met when copy of the insurance policy or a certificate of insurance has been filed with and approved by the Permit Official. Such policy shall include an endorsement that the City is named as an additional insured to the full amount of the policy limits and that the Permit Official shall be notified at least thirty days in advance in the event the policy or policies are canceled and ten days in advance for non-payment of policy premiums. The required endorsements shall be provided to the Permit Official prior to issuance of the permit. The permittee shall maintain said insurance with a solvent insurance company authorized to do business in Texas. The policy shall provide that the insurer will defend against all claims and lawsuits which arise and will pay any final judgment of a court of competent jurisdiction against the City, its officers, agents, servants or employees and permittee, his officers, agents, servants or employees. Failure by Permittee to keep the policy in full force and effect throughout the term of the permit shall be grounds for cancellation of the permit.

5. Permit applicants who have provided certificates of insurance to the City pursuant to the requirements of a Chapter of the City Code other than this Chapter that meet all of the requirements established in this Chapter shall not be required to obtain an additional insurance but are required to provide such certificates of insurance showing present coverage as required in this Chapter.

6. Government Agencies: Permits shall be required in connection with all City (including but not limited to El Paso Public Service Board/El Paso Water Utilities) public works projects provided that no permit fee shall be required for such projects. Permits shall be required for County, state or federal public works projects only when such projects include grading on the City's right-of way. When grading work is performed by the employees of a governmental agency, the insurance requirements of this section may be met by providing certification that government agency obtaining the permit is self-insured. Grading work performed by those contracting with a governmental agency shall provide the insurance required herein.

B. Permit Bond Requirements.

No permit shall be issued under this Chapter to any person, firm or corporation applying for a permit until such applicant has filed with the City Engineer a bond for the amount of Fifty Thousand and No/100 Dollars ($50,000.00), signed by a surety company authorized to do business in Texas. The City shall be named as the obligee under such bond. The bond shall provide that the principal and its agents, employees, and subcontractors shall comply with all provisions of this Chapter, that the principal shall pay all damages which are sustained by the City and which are caused by failure of the principal, its agents, employees or subcontractors to comply with the provisions of this Chapter, and that the principal shall indemnify the obligee against claims arising out of such failure to comply, including but not limited to the warranty period required in this Chapter. Bonds shall be issued for a duration sufficient to cover the

warranty period required in this Chapter. The surety shall be acceptable to the City as to solvency and such surety shall be listed on the current Department of the Treasury's Listing of Approved Sureties, Department Circular 570, United States Department of the Treasury or its successor publication, ("Circular 570"). If the City becomes dissatisfied that the surety is solvent or the surety is no longer included in Circular 570, the Permit Official may require a bond from a surety listed in Circular 570. Permit applicants who have provided a bond to the City in the amount required by the Permit Official for a permit pursuant to the requirements of a Chapter of the City Code other than this Chapter that meets all of the requirements established in this Chapter shall not be required to obtain an additional bond but are required to provide a copy of such bond provided that such bond specifically includes coverage for the permit or permits issued pursuant to this Chapter. Permittees who have multiple permits issued pursuant to this Chapter are required to provide only one current valid bond for all such permits but may be required to provide a copy of the current bond with each application for a permit.

When a government agency is required to obtain a permit, Contractors under contract with a government agency shall provide the bond required in this Section. No bond is required when all of the grading work performed pursuant to a permit issued under this Chapter to a government agency is performed entirely by the employees of that government agency.

Section 18.44.090 Warranty

Any person issued a permit shall agree warrant and maintain the area described in the permit for a period of two years after the permit is closed by the City pursuant to Section 18.44.220, or until a building permit is issued for the purpose of maintaining a stabilized site in accordance with the approved GSP, whichever first occurs (the "warranty" or "warranty period"). The City may conduct

inspections of the permitted area throughout the warranty period and require maintenance and correction of the work by the permit holder. Failure of the permit holder to correct the work shall constitute a failure to comply with the provisions of this Chapter.

Section 18.44.100 Permit application, staff review.

When grading is to be performed, the Permit Official shall review the grading permit application, to confirm that the application is in compliance with this Chapter and evaluate any aspect of the proposed work that relates to or affects the zoning or land use, and on the apparent ecological effect of the development. The Permit Official may also refer applications to other appropriate city agencies for review and comment. In such cases, the staff shall provide such comments within a period of ten city working days. The failure of staff to provide timely comments shall not delay the continued processing of the permit application.

Section 18.44.110 Issuance, denial, suspension or revocation of permit.

A. The grading permit will be issued by the Permit Official upon verification and approval of the information contained within the permit application; and upon payment of the appropriate permit fees.

B. The Permit Official may refuse to issue any grading permit whenever the proposed grading is contrary to the provisions of this Chapter.

C. A grading permit may be denied for the failure of the applicant to contact a "one call" notification system for the area and to provide a verification number confirming that such a "one call" has been made by the applicant.

D. If any person does any grading or otherwise disturbs the ground cover of any property within the city without a grading permit, he must apply for a grading permit and shall be subject to a double permit fee.

E. Suspension and Revocation. The Permit Official may suspend or revoke a permit for non-compliance with the requirements of this Chapter. Suspension may be issued by the Permit Official for minor violations of the permit that can be corrected within ten calendar days. Failure to correct to the satisfaction of the Permit Official shall result in a revocation of the permit, provided that suspension shall not apply to correction of public nuisance and/or hazardous conditions, as regulated in this Chapter.

Section 18.44.120 APPEALS

Any Permittee aggrieved by the decision of the Permit Official concerning the issuance, denial, revocation or suspension of a permit may appeal such decision to the Construction Board of Appeals.

Section 18.44.130 Period of validity of permits.

All permits, except for borrow and/or waste permits, shall expire within one year of the date of issuance of the permit. Two one-year extensions for completion of work may be granted subject to an established fee for each one-year extension. An application for an extension of the permit shall be submitted to the Permit Official prior to the expiration of the permit. The permit will become void and a new permit application required after expiration of the then existing term of the permit (1) when no application for an extension is timely submitted and (2) upon the expiration of the second extension. Borrow or waste permits shall expire within six months from the date of issuance of the permit. Upon expiration of the permit, a reapplication for a borrow or waste permit shall be required.

Section 18.44.140 Permit fees.

The application for any permit required by this Chapter shall be accompanied by the established fee.

Section 18.44.150 Work Hours Specified.

Grading shall be permitted weekdays from seven a.m. to seven p.m. No grading of any kind will be conducted on legal holidays and weekends unless the

landowner or his authorized agent has notified the Permit Official, by noon of the day before the holiday or by noon on the Friday before the weekend. "Weekend" means the period between seven p.m. on Friday and seven a.m. on the following Monday. When grading is authorized on weekends or holidays, such grading will not be permitted within three hundred feet of a residentially zoned area before seven a.m. or after seven p.m. on such weekends and holidays.

Section 18.44.160 Removing hazardous conditions.

A. If the Permit Official finds that any grading (either completed or in progress) is causing a hazard to persons or property, he may notify the owner and require that the hazard be removed or eliminated as soon as practicable depending upon the degree of urgency associated with the hazard involved. If such action is not completed within the time limit stated within the notice, the Permit Official may require that reasonable temporary protective measures be provided by the property owner in the interim until a final correction plan is approved by the Permit Official.

B. If materials are washed or deposited upon City right-of-way, drainage structures/easements/right-of-way, streets, alleys or other public property as a result of improperly controlled grading of higher or adjacent lands, the Permit Official shall notify the owner to remove such materials and restore the streets, alleys or other public property to their original condition within 24 hours or the time specified on the notice.

C. Regardless of whether or not any person is convicted of a misdemeanor for failure to comply with a notice given under subsection A or B of this section, the Permit Official may, if the Owner or any principal named in the permit bond fails to comply with such notice, authorize the work to be done by City forces or by contract. The Owner and any other principal named in the surety bond shall pay the City's actual cost for such work. If such work by the City is completed while the grading permit is active or during the warranty period, the surety that issued the permit bond required in this Chapter shall be liable for

the City's cost of doing the work in the event the principal or principals named in the bond do not make payment to the City.

D. Whenever earthen ramps are required to cross City rights-of-way, written approval must be obtained from the Permit Official prior to the installation of such ramps.

Section 18.44.170 Responsibilities of the Owner.

Under this Chapter the Owner shall be responsible for:

A. Obtaining a permit if required for any grading. Application for the permit shall be made as provided in this Chapter;

B. Obtaining, when required by this Chapter, the services of an Engineer;

C. All of the legal duties, obligations or liabilities incident to ownership of the property while the work of grading is in progress or after the completion of the work. Neither the issuance of a permit under this Chapter nor the compliance with the provisions of this Chapter shall relieve any person or owner from any responsibility for damages to persons or property otherwise imposed by law, nor impose any liability upon the city or any official of the City for such damages;

D. Installing the appropriate devices, structures, landscaping and facilities and executing soil stabilization, erosion control, handling of materials and other proper measures in conjunction with any proposed grading so as to fulfill the intent and purpose of this Chapter;

E. The continued inspection, maintenance and repair of all retaining walls, drainage facilities, slopes, landscaping, soil stabilization and erosion control measures and any other protective devices located upon his property and constructed pursuant to the permit and maintenance activities specified in the approved Grading Stabilization Plan and the documentation thereof;

F. All testing and costs associated with the quality assurance. The quality assurance shall incorporate testing as recommended by the geotechnical investigation and as required by the Permit Official to verify

that the conditions of the permit and intent and purpose of this Chapter have been fulfilled;

G. If a graded site becomes destabilized or destabilization becomes imminent, the Owner shall immediately take all necessary steps to control such discharge; and

H. Apply for all applicable permits as required in the El Paso City Code.

Section 18.44.180 Responsibility and authority of the Permit Official.

The Permit Official, under the authority of this Chapter and pursuant to applicable City ordinances and procedures, shall be responsible for:

A. Reviewing all grading permit applications as submitted under the requirements of Section 18.44.070 and the issuing or denying of grading permits as expeditiously as possible and confirm it meets the requirements of the Chapter;

B. Temporary Suspension of Grading Permit due to excessive erosion; Engineer to Provide Corrective Action; and Collection of Costs. The Permit Official may, during a situation in which, in his opinion, blowing sand or dust or runoff from a site under permit is causing or may cause excessive erosion affecting the health, safety, welfare, or property of resident adjacent to the site, after giving permittee due notice and time to take corrective action and upon permittee's failure to act within a period of time determined by the Permit Official to be reasonable, suspend the grading permit and cause the implementation of BMPs and/or Stabilization Measures as determined by the Permit Official to reduce said nuisance or hazard. The permit holder shall pay such costs to City within ten working days of receipt of an invoice for the costs. If the costs are not paid, then a claim will be made against the permit bond; and

C. On a per project basis, temporary deviations for project phasing under a SmartCode application may be evaluated and approved provided the deviations are not in conflict with the intent of this Chapter.

Section 18.44.190 Authority to issue citations.

A. The Permit Official is 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.

B. The Permit Official is authorized to make inspections of any property necessary to enforce the provisions of this Chapter. If the owner or person in possession of any property refuses to allow the Permit Official permission to enter the property, the Permit Official shall have recourse to every remedy provided by law to secure entry including obtaining the proper judicial warrants.

18.44.200 Engineering controls for grading.

The requirement for grading permits may differ due to local conditions of land use, proposed site development, drainage patterns, topography, soil conditions and other items. The requirements in this section have been developed as an aid for operations covered by the grading ordinance. Engineering judgment, experience and competence shall be used to verify applicability of the requirements for the site.

Any deviation from the requirements in this section shall be reviewed by and must receive the approval of the Permit Official. The Permit Official shall impose the following requirements as part of the issuance of the grading permit.

A. **Grading Design Requirements**

1. Shall maintain on-site balance of earthwork (within 10% cut or fill) except where doing so would disturb existing natural drainage paths to be preserved. No materials shall be brought to or taken from the site, unless a borrow or waste permit is obtained.

2. Transporting of processed material from one site shall be allowed to a noncontiguous site when:

a. Both sites are under the same ownership or the permittee has obtained written permission from the owner of such other site not belonging to the permit applicant and is provided with the permit application.

b. The processed material is transported from a site with a grading/waste/borrow permit to a site with a grading/waste/borrow permit unless the other site is outside the City limits.

c. The Permit Official approves the route for transporting processed material from one site to another, and the acceptable wheel-axle loads.

3. Sites shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located on the site.

4. Construction, grading, or paving on any site shall not increase the damage potential to upstream, downstream, or adjacent properties or public right-of-way, property and/or facilities.

5. Shall include sediment basins that discharge into City streets or natural drainage paths. Desilting basins shall provide sufficient settlement time for settling of solids in the basin before discharging onto City streets and natural drainage paths. Hydraulic and soil type documentation shall be provided to demonstrate or establish that adequate sedimentation occurs before leaving the sediment basin. Sediment basins shall be designed in accordance with the Drainage Design Manual.

6. No grading operation shall excavate or fill so as to cause falling rocks, soil, or debris in any form to fall, slide, or flow onto adjoining properties.

7. Compaction requirements.

a. The compaction requirements for load bearing fills upon which buildings, structures, streets, alleys or public facilities are to be located shall be determined by an Engineer as part of the design for the fill and shall fully meet the requirements of the geotechnical investigation as approved by the Permit Official.

b. Fills shall be placed and compacted to produce a structurally stabilized slope in accordance with the Construction Design Standards and Geotechnical Investigation.

8. Slope Design Requirements. Excavations shall be constructed and/or protected so that they are stable and do not endanger life or property. The provisions of this Chapter are not intended to prevent the use of any alternate method of slope design provided that the alternate is designed by an Engineer as determined by the soils investigation report and the Permit Official finds that the alternate design is equivalent to that prescribed in this Chapter.

a. Embankments and slopes supporting occupied buildings, streets and roadways shall have a factor of safety of not less than 1.5.

b. Slopes located above occupied buildings and whose toe is located within 20 feet or half of the embankment height from the exterior walls of any occupied building, whichever controls, shall have a factor of safety of not less than 1.5.

c. All other slopes and embankments shall have a minimum factor of safety of 1.3.

d. Drainage facilities shall be provided to protect slope faces from erosion.

e. Construction of berms and swales on the brow or top of the slope shall provide protection from runoff. Erosion protection shall be

provided for the berms that will encounter concentrated flows. Swale inverts may be required to be lined in accordance with flow velocities per the Drainage Design Manual. Swales shall be sloped (min. 1% for pervious and 0.5% for impervious) to lined down drains in order to safely discharge flows. Adequate erosion protection shall be provided at all discharge locations.

f. The slope of cut and fill surfaces shall not be steeper than 3 horizontal to 1 vertical. Permittee must also demonstrate that the slope will not become destabilized and not undergo excessive erosion (vegetation alone will not meet the stabilization requirements and additional measures will be necessary). Soil analysis describing engineering properties and suitability of the existing soils to support the proposed slope must be included in the geotechnical investigation. The Permit Official may require a flatter slope than 3 horizontal to 1 vertical (3H: 1V) if soils/geologic information submitted shows that flatter slopes are necessary for stability, Stabilization Measures effectiveness or maintenance.

i. The slope of cut surfaces which are 5 feet in height or less and are in competent bedrock shall be no steeper than 2H: 1V.

g. Areas adjacent to slopes shall not drain over onto the slope face if the offsite drainage width (measured in the direction of the slope) is greater than thirty (30) feet. For areas greater than thirty (30) feet, a swale or berm shall be provided to ensure the water does not erode the face of the slope in accordance with the GSP.

i. Slopes having a ratio of 3 horizontal to 1 vertical or steeper shall not exceed twenty (20') feet in vertical height, without a five (5') feet horizontal bench being placed mid height of slope and at every twenty (20') feet in vertical height thereafter (the bench shall have a cross slope away from the brow [the top] of the slope). The bench shall be constructed with a swale to

collect storm water. Swale inverts may be required to be lined in accordance with flow velocities per the Drainage Design Manual and to prevent percolation into the slope. Swales shall be sloped (min. 1%) to lined down drains in order to safely discharge flows. Adequate erosion protection shall be provided at all discharge locations

ii. Cut slopes shall be blended into the existing terrain to produce a contoured transition from cut face to natural ground.

h. No stormwater storage structure shall be at or adjacent to the top (brow) of a slope. Water harvesting at the top of slope will be considered and approved on a per project basis.

i. Cut and fills shall be set back a minimum of five feet from walls, buildings or structures to allow sufficient access to the top of the slope for maintenance purposes and to assure the stability of the slope and the security of the foundations of the buildings and structures.

j. Subsurface drainage facilities shall be provided where needed to intercept seepage that would affect slope stability, building and structure foundations or create undesirable wetness.

k. Excavations shall not be made close to property lines as to endanger adjoining property without providing support and protection to prevent damage due to erosion, sliding, settlement or falling hazard.

l. Fills

i. Fill materials shall be free of materials detrimental to the construction of stable fills as required by the geotechnical investigation.

ii. Fills shall not be placed where they will slide or wash onto the property of others nor shall they be placed where they will cause encroachment upon natural drainage paths or other natural drainage ways without providing facilities to

assure the capacity of the drainage way as approved by the Permit Official and in compliance with other state and federal guidelines.

iii. Fills that toe out on natural slopes or grades steeper than three horizontal to one vertical shall not be made.

iv. Fills placed above the top of an existing or proposed surface with a slope steeper than three horizontal to one vertical shall be set back from the top of the slope face at least five feet or as determined by the soils investigation report, unless slopes are stabilized to the top of slope face.

v. Prior to placing fills on existing surfaces (condition before grading), all organic materials, vegetation, non-complying fill, topsoil and other unsuitable materials shall be removed and the existing surface shall be scarified to a depth of six inches or as directed by the Geotechnical Investigation, whichever is greater.

vi. Fill slopes shall not be constructed by pushing soil over the top of slope so as to create a structurally unstable slope.

vii. Fills used to support the foundations of any building or structure shall comply with the requirements of a geotechnical investigation.

9. Rainwater (precipitation) Harvesting. Grading plans may be designed to encourage harvesting and use of rainwater within the project site, to reduce surface runoff discharged from project site.

10. Retaining Walls. Retaining walls shall be engineered and shall be faced with stone or constructed with other earth colored material as approved by the Permit Official. If a series of retaining walls is required, the horizontal distance between walls shall be a minimum of four (4) feet. Retaining walls in excess of four (4) feet in height shall be constructed in accordance with the design prepared by an Engineer. The design may require consultation with a geotechnical engineer,

shall consider such factors as expansive soils, steep slopes and vehicles or structures near the walls and shall include the following:

a. Construction plans indicating how the proposed wall height will vary along its length.

b. Details with elevations showing top and bottom of wall for critical points along the wall length shall include a profile.

c. Supporting calculations that demonstrate a factor of safety in accordance with the Chapter 18.08.240 for bearing capacity, overturning, sliding, and internal stability, including surcharge loads due to sloping backfill, adjacent vehicles and structures.

11. POND GRADING REQUIREMENTS

Pond slopes shall be stabilized per the Grading Stabilization Plan. Slope design requirements will be applicable to the side slopes of the ponds.

12. Any drainage improvements that are installed, as a result of land disturbance activities shall be designed to compliment and blend with the natural topography of the land.

B. Preservation of Existing Natural Drainage Paths and Terrain

Undeveloped areas in the City of El Paso contain significant natural terrain, drainage paths and vegetation. As a result, special design requirements are necessary to mitigate potential erosion hazards, minimize adverse ecological, physical and visual impacts and conserve natural scenic beauty so as to leave existing conditions undisturbed as much as practicable.

1. Natural Drainage Paths. The natural drainage paths as provided in the Natural Drainage Path map shall be delineated in the grading plan. It is encouraged that the identified natural drainage paths remain in their natural state, including riparian

vegetation, boulders and rock outcroppings. If the proposed grading is within the natural drainage paths, the following design requirements shall apply.

a. Shall meet the requirements of the Drainage Design Manual.

   i. All modified existing natural drainage paths shall be designed to achieve a restored natural appearance. The natural appearance shall be achieved using grading and landscape techniques that replicate a natural drainage path by using natural or earth colored materials native to El Paso, vegetation, boulders and contouring. The design plans shall be in conjunction with the overall landscape theme for a natural drainage path by a landscape architect and be sealed by an Engineer. These improvements shall be detailed in the grading plan and GSP.

   ii. An erosion/scour analysis must be completed and submitted to the Permit Official for approval. Water velocity shall be reduced to provide room for floodwater to spread safely and allow for native materials to be used for channel armoring.

   iii. A continuous trapezoidal and/or rectangular channel section shall be utilized only if no other hydraulic alternative is feasible.

b. Disturbance for public access trails, roadway crossing and underground utilities required for the development shall be kept to a minimum and must be designed to meet the landscape requirements listed in the preceding section B.1.i.

c. Fences, walls and similar structures shall not be constructed in the undisturbed or modified natural drainage paths.

d. Where drainage structures enter natural drainage paths, the structure must be blended into the natural terrain and lined with natural or earth colored materials, re-vegetation or other alternative material as approved by the Permit Official.

e. Natural Drainage Path fencing is required for all channels with slopes higher than 4 feet high and slopes steeper than 3 feet horizontal and 1 foot vertical shall have fencing of 2 feet high along the abutting street and 4 feet high along residential land uses. Fencing shall be masonry, wrought iron, rock, concrete, or combination thereof.

f. Provide a maintenance access route to be determined based on site conditions and to be approved by the Permit Official. The access route may be a public street when immediately adjacent to the natural drainage path.

g. Existing natural vegetation on the property shall be retained in its natural state, except where necessary for the construction or to replace or improve undesirable vegetation. Areas to remain undisturbed shall be fenced off prior to the use of any heavy machinery on site and shall remain fenced during the entire construction process. Fencing material may include plastic fence or other similar materials. To protect the root zone of said vegetation, fencing_shall be placed five (5') feet to the outside of the dripline of such vegetation and shall be a minimum of three (3') feet in height.

h. Revegetation shall be required on all disturbed areas. For purposes of this requirement, appearance shall conform to the overall landscape architect design. The existing top soil (12") shall be stockpiled and reused in areas where revegetation will occur.

2. Natural Terrain. Where grading is proposed on any parcel having an average natural slope of ten percent or greater, grading shall be limited to the minimal amount possible under standard engineering practices. Special requirements shall be considered by the Engineer including the intensity of land disturbance and natural characteristics of the terrain, such as steepness of slope, vegetation, landforms, soil type and rock stability.

a. The overall shape, height or grade of any cut or fill slopes shall be developed utilizing contour grading in concert with existing natural contours and the scale of the natural terrain of the site with seamless blending to the natural terrain at the edges of the disturbance.

b. Where two cut or fill slopes intersect and/or intersect the natural grade, the intersection shall be horizontally and vertically contoured and blended to match existing terrain

c. The area of a site proposed to be graded shall be that which fits into the natural terrain and which allows for a minimal amount of grading. The ungraded area must be left in its natural form for the remainder of the site and native vegetation shall not be removed

C. Construction Activity Requirements

The following operational guidelines must be followed during the grading of the site. They are required to be included as "General Notes" on the approved grading plan.

1. No on-site processing of material for commercial or retail sales shall be allowed. On-site processing of materials to be used for preparation or construction of improvements within the site covered by the grading permit shall be allowed.

2. Work shall be conducted in a manner that preserves and does not obstruct, impede or interfere with the flow of storm water in natural drainage ways, unimproved channels or watercourses, or improved ditches, channels or canals in such a manner as to cause flooding where it would not otherwise occur

3. Construction equipment and fencing shall be kept out of watercourses except when necessary to perform work on the approved plans. Adequate by-bass measures shall be installed where temporary drainage blockages will occur. Where work within a channel is designated on approved plans, precautions shall be taken to stabilize the work area during construction to minimize erosion as shown on the plans. The channel, including bed and banks, shall always be restored/restabilized immediately after work in the channel is completed;

4. Where a drainage way will be crossed by construction vehicles regularly during construction, a temporary crossing shall be constructed as required in the approved grading plans.

5. Material stockpiling shall not be allowed when grading operations are idle for more than seven consecutive calendar days. Stockpiling shall be limited to ten feet high when grading operations are being conducted.

6. A traffic control permit shall be required if the grading operation will impact traffic.

7. Any use of vibratory equipment shall not be allowed, unless approved in writing by the Permit Official in advance of such use.

8. The Permit Official must be notified no later than 4:00 pm the day in advance of any grading work. Additional activity requirements/ restrictions may be specified by the design Engineer of record.

D. Grading Stabilization Plan Design requirements:

The applicant shall meet the following requirements in developing the GSP for the stabilization of the site/slopes after the grading operation is complete (post construction) or if the site becomes idle for more than 180 consecutive calendar days. These requirements are in addition to meeting the requirements of Chapter 15 which govern construction activities and erosion control BMPs. The requirements for soil erosion control measures depend largely upon the extent of the destructive and nuisance potentials due to erosion that may develop from the work to be performed. Thus, the need for erosion control measures is largely determined by prevailing winds, drainage patterns, soils characteristics, residences, businesses, thoroughfares and other facilities. Analysis must be completed to verify and account for drainage patterns, soil characteristics and proximity to downstream development where erosion may occur and/or may cause hazards or damage to public or private property. The following are design guidelines for completing and complying with the GSP.

1. The GSP shall be prepared and designed to meet the following goals:

   a. Development plans for any project site shall be as effectively fitted to existing topography and soils as practical so as to create the least erosion potential possible.

   b. Sediment caused by excessive erosion shall be removed from runoff water before leaving the site.

   c. All disturbed areas, sites and slopes shall be stabilized through the implementation of a Stabilization Measure to prevent excessive erosion by wind or water.

d. Ensure that the Stabilization Measures are implemented properly and maintenance activities, both short and long term, are specified to ensure effectiveness of the Stabilization Measures.

e. Cut and fill slopes shall be stabilized through the implementation of a Stabilization Measure and surface water damage to cut and fill slopes shall be prevented.

2. Implementation of the GSP shall be applied to disturbed areas and soil stockpiles after the grading operation is complete or at such time the land becomes idle for more than one hundred eighty (180) consecutive calendar days.

3. Scheduling Requirements – The maintenance activities shall continue for the warranty period.

a. At any one time in the development of the site, the smallest practical project area should be physically disturbed. Final structures, paving, facilities and effective drainage control measures shall be completed in each project area as soon as possible.

b. Project areas physically disturbed during development shall be exposed to erosion producing influences for the shortest period of time practicable.

c. Critical areas such as slopes of three (horizontal) to one (vertical) or steeper and drainage ways shall be stabilized immediately after the completion of the grading.

d. Permanent storm drainage facilities, paving and other related facilities shall be constructed as soon as practicable to reduce water erosion problems.

e. The GSP must include a description of site work schedule and sequencing, specifically stating whether any portion of the land will remain graded and idle for more than one hundred eighty (180) consecutive calendar days.

4. Erosion Control – Water ways

Disturbed areas and slopes must be stabilized using one or more of the following Stabilization Measures. Stabilization Measures are detailed in the Design Standards for Construction:

a. Velocity Dissipation Devices

b. Slope Drains

c. Streambank Stabilization

d. Earth Dikes and Drainage Swales

e. Sediment Basin

f. Check Dams

g. Others as proposed by the applicant and approved by the Permit Official.

5. Erosion Control – Disturbed Areas

Disturbed areas and slopes must be stabilized using one or more of the following Stabilization Measures. Stabilization Measures are detailed in the Design Standards for Construction.

a. Wind Erosion - After completion of site grading the project area shall be watered as required to control wind erosion.

b. Palliative Soil Stabilizers (e.g. polyacrylamide, guar-based compounds, polyvinyl acetate, liquid polymers). Detail information for polymers shall include the type of palliative, mix ratio and application rate specific to the soil type, climatic conditions, and stabilization design life. Oil-based palliatives are not allowed

c. Seeding methods such as hydro seeding, drilling, seeding and raking in, or other seeding method to provide long-term erosion control. Existing top soil shall be stockpiled and reused; soil roughening shall be implemented before seeding. Seed mixtures shall be provided with the GSP. Mixtures shall utilize native and adapted grasses that require no irrigation after the establishment period. Seeding alone is not erosion control until vegetation is established. Seeding shall be combined with applicable erosion

control structural Stabilization Measure until vegetation is established.

d. Bonded fiber matrix. Detail information provided for bonded fiber matrix shall include the type of binder, mix ratio and application rate specific to the soil type, climatic conditions, and stabilization design life.

e. Crimped Straw Mulch - Use of mulch shall be limited to providing erosion control for six months or less, except when applied with a binding agent or netting to secure the mulch.

f. Geotextiles and Mats

g. Wood Mulching

h. Revegetation/landscaping- Revegetation shall include a weed-free seed mixture or live transplanted plants. Existing topsoil shall be stockpiled and reused in the revegetation areas.

i. Rock cover.

j. Others as proposed by the applicant and approved by the Permit Official.

6. Each Stabilization Measure shall be detailed on the plan. The GSP shall include the period of time for which the Stabilization Measure is intended to be effective and design details to document its ability to perform for that time period. The plan shall list all required maintenance activities and frequency of maintenance. The maintenance requirements must continue for the warranty period to ensure that graded sites are stabilized. Where specified as part of the Stabilization Measure, temporary irrigation shall be maintained for the time required to ensure vegetation survival

a. Site monitoring shall be performed by the permittee responsible for the GSP. The City may also monitor the site compliance at any time and require access to the updated site GSP and records of all inspections made.

b. All Stabilization Measures identified in the GSP shall continue to be maintained. The permittee shall remain in charge of the site during the warranty period.

c. The City shall be notified in writing by the permittee/owner that a portion of the construction site is or will become idle. The permittee responsible for the GSP shall inspect the construction site to verify that the site is adequately protected. The City may conduct an inspection of the site.

d. Additional protection measures may be required by the Permit Official. Any construction site found idle for more than one hundred eighty (180) consecutive calendar days without the installation of appropriate protection measures and notification that the construction project is idle shall be considered in violation of this Chapter.

f. A monitoring and inspection program shall be implemented until a stabilized site is achieved or building resumes. Inactive/idle sites shall be inspected and maintained on one of the following schedules:

i. At least once every 14 calendar days and within 24 hours following a wind event (as determined by the Permit Official) and/or rainstorm event of 0.5 inches or greater; or

ii. At least once every seven (7) calendar days, on a specifically defined day each week, regardless of whether there has been a rainstorm event since the last inspection

7. The GSP shall be updated in accordance with the actual construction sequence, and the Stabilization Measures are implemented according to actual construction progress.

18.44.210 Penalty--Severability.

Any person violating this Chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine not to exceed two thousand dollars. In the case of a

continuing violation, each day's violation shall be deemed a separate offense. The severability provisions of Section 1.04.060 of this code apply to this Chapter.

18.44.220 Permit Closeout Procedure.

After the permittee completes the grading under the permit, the permit shall be closed. As part of the closeout procedure, the applicant must submit the following to the City:

A. A statement from the Engineer of record that states, "the grading operation has been substantially completed and generally conforms to the approved set of plans". The permittee shall call the Permit Official to establish the beginning of the warranty period and to notify the Permit Official that the GSP has been implemented.

B. A copy of the Notice of Termination filed with the state or dated construction site notice, if applicable, in accordance with Chapter 15.

The City will issue a letter stating general conformance to the permit has been met and that the warranty period requirements will continue to be in effect.

Section 2. That Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management), Sections 9.04.864 (Weeds and Vegetation Prohibited) and Section 9.04.870 (Exceptions) shall be and hereby are amended to read as follows:

9.04.860 Weeds and Vegetation Prohibited.

A. Owners shall maintain properties as to prevent the growth of Weeds and Vegetation, other than those types of Weeds and Vegetation excepted under Section 9.04.870, under the following conditions:

1. Any individual lot or tract of land smaller than three acres upon which Weeds and Vegetation exceed an average height greater than twelve inches.

2. Any individual lot or tract of land three acres or greater upon which Weeds and Vegetation exceed an average height greater than twelve inches and are within one hundred fifty (150) feet of the curb line of adjacent streets, and where no curb exists, to the edge of the street or road surface, or within one hundred fifty (150) feet of any public or private property line.

3. Regardless of lot size, any abutting parkways or alleys upon which Weeds or

Vegetation exceed an average height greater than twelve inches.

B. Any accumulation or growth of such Weeds and Vegetation on properties covered by this Article, unless exempted under Section 9.04.870, is deemed to be deleterious to the public health, comfort and welfare and is declared to be a public Nuisance, the prompt abatement of which is a public necessity. The abatement of said public nuisance shall not be conducted in a manner that exposes the site to wind or water erosion, including but not limited to leaving the site barren (without ground cover) or grading to avoid mowing.

C. It is unlawful for any owner or person having the right of possession of any property within the City to cause or permit such public nuisance on the property or any abutting pathways or alleys.

9.04.870 Exceptions.

The following Weeds and Vegetation in the City shall be exempt from the requirements of Section 9.04.860:

A. Regularly cultivated ornamental, fruit bearing, vegetable bearing or flowering plants, bushes or trees, or native desert vegetation;

B. Regularly cultivated crops grown on property that is classified as agriculture exempt according to the tax rolls;

C. Pasture lands on property that is classified as agriculture exempt according to the tax rolls;

D. Property that the Director determines should be exempted because of the lack of harm to the public health, safety, and welfare (e.g., steep slopes, undeveloped properties, wet ponding areas or areas far removed from population centers and similar areas) or property that has been stabilized in accordance with an approved Grading Stabilization Plan pursuant to Title 18.44 (Grading); and

E. Naturally occurring vegetation on a lot that has never been graded.

Section 3. Except as expressly herein amended, Title 9 (Health and Safety), Chapter 9.04 (Solid Waste Management) and Title 18 (Building and Construction) of the El Paso City Code shall remain in full force and effect.

Section 4. Effective date. This Ordinance shall be effective June 1, 2011.

PASSED AND APPROVED THIS ____ DAY OF_____, 2011.

THE CITY OF EL PASO:

_____
John F. Cook, Mayor

ATTEST:

_____
Richarda Duffy Momsen, City Clerk

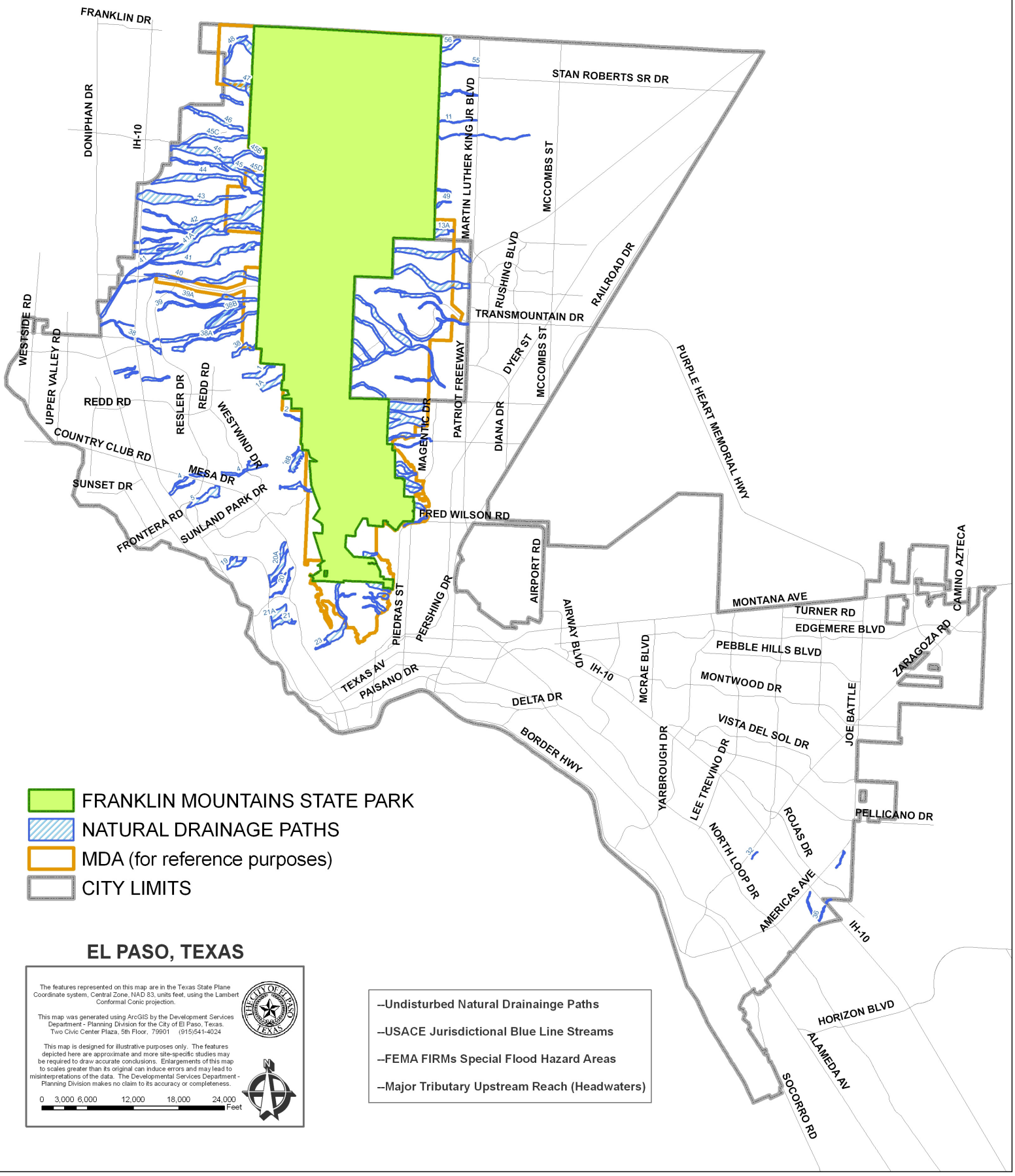
APPROVED AS TO FORM:

Cynthia Osborn
Assistant City Attorney

APPROVED AS TO CONTENT:

R. Alan Shubert, P.E.
City Engineer

NATURAL DRAINAGE PATHS



GRADING STABILIZATION PLAN:

DETAILS FOR THE STABILIZATION MEASURES ARE SHOWN IN THE US EVIRONMENTAL PROTECTION AGENCY (EPA) WEBSITE:

http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm?action=min_measure&min_measure_id=4

Construction Site Planning and Management
Construction Sequencing
Construction Site Operator BMP Inspection and Maintenance
Land Grading
Preserving Natural Vegetation

Erosion Control
Chemical Stabilization
Compost Blankets
Dust Control
Geotextiles
Gradient Terraces
Mulching
Riprap
Seeding
Sodding
Soil Retention
Soil Roughening
Temporary Slope Drain
Temporary Stream Crossings
Wind Fences and Sand Fences

Runoff Control
Check Dams
Grass-Lined Channels
Permanent Slope Diversions
Temporary Diversion Dikes