

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

DEPARTMENT: City Development Department

AGENDA DATE: Introduction: May 21, 2013
Public Hearing: June 4, 2013

CONTACT PERSON/PHONE: Mathew McElroy, (915) 541-4193

DISTRICT(S) AFFECTED: All Districts

SUBJECT:

An Ordinance amending Title 18 (Building and Construction), Chapter 18.46 (Landscape) of the El Paso City Code, by repealing Chapter 18.46 (Landscape) in its entirety and adopting a new Chapter 18.46 (Landscape) in its place, the penalty being as provided in Section 18.46.320 (Violations-Penalty) of the El Paso City Code.

BACKGROUND / DISCUSSION:

This item was one of the first to be discussed as part of Council's recent review of development codes. The changes here are largely technical in nature and allow for the landscape code to be more easily implemented, particularly on difficult sites. The required percentage stays the same, 15 percent; and the major elements that define the street such as a requirement for street trees and a frontage buffer are unchanged. The amendments include making it easier to achieve the credit for a street oriented building (reducing the building span by ten percent), allowing plant substitutions and more mature plants that have a lower probability of being lost, reducing the plant material count so that plants do not crowd each other out, providing for a credit for the footprint of the building, and increasing administrative waiver discretion by five percent.

PRIOR COUNCIL ACTION:

On October 30, 2012, the City Council took action to direct staff to review the adoption of the 2008 Subdivision Code and establish a subcommittee to review the impacts on neighborhood design and development costs. The Subdivision review committee met for the first time on January 14, 2013.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

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

LEGAL: (if required) N/A

FINANCE: (if required) N/A

DEPARTMENT HEAD:

Mathew McElroy, Director, City Development Department

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE) OF THE EL PASO CITY CODE, BY REPEALING CHAPTER 18.46 (LANDSCAPE) IN ITS ENTIRETY AND ADOPTING A NEW CHAPTER 18.46 (LANDSCAPE) IN ITS PLACE, THE PENALTY BEING AS PROVIDED IN SECTION 18.46.320 (VIOLATIONS-PENALTY) 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 18.46 (Landscape) of the El Paso City Code be deleted in its entirety and replaced with the following:

Chapter 18.46 – LANDSCAPE

Article I. – General Provisions

18.46.010 - Title.

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

18.46.020 - Purpose.

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

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

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

cooling units, as well as other energy consumption related to environmental cooling; and facilitate the safe movement of traffic in vehicular use areas.

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

18.46.030 - Rules of construction.

The following rules of construction shall apply:

- A. The singular number includes the plural and the plural the singular, unless the context clearly indicates the contrary;
- B. Words used in the present tense include the past and future tenses, and the future the present;
- C. The word "shall" is always mandatory. The word "may" is permissive.
- D. Words and terms not defined herein shall be interpreted in accord with Webster's Third New International Dictionary, Copyright 1986.

18.46.040 - Interpretation.

- A. The provisions of this chapter shall be interpreted and applied, as the minimum requirements for landscaping and irrigation in the city and shall control over all other landscape requirements in any other ordinance in the El Paso City Code, except Chapter 15.13 (Water Conservation) and Title 21 (Smart Code) of this Code.
- B. It is not intended that this chapter shall interfere with, abrogate or annul any restrictive covenants or other agreements between individual parties. When there is a conflict between the requirements of this chapter and any restrictive covenant, agreements or other requirements imposed on the property, the more stringent requirement shall apply.
- C. The provisions of this chapter shall be subordinate to the provisions of the El Paso City Code pertaining to traffic and pedestrian traffic.

18.46.050 - Definitions.

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

"Approved irrigator" means a Texas licensed irrigator.

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

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

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

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

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

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

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

"Director" means the city manager or designee.

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

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

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

"Frontage landscape buffer area" means the ten foot wide area from the public right-of-way line into the property, along the frontage street.

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

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

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

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

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

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

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

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

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

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

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

"Official" means the building official or his designee.

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

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

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

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

"Permeable surfacing" means materials with a permeable base.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Unit of plant material" means one (1) project deciduous or evergreen tree having a minimum caliper size of two inches and a minimum height of ten feet to twelve feet and a minimum of forty-five (45) plants of five-gallon size, which are a minimum of eighteen inches in height.

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

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

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

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

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

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

18.46.060 - Application.

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

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

a. For all sites, except zero lot line street frontage sites, the landscaping required by this chapter may be located anywhere on the parcel, except in the parkway or frontage landscape buffer area.

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

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

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

e. If there is no parkway or the parkway is less than 4 feet, the street trees shall be relocated within and throughout the parcel.

f. If the required frontage landscape buffer area is on a slope where a retaining wall is required and the planting of trees may disturb the structure of the wall, the buffer trees shall be relocated within and throughout the parcel.

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

a. Landscapable area shall be calculated based on the square footage of the new development or structure at a rate of fifteen percent per square foot. A minimum of one unit of plant material shall be required for every one thousand square feet, or portion thereof, of landscapable area.

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 at a rate of fifteen percent per square foot.

c. For expansions of an existing building or parking lot where the original development was not required to comply with any landscaping requirements, the landscape requirement for the expansion shall be calculated based on the square footage of the expansion and the required landscaping for the expansion may be placed in the parkway.

3. Parking.

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

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

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

d. Parking space maximums under title 20.14 shall apply to this ordinance and additional trees shall be required, one tree for every five spaces over the maximum parking spaces allowed.

4. Unmanned facilities.

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

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

5. Parkways.

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

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

6. Frontage landscape buffers.

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

b. The frontage landscape buffer shall contain the required plant units based on Section 18.46.090 and the required frontage trees as required by Section 18.46.200. Ground treatment shall include decomposed granite, or other permeable surfacing, not to include raw soil.

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

d. For shopping centers on properties with a lot depth of less than two hundred feet, the frontage buffer area may be reduced to seven feet on an arterial street. This provision does not apply to the following circumstances:

1. A shopping center where platted lots are further divided by metes and bounds.

2. A shopping center that is located on more than one lot, whether the lots are platted or divided by metes and bounds.

3. A shopping center that has detached buildings, whether those buildings are on the same building as the main shopping center building or whether the detached buildings are on separate lots that are platted or divided by metes and bounds.

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

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

1. Building restoration projects for historic structures as defined under Title 20 (Zoning);
2. Projects on land owned by the federal or State of Texas governments;
3. Any existing development, which changes its use from an approved use to any other, approved use within the same zoning category;
4. Expansion of an existing structure or parking lot if the existing landscaping within the development would satisfy the requirements of this chapter if the entire development were treated as a new project;
5. Projects which are zoned or used for residential use as defined under Title 20 (Zoning) of this Code; if such residential use single-family, duplex, triplex, quadraplex or condominium, except that street trees are required and cannot be exempted for new development based on Section 18.46.200
6. Existing buildings or parking lot areas that add a delivery or loading area, ramp or dock, or trailer storage area to an existing asphalt or concrete surface.
7. The addition of a building or buildings on a commercial lot when the additional building or buildings have a combined square footage of less than one thousand two hundred square feet of floor area.
8. Structures built from property line to property line (100% build out) shall only be required street trees as required in this chapter.

Article II. - Design Requirements

18.46.070 – Landscape plans required.

- A. Projects that are subject to the requirements of this Chapter, shall require submission of separate plans for landscaping and irrigation. The landscape plan shall be designed by one of the following: (for irrigation plans, see 18.47.080)
 1. A Landscape Architect who holds a certificate of registration issued pursuant to Texas State Occupations Code Chapter 1052; or
 2. An Architect registered in the State of Texas; or
 3. An Engineer licensed in the State of Texas; or
 4. A Landscape Contractor; or

5. A Landscape Designer; or
 6. Any other person permitted under Texas State Occupations Code 1052.003 to design a landscape plan.
- B. Landscape plan. The landscape plan shall include the following information:
1. Each plan shall be at a minimum scale of one-inch equals forty feet, preferably one inch equals twenty feet. No architectural scaling shall be allowed. Plan size shall be on paper size twenty-four by thirty-six inches.
 2. Date, scale, north arrow, project title and project address; and landscape designer with their address, phone number;
 3. Name, address and telephone number of the property owner(s) representative;
 4. Botanical name and common name, plant tag showing plant type, legend reference, size, height, quantity and location of proposed landscape materials to be used;
 5. 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;
 6. Landscape master plan (long-term) with phasing plan;
 7. Location of existing and proposed structures, signs, project trees, plant material, swales, berms, frontage trees, parking lot trees, street trees, 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 clearance at maturity for all landscape material adjacent to any utility box, hydrant, meter or access point.

18.46.080 - Required landscapable areas.

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

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

a. The square footage of the entire lot(s) in which the project is located, multiplied by 15.0 percent, less the square footage of the building(s) footprint shall equal the required landscapable area. For sites not qualifying for the street oriented building reduction in Section 18.46.090(A)(3), the required landscaping shall not be less than 10.0 percent of the developed parcel.

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

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

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

e. The number of street trees required shall be one tree per every thirty linear feet of all street frontages, including any easements. The buffer trees are required to be located within the frontage landscape buffer area at every (30) linear feet within the frontage landscape buffer area. A minimum of one street and one buffer tree shall be installed if the property has less than fifty feet of frontage. If street trees are being placed within property along the street frontage based on the requirements of Section 18.46.200, then the required frontage trees may be distributed within and throughout the property.

f. The parkway square footage shall not be included when calculating the required 15.0 percent landscapable area.

18.46.090 - Required plants.

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

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

a. One (1) project deciduous or evergreen trees having a minimum caliper size of two inches and a minimum height of ten feet to twelve feet;

b. A minimum of forty-five (45) plants of five-gallon size, which are a minimum of eighteen inches in height.

c. For project trees, two (2) one inch caliper trees at a height of eight feet to twelve feet may be substituted for one (1) two inch caliper project tree.

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

e. Other allowable substitutions are as follows;

i. Ten (10) one gallon shrubs may be substituted for one (1) five gallon shrub for up to fifty percent (50%) of the required five gallon shrubs.

ii. Five (5) five gallon shrubs may be substituted for one (1) project tree for up to fifty percent (50%) of the required project trees.

iii. One project tree may be substituted for five (5) five gallon plants.

iv. Two (2) one inch caliper trees eight feet tall may be substituted for one (1) two inch caliper tree ten to twelve feet tall for up to fifty percent (50%) of the required project trees.

v. There are No substitutions for street, buffer, or canopy trees.

f. Palms may be installed on the property but will only count as three (3) five gallon plants and may only be substituted for up to fifty percent (50%) of the required five gallon plants.

2. Parking lots and vehicular use areas.

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

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

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

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

e. Parking lot trees may be placed in planting areas of 36 square feet with no dimension less than 4 feet.

f. If an approved surface is installed for parking or storage of vehicles but is not striped, a tree shall be planted for every 1,800 square feet of approved surface. Automobile dealerships maintaining an area to rotate stock will be excluded from this calculation.

3. Street-oriented buildings.

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

1. The building span is seventy percent of the width of the lot at the street; and
2. The principal entrance is from the sidewalk facing the street; and
3. No parking is located between the street and the building along any portion of the seventy percent span; and
4. At least Thirty percent of the building facade is glass.

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

4. Designated landscape infill development area.

a. The designated landscape infill development area is shown as Appendix A attached to Ordinance Number 17656. [A copy of Ordinance 17656, Exh. A can be found in the city offices.]

b. For a property within the designated landscape infill development area, the required landscapable area may be reduced up to thirty percent.

c. The property shall comply with all other provisions of this chapter.

5. Plant coverage option. The following plant coverage option may be utilized in lieu of the requirements specified under Section 18.46.090 A.1.

a. Plant material shall be provided on all required landscapable area and will cover at least seventy-five percent of area.

b. Plant material used in the coverage calculation shall be shrubs or ground cover from the required the approved tree and plant list of the City of El Paso. The required coverage shall be fifty percent achieved within two years of the date of planting

and seventy percent at maturity. In no instance shall the number of plants provided fall below forty percent of the total required under Section 18.46.090 A.1.

c. In addition to the required plant material, two project deciduous or evergreen trees having a caliper size of two inches and a minimum height of ten feet to twelve feet shall be required for every one thousand square feet, or portion thereof. For project trees, two one inch caliper trees at a height of eight feet to twelve feet may be substituted for a two inch caliper project tree. Project trees shall not be used in the calculation of the coverage area.

d. A required weather-based smart controller shall be required in order to utilize the plant coverage option.

6. Storage Facilities

1. Landscapable area shall be calculated for all storage unit development by the square footage of the entire lot(s) on which the project is located multiplied by 10.0 percent, minus the square footage of the building(s) footprint. The required landscaping shall be placed around the outer perimeter of the parcel. The required landscaping shall not be placed in any area less than 36 square feet and with any dimension less than 4 feet. If the parcel that is being developed abuts a street, the street trees are still required to be placed every 30 feet and they may be counted towards the required tree count for the project. If onsite parking is required then canopy trees shall be required per the requirements of this chapter.

Article III. - Standards

18.46.100 - Landscape standards.

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

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

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

D. Trees. Trees in pedestrian areas shall be planted and maintained, with the mature branching structure having a minimum of seven feet clearance from ground level within three

feet from the trunk. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of thirty-six square feet of surface area with no interior dimension less than four feet measured at ninety degrees to the interior edges.

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

F. Organic/inorganic ground covering/permeable paving.

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

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

3. Nonporous materials shall not be installed under organic or inorganic ground covering.

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

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

18.46.110 - Irrigation standards.

For irrigation standards see 18.47.090.

18.46.120 - Installation standards.

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

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

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

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

D. Reserved.

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

18.46.130 - Maintenance standards.

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

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

18.46.140 - Fees in lieu of installation.

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

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

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

1. Unmanned facilities.
 - a. Any unmanned facility with a calculated landscapable area requiring one unit of plant material or less, shall pay fees in the amount of five thousand dollars per site.
 - b. All other unmanned facilities with a calculated landscapable area requiring more than one unit of plant material, may pay fees based on five thousand dollars per unit of plant material required.

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

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

D. Special fund.

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

2. Accountability. The building official or other designee of the city manager shall maintain a written record of all moneys received in lieu of installation, including, at a minimum, the total amount of fees received, the property address generating the fees and the date the fees were received. The building official or other designee of the city manager 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 IV. - Street Tree

18.46.200 - Required street trees.

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

B. Street trees shall be selected from the approved tree and plant list of the City of El Paso maintained by the parks and recreation department. The street trees to be installed must be designated as a preferred (x) or allowed (o) medium or large deciduous tree from the approved tree or plant list.

18.46.210 - Street tree standards.

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

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

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

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

E. Street trees shall be placed in the parkway of the street, unless the department of transportation director and the planning official requires different locations of trees based on topography or a uniquely shaped lot.

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

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

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

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

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

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

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

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

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

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

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

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

Article V. - Administration

18.46.300 - Enforcement.

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

B. Citations. Employees authorized by the city manager or his designee, to include but not be limited to the city development director and building official and their designees, and the code enforcement division, are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

18.46.310 - Appeals.

A. When the Director does not approve a landscape or irrigation plan, or the installation of these improvements, the owner or duly authorized representative may appeal in writing that decision to the construction board of appeals.

Where topography or the unique characteristics of a particular lot are such that the landscape requirements cannot be met, the Director of the City Development Department or designee may waive up fifteen percent of the parking requirement below the minimum so that the minimum landscape requirement can be met or alternatively the missing landscape percentage can be waived up to fifteen percent of the total square footage required. In cases where the property owner disagrees with the determination of the Director of the City Development Department or other designee of the city manager, the decision may be appealed to the construction board of appeals.

18.46.320 - Violations—Penalty.

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

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

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

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

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

3. Other available relief.

18.46.330 - Severability.

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

Section 2. This ordinance shall become effective immediately.

Section 3. Except as herein provided, Title 18 (Building and Construction) shall remain in full force and effect.

PASSED AND APPROVED this _____ day of _____, 2013.

THE CITY OF EL PASO

John F. Cook
Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Cynthia Osborn
Assistant City Attorney

Mathew McElroy, Director
City Development Department



Mayor John Cook
300 N. Campbell
El Paso, Texas 79901

Representative Emma Acosta
300 N. Campbell
El Paso, Texas 79901

Representative Eddie Holguin
300 N. Campbell
El Paso, Texas 79901

Representative Carl Robinson
300 N. Campbell
El Paso, Texas 79901

Representative Dr. Michiel Noe
300 N. Campbell
El Paso, Texas 79901

Representative Ann Morgan Lilly
300 N. Campbell
El Paso, Texas 79901

Representative Courtney Niland
300 N. Campbell
El Paso, Texas 79901

Representative Susie Byrd
300 N. Campbell
El Paso, Texas 79901

Representative Steve Ortega
300 N. Campbell
El Paso, Texas 79901

May 22, 2013

Honorable Mayor and City Council:

We were provided with the proposed changes for the Title 18 Landscape Code in March of this year and staff allowed us adequate time for a full consideration and understanding of the code revisions. We identified that the proposed changes include important technical revisions which collectively more closely align our code with the best practices and regulations of our sister cities.

We fully support the adoption of these technical corrections to the Landscape Code by the City Council.

Sincerely,

Adam Frank
President



{99YGIN.1/YGIN/06331948.1}

106 Mesa Park Drive ★ El Paso, Texas 79912

Tel. (915) 225-5700
Fax (915) 225-5701



Member of International Council of Shopping Centers



May 21, 2013

The Honorable John Cook
Mayor of El Paso
300 N. Campbell
El Paso, TX 79901

Re: Proposed Changes to Title 18

Dear Mayor Cook:

The Greater El Paso Chamber of Commerce wishes to express its support for the adoption of the proposed changes to Title 18 (Landscape) as presented by City staff for consideration by City Council on June 4th. Through its Infrastructure and Development Committee, the Chamber continues to be actively engaged in local development issues. With respect to the proposed changes to the Landscape Ordinance, the Chamber has been included in multiple stages of the vetting process by City Development staff, and has also been given the opportunity to review the final proposal.

The Infrastructure and Development Committee appreciates the opportunity to work closely with the City Development Department on critical development issues and hopes to continue to be involved in the vetting process as future issues arise. We would like to thank City staff for considering the interests and input of the El Paso business community in pursuing the most effective implementation of the Landscape Ordinance.

Sincerely,

Richard Dayoub
President and CEO

Walter Miller
Chair, Infrastructure and Development Committee

cc:

Representative Ann Morgan Lily
Representative Emma Acosta
Representative Michiel Noe
Representative Steve Ortega
City Manager Joyce Wilson
Mr. Matthew McElroy

Representative Susie Byrd
Representative Carl Robinson
Representative Eddie Holguin
Representative Cortney Niland



May 21, 2013

Via Electronic Mail Delivery

Mayor Cook and City Council
300 N. Campbell
El Paso, TX 79901

Re: Title 18 Landscape Code

Dear Mayor Cook and City Council,

MIMCO, Inc. recently had the opportunity to thoroughly review the proposed technical changes to the Title 18 Landscape Code. Please let this letter serve as notice that MIMCO, Inc. fully supports the adoption of these technical changes by the City Council. We appreciate the opportunity to be involved in the evaluation process.

Sincerely,



FOR MR. AYOUB

Robert S. Ayoub
President

CC: Matthew McElroy