

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

DEPARTMENT: City Manager's Office

AGENDA DATE: Introduction: May 29, 2012 and Public Hearing: June 5, 2012

CONTACT PERSON/PHONE: Deborah Hamlyn, Deputy City Manager, Community Services (541-4686)

DISTRICT AFFECTED: City Wide

SUBJECT:

An ordinance to amend the El Paso City Code to reflect departmental reorganization by amending Title 18 (Building and Construction), Chapter 18.46 (Landscape), of the El Paso City Code; to amend sections thereunder to reassign duties that had been assigned to the Engineering and Construction Management Department; and provide for enforcement and the penalty; the penalty is as provided in section 18.46.320 of the El Paso City Code.

BACKGROUND / DISCUSSION:

The proposed ordinance forms part of a series of code amendments that formalize the creation of the new City Development Department. These amendments align the appropriate roles and responsibilities that reflect the new departmental structure and address the necessary administrative provisions related thereto. The proposed changes will become effective on June 11, 2012.

PRIOR COUNCIL ACTION:

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

(N/A)

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

DEPARTMENT HEAD: _____



Information copy to appropriate Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE EL PASO CITY CODE TO REFLECT DEPARTMENTAL REORGANIZATION BY AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE), OF THE EL PASO CITY CODE; TO AMEND SECTIONS THEREUNDER TO REASSIGN DUTIES THAT HAD BEEN ASSIGNED TO THE ENGINEERING AND CONSTRUCTION MANAGEMENT DEPARTMENT, AND PROVIDE FOR ENFORCEMENT AND THE PENALTY; THE PENALTY IS AS PROVIDED IN SECTION 18.46.320 OF THE EL PASO CITY CODE.

WHEREAS, the Planning and Economic Development Department and the Building Permits and Inspections Division are being combined into a new department named the City Development Department; and

WHEREAS, various provisions in the City Code need to be amended to reflect the changes.

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

Section 1. That Chapter 18.46 (Landscape), Section 18.46.100, Subsection C, (Landscape standards), of the El Paso City Code, is amended to read as follows:

18.46.100, Subsection C, Landscape standards.

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.

Section 2. That Chapter 18.46 (Landscape), Section 18.46.140, Subsection D, (Fees in lieu of installation), of the El Paso City Code, is amended to read as follows:

18.46.140, Subsection D, Fees in lieu of installation.

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.

Section 3. That Chapter 18.46 (Landscape), Section 18.46.210 (Street tree standards), of the El Paso City Code, is amended to read as follows:

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.

Section 4. That Chapter 18.46 (Landscape), Section 18.46.300 (Enforcement), of the El Paso City Code, is amended to read as follows:

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.

Section 5. That Chapter 18.46 (Landscape), Section 18.46.310 (Appeals), of the El Paso City Code, is amended to read as follows:

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 city engineer or designee may waive up ten 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 ten percent of the total square footage required. In cases where the property owner disagrees with the determination of the city engineer or other designee of the city manager, the decision may be appealed to the construction board of appeals.

Section 6. That Chapter 18.46 (Landscape), Section 18.46.320, Subsection A, (Violations – Penalty), of the El Paso City Code, is amended to read as follows:

18.46.320, Subsection A, 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 has erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, or has erected, constructed, altered, repaired, moved or demolished any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of a provision in this chapter is declared to be a nuisance.

Section 7. That Chapter 18.46 (Landscape), Section 18.46.340 (Severability), of the El Paso City Code, is amended to read as follows:

18.46.340 - 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 8. This ordinance shall take effect on June 11, 2012.

Section 9. Except as herein amended, Title 18 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2012.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

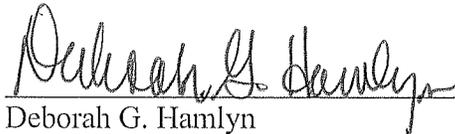
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:



Deborah G. Hamlyn
Deputy City Manager

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE EL PASO CITY CODE TO REFLECT DEPARTMENTAL REORGANIZATION BY AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE), OF THE EL PASO CITY CODE; TO AMEND SECTIONS THEREUNDER TO REASSIGN DUTIES THAT HAD BEEN ASSIGNED TO THE ENGINEERING AND CONSTRUCTION MANAGEMENT DEPARTMENT, AND PROVIDE FOR ENFORCEMENT AND THE PENALTY; THE PENALTY IS AS PROVIDED IN SECTION 18.46.320 OF THE EL PASO CITY CODE.

WHEREAS, the Planning and Economic Development Department and the Building Permits and Inspections Division are being combined into a new department named the City Development Department; and

WHEREAS, various provisions in the City Code need to be amended to reflect the changes.

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

Section 1. That Chapter 18.46 (Landscape), Section 18.46.100, Subsection C, (Landscape standards), of the El Paso City Code, is amended to read as follows:

18.46.100, Subsection C, Landscape standards.

C. Turf. Turf shall not be installed on slopes exceeding twenty percent, unless approved by the ~~city engineer~~ 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.

Section 2. That Chapter 18.46 (Landscape), Section 18.46.140, Subsection D, (Fees in lieu of installation), of the El Paso City Code, is amended to read as follows:

18.46.140, Subsection D, Fees in lieu of installation.

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

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

Section 3. That Chapter 18.46 (Landscape), Section 18.46.210 (Street tree standards), of the El Paso City Code, is amended to read as follows:

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 ~~deputy director for~~ 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 ~~deputy director for~~ 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.

Section 4. That Chapter 18.46 (Landscape), Section 18.46.300 (Enforcement), of the El Paso City Code, is amended to read as follows:

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~~ ~~The city engineer and any person designated by the city engineer,~~ 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.

Section 5. That Chapter 18.46 (Landscape), Section 18.46.310 (Appeals), of the El Paso City Code, is amended to read as follows:

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 city engineer or designee may waive up ten 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 ten percent of the total square footage required. In cases where the property owner disagrees with the determination of the city engineer or other designee of the city manager, the decision may be appealed to the construction board of appeals.

Section 6. That Chapter 18.46 (Landscape), Section 18.46.320, Subsection A, (Violations – Penalty), of the El Paso City Code, is amended to read as follows:

18.46.320, Subsection A, 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 ~~Code~~, or fails to comply therewith, or with any of the requirements thereof, or who shall has erected, constructed, altered, installed, demolished or moved any landscaping or irrigation system, or has erected, constructed, altered, repaired, moved or demolished any landscaping or irrigation system, in violation of a detailed statement or drawing submitted and permitted under this chapter, is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of a provision ~~the ordinance codified~~ in this chapter is declared to be a nuisance.

Section 7. That Chapter 18.46 (Landscape), Section 18.46.340 (Severability), of the El Paso City Code, is amended to read as follows:

18.46.340 - Severability

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

Section 8. This ordinance shall take effect on June 11, 2012.

Section 9. Except as herein amended, Title 18 of the El Paso City Code shall remain in full force and effect.

ADOPTED THIS _____ day of _____ 2012.

CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:

Marie A. Taylor
Assistant City Attorney

APPROVED AS TO CONTENT:

Deborah G. Hamlyn
Deputy City Manager