

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 18 (BUILDING AND CONSTRUCTION), CHAPTER 18.46 (LANDSCAPE) OF THE EL PASO CITY CODE, BY DELETING 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 18.46.140 (VIOLATIONS-PENALTY) OF THE EL PASO CITY CODE.

WHEREAS, by Ordinance No. 012399 enacted on May 23, 1995, the City Council of the City of El Paso, Texas, adopted the Landscape Ordinance of the City of El Paso to be effective September 1, 1995; and

WHEREAS, the City Council of the City of El Paso has determined that quality of life, increased property values, and aesthetics are important issues and concerns affecting El Paso; and,

WHEREAS, proper landscaping and irrigation will augment those qualities while helping to improve air purification, storm water run-off, noise reduction, and heat abatement while conserving energy, water, and other natural resources; and,

WHEREAS, landscape standards can enhance the quality of life and enhance the general welfare and beauty of El Paso by creating and maintaining visual environmental amenities; and,

WHEREAS, there have been extensive meetings with applicable industries and public meetings held regarding these amendments; and,

WHEREAS, the amendments herein are necessary to promote and protect the health, safety, and welfare of the public by creating an urban environment that is aesthetically pleasing, promotes economic development, and enhanced quality of life for the citizens of El Paso.

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

SECTION 1. That Title 18 (Building and Construction), Chapter 18.46 (Landscape) the El Paso City Code be deleted in its entirety and replaced as follows:

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. The purpose of this chapter is to set forth the minimum requirements for the landscape of commercial, non-residential, and local government property development within the corporate limits of the city. These regulations prescribe design standards that create aesthetic value, improve water conservation and air quality, reduce heat-island effect, provide pedestrian shade and encourage a plant palette that is distinctive, appropriate, and authentic to El Paso.

18.46.030 Interpretation. The provisions of this chapter shall control 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. When there is a conflict between the requirements of this chapter and any condition or agreements imposed on the property by separate ordinance, the more stringent requirement shall apply.

18.46.040 Application.

- A. This chapter shall apply to non-residential development described under Title 20 (Zoning), within the incorporated area of the City of El Paso, Texas. Application includes any project that meets the commercial building code standard for new construction and the addition to any structure or parking surface for which a commercial building permit is required. For all development to which this chapter applies, the interior parcel as well as the parkway and sidewalk are subject to requirements for landscape and irrigation.
- B. Exemptions.
 - 1. Projects on land owned by the federal or State of Texas governments.
 - 2. Any change of use in either zoning or occupancy classification without new construction, in an existing development.
 - 3. The addition or expansion to an existing building or existing site with a footprint area of less than 3,000 square feet or if the existing landscape within the development would satisfy the requirements of this chapter if the entire development were treated as a new project under this chapter.
 - 4. Temporary placements not exceeding time period as prescribed in Title 20. For school sites, temporary placement of building not exceeding time period as prescribed in Title 18.
 - 5. Playing fields or courts used for sporting activities.

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

"Approved plant list" means the combined lists of plants and shrubs contained in the City of El Paso Plant List on file with the building official.

"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 two largest trunks.

"Canopy tree" or shade tree means any tree that has a minimum canopy width of 20 feet at maturity.

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

"Evergreen" means a tree or shrub having foliage that remains green and functional through more than one growing season.

"Frontage" means the property line where a parcel of land, lot, or site abuts a public right-of-way that is not an alley.

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

"Gross building area" means the total enclosed area of a building, taken from exterior dimensions, including covered patios, detached or attached pedestrian shade producing site amenities and walkways that provide pedestrian shade, but excluding architectural attachments such as window awnings, fire escapes, overhangs, or fabric shades.

"Ground cover, inorganic" means material such as mulches and/or gravel used as ground covering and placed to prevent erosion, lower soil temperature and maintain soil moisture levels.

"Ground cover, vegetative" means perennial plant material that will not exceed 18 inches in height at maturity, installed in such a manner as to provide continuous aesthetic cover of the ground surface and placed to prevent erosion, lower soil temperature and maintain soil moisture levels.

"Hardscape" means rock or stone, concrete, asphalt, brick, or similar solid material, distinct from inorganic ground cover in that it is material that can provide a smooth and stable surface.

"Impermeable 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.

"Landscape 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.

"Low Impact Development (LID)", means small scale and site-integrated storm water management strategies that imitate predevelopment hydrology. LID practices include bioretention, engineered soil, swales, vegetated filter strips, storm water planters, and rainwater harvesting.

"New development", as it pertains to this title, means development that meets the commercial building code standard for new construction and the addition to any building, structure, or parking surface for which a building permit is required.

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

"Parcel" means a lot or property envelope defined by property lines. For the purposes of this chapter the parcel includes the frontage buffer and the parking lot. Parkway and sidewalks are not within the parcel but rather in the city right-of-way.

"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 and intended as an accommodation for patrons, customers, and employees.

"Parking spaces" means those spaces for the parking of any vehicle. This excludes eighteen-wheel tractors and their trailers, and motor vehicle dealership inventory stock stalls.

"Parkway" means the planted area of right-of-way between the property line and the roadway.

"Permeable paving" consists of treatments that provide stormwater infiltration while serving as a structural surface.

"Pond" means a depression in the soil intended to retain and/or detain both stormwater and all excess irrigation water. A pond area can be used to install required landscape.

"Project area" refers to portions of the parcel as well as the parkway and sidewalk subject to landscape requirements by the provisions of this chapter.

"Shrub" means a perennial plant, deciduous or evergreen, including cacti and succulents, generally multi stemmed and smaller growing than a tree.

"Street oriented building" means a building placed on a lot such that its principal orientation is toward the street and is located within 20 feet from the property line to the face of the building. Street oriented buildings preclude parking in any space between the sidewalk and the building.

"Tree, buffer" means a deciduous or evergreen canopy tree that is planted in the required buffer areas. Branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk.

"Tree, parking lot" means a deciduous canopy tree which is installed and located in the parking lot area. Branching structure that shall be maintained at a minimum height of seven feet above the drivable surface ground, three feet from the trunk.

"Tree, project" means a deciduous or evergreen canopy tree which is installed in the required landscape area excluding street, buffer, and parking lot areas. If located near a walkable or drivable surface, branching structure shall be maintained at a minimum height of seven feet above the sidewalk area ground, three feet from the trunk.

"Tree, street" means a deciduous canopy tree which is installed in the parkway area of the right-of-way. Branching structure that shall be maintained at a minimum height of seven feet above the drivable surface ground, three feet from the trunk.

"Unit of plant material" means 1,000 square feet of landscape area, with one project deciduous or evergreen tree having a minimum caliper size of two inches and a minimum height of ten feet and a minimum of thirty shrubs of five-gallon size, with a minimum height of eighteen inches.

"Visibility triangle" means that area formed by intersecting property lines and a diagonal line joining the property lines at points 20 feet from their intersection. The purpose of a visibility triangle is to provide visual clearance and safety. It is the responsibility of the design professional who seals the permit documents to note the visibility triangle.

18.46.060 Plan Submittal Standards.

- A. The landscape design work and documents shall comply with the Texas State Occupations Code, Section 1052.003, Practice of Landscape Architecture. The permit documents shall include the following information:
 - 1. Construction documents for landscape and irrigation, drawn to a legible scale using current line type and notation conventions.
 - 2. Coverage and parking calculations and required plant units, notation of exemptions and variances used.
 - 3. Plant tags with reference to a legend that shows plant type, botanical name, common name, size, height, and quantity.
 - 4. Site plan with location and dimensions of existing and proposed structures, pedestrian access routes, hardscape, inorganic ground cover types, site contouring and existing easements.
 - 5. Noted and dimensioned locations and required clearances of all built and relevant features of the site such as visibility triangles, curb cuts, ingress and egress, utilities, signs, fire hydrants, and FDC connections.

ARTICLE II – DESIGN REQUIREMENTS

18.46.70 Landscape Requirements

A. Required Plant Coverage Area Calculation.

- 1. Coverage area shall be calculated based on the areas and structures within the parcel only, and shall not include areas outside of the parcel boundaries such as, the parkway or sidewalk, which are calculated separately. Planted coverage of the site shall favor areas of the parcel which are visible from the frontage and of benefit to site users and pedestrians.
 - a. Required plant coverage shall not be placed behind a building unless it provides a buffer separating residential from commercial zoned properties or prescribed by a zoning condition.
 - b. The required landscape for all sites, except zero lot line street frontage sites, shall be located in the area between the street frontage and the building wall furthest from the street including the required buffer.
- 2. Coverage area for new development which, includes new surface parking lots shall, be calculated based on the square footage of the entire parcel on which the project is located, minus the square footage of the gross building area, multiplied by 15 percent.
- 3. Coverage area for an expansion of 3,000 square feet or more on an existing building, shall be calculated based on the square footage of the expansion multiplied by 15 percent. See exemption 18.46.040 (B)(3)
- 4. Coverage area for High Hazard group (H), Storage group (S), and Utility (U) occupancy classifications, as defined in the International Building Code, in manufacturing and industrial zoning districts, shall be calculated based on the square footage of the entire lot(s) on which the project is located, minus the square footage of the total building footprint multiplied by five percent. The required landscaping shall be placed around the outer perimeter of the primary public building on the site and be visible to the street.

5. Phased Development: If a project is developed in phases, a master landscape plan and phasing schedule shall be provided for the entire development and required coverage must be completed per phase of development. Where pedestrian sidewalks are required to be installed for the development all street and buffer trees shall be installed at the preliminary phase.

B. Required Plant Materials.

1. For every 1,000 square feet of required plant coverage area, one unit of plant material shall be required.
2. One unit of plant material consists of a minimum of one (1) tree and a minimum of thirty (30) shrubs.
3. Plant coverage area calculations yielding between 450 – 999 square feet shall require a minimum of one unit of plant material which may be located anywhere on the parcel that is visible to the street, the buffer, or the parkway.
4. Alternative Compliance. In lieu of installation, an expansion/addition to an existing building or unmanned facilities requiring less than one unit of plant material may pay the landscape buyout fee based on the amount established in Schedule C of the El Paso City Code.

C. Alternative Development.

1. Where a building is street-oriented and meets all of the following standards, the required plant coverage area may be reduced by 60 percent.
 - a. For a commercial occupancy at street level, at least 60 percent fenestration of the street-level building façade, or for a residential occupancy, at least 10 percent fenestration of the street-level building façade.
 - b. The building frontage span is seventy percent (70%) of the lot width at the street and shall be built within the first 20 feet of the property line with no parking located between the street and the building along any portion of the 70 percent span.
2. 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, Appendix A can be found in the city offices.]
 - b. For a property within the designated landscape infill development area, the required landscape area may be reduced up to thirty percent.
 - c. The property shall comply with all other provisions of this chapter.
3. Where topography or a unique characteristic of a particular lot, are such that the landscape requirements cannot be met, the building official may waive up to 10 percent of the parking requirements below the minimum, or 10 percent of the total landscape area required to allow for landscape design that meets the purposes of this chapter.
4. Where demonstrable Low Impact Development measures achieve 100 percent stormwater retention and water harvesting within the parcel, then required planting may be reduced by 20 percent and of any plant type or distribution throughout the parcel.
5. Native or naturalized and existing plants within the project areas may be conserved and counted toward required plant material, subject to approval by the building official or his/her designee.

D. Landscape Requirements by Project Area.

1. **The Frontage Buffer.** The purpose of the frontage buffer is to provide cooling and shading of pedestrian areas as well as serve an aesthetic and safety function in the transition between the parcel and the right of way. The frontage buffer may be crossed by driveways and pedestrian walkways connecting to adjacent land; however, no parking is permitted within a frontage buffer.
 - a. **Frontage Depth:** The frontage along all public right-of-way shall consist of a minimum 10-foot buffer. A building may be located within the required frontage buffer and any remaining portion within the landscape buffer not occupied by the building shall be landscaped unless approved by the Building Official or his/her designee.
 - i. **Alternative design:** On irregularly shaped sites or for any properties with a lot depth of less than 200 feet, the frontage buffer depth may be reduced to six feet.
 - ii. Where buffer requirements cannot be met due to zoning setbacks and the provided parking does not exceed maximum parking requirements, the building official or his/her designee may approve parking in the frontage buffer when permeable ground treatment and required buffer trees are provided.
 - iii. Where there are dedicated easements within the buffer such as electrical, water, and gas, and causes a conflict where the required plant material cannot be planted an additional 6-foot buffer shall be installed beyond the dedicated easement to meet the requirements of this chapter.
 - iv. A minimum of 15 percent of all required shrubs shall be planted in the landscape buffer.
 - b. **Trees required in the frontage buffer:** In addition to the required units of plant material, trees within the frontage buffer, shall be large or medium trees from the City of El Paso Approved Plant list. If the tree canopy width is 40 feet or more, the maximum spacing shall be, 1 tree for every 40 linear feet of frontage minus driveway widths. If the tree canopy is less than 40 feet, the maximum spacing shall be 1 tree for every 30 linear feet of frontage minus driveway widths. If the property has less than 40 feet of total frontage, then a minimum of one tree shall be installed in the buffer.
2. **Parking Lots.** Landscape shall be designed to provide heat island mitigation and to shade pedestrian paths to the building entrance and other site elements. Parking lot planting shall be located within the parking surface that is most visible to the street and unobstructed by the building. Efforts should be made to design pedestrian pathways shaded with canopy trees.
 - a. **Trees required in the parking lot:** Any construction of on-site parking, a new parking lot or expansion of an existing parking lot is required to install one canopy tree per 12 parking spaces or portion thereof, whether or not the parking spaces are required. The number of trees required shall be based on the calculation of the total of all spaces both new and existing within the site.
 - b. **Parking space maximums under Title 20.14** shall apply to this ordinance and additional canopy trees shall be required, one tree for every five spaces over the maximum parking spaces allowed. These requirements are in addition to the requirements set forth in section 18.46.70.A.2.
3. **The Parkway – Street Trees.** The purpose of the parkway is to provide both aesthetic value to the streetscape and cooling and shading for pedestrian routes. The parkway may be crossed by driveways and walkways; however, no parking is permitted within a

parkway, and with the exception of pedestrian access routes and pavers, impermeable paving is specifically prohibited in the parkway.

- a. The parkway square footage shall not be included when calculating required parcel coverage area.
 - b. Parkway length shall be calculated as a total length minus driveway widths.
 - c. Minimum Trees required in the parkway: Trees located in the parkway shall be large or medium trees from the City of El Paso Approved Plant list. If the tree canopy width is 40 feet or more, the maximum spacing shall be, 1 tree for every 40 linear feet of frontage minus driveway widths. If the canopy is less than 40 feet, the maximum spacing shall be 1 tree for every 30 linear feet of frontage minus driveway widths. Canopy trees shall be placed on center at intervals.
 - d. For parkways abutting state rights-of-way, state guidelines shall apply and state approval shall be provided prior to permit issuance.
4. **The Sidewalk.** Planting trees within sidewalks that do not abut a parkway provides for pedestrian shade and a safety buffer between the roadway and pedestrian zones.
- a. If the sidewalk is six feet wide or wider, then canopy 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. In all cases, the minimum effective clear sidewalk width shall be 48 inches minimum, 60 inches minimum preferred. Tree grates shall meet accessibility standards and allow for tree trunk diameter growth.
 - b. Alternative design. Where in-ground sidewalk tree planting is demonstrated to the building official as being a unique condition, then irrigated, above-ground planters may be used to meet the sidewalk tree requirement. Planter design, tree selection and placement shall be subject to approval by the Building Official.
 - c. In the downtown area where tree street lighting is proposed, an electrical connection shall be provided in accordance with the currently adopted national electrical code.
5. **Residential Buffers.** When a commercial zoned development abuts a residential zoned development or residential lots, a 10-foot-wide buffer shall be required. Trees located in the residential buffer shall be large or medium trees from the City of El Paso Approved Plant list, with a mature canopy width of 30 feet, the maximum spacing shall be, 1 tree for every 30 linear feet. When applicable this is in addition to the standard landscape requirements. When this ordinance may cause conflict with another ordinance, the more stringent shall apply. Where there is at least a 30-foot-wide pond or utility easement separating the commercial property from the residential property lines, the buffer requirements shall be determined by the building official or designee.

18.46.080 Plant Material and Ground Treatment Standards.

- A. All plants to be used in the landscape design shall be selected from the approved plant lists. A landscape professional may propose an alternative, locally appropriate plant to be approved by the building official or designee. No artificial plant materials shall be used to satisfy the requirements of this chapter and plant material shall be healthy and vigorous at the time of planting.

- B. Required plant material shall be selected, installed, and maintained.
- C. Subject to approval by the building official, substitution of plant materials based on equivalent size and type may be allowed for the purpose of preserving or relocating existing healthy trees and shrubs.
- D. Shrubs.
 - 1. Shrubs shall be five-gallon perennials with a minimum height of approximately 18 inches at the time of planting unless that of the dwarf species.
 - 2. Shrub placement shall be designed to ensure that at maturity there is a five-foot clearance adjacent to any fire hydrant or Fire Department connection. For other utility riser or meter boxes, meters or equipment, plant placement does not need to meet a minimum clearance but shall provide appropriate amount of visual screening that also allows reasonable service access.
 - 3. Substitution alternatives.
 - a. One project tree may be substituted with 5 five-gallon shrubs. This substitution is limited to 50% of the required trees.
 - b. One five-gallon shrub may be substituted for 5 one-gallon shrubs for up to 50% of the required shrubs for the entire project.
 - c. One palm of three feet trunk height may be substituted for 5 five-gallon shrubs for up to 50% of the required shrubs.
- E. Trees.
 - 1. Trees shall be a minimum of ten feet tall and a two-inch caliper size at time of planting.
 - 2. Substitution Alternatives.
 - a. If a selected tree for any portion of the parcel area, excluding the parking lot, is documented on the approved plant list as a native or naturalized tree for the El Paso area, the tree may be multi-trunk with three largest trunks cumulative minimum of two caliper inches and be a minimum of eight feet tall.
 - b. For trees located within the parcel, two one-and-a-half-inch caliper eight feet tall trees may be substituted for one two-inch caliper tree for up to 50 percent of the required trees, subject to approval by the building official.
 - c. For trees located within the parcel, one 4-inch caliper tree, 12 feet tall may be substituted for two 2-inch caliper trees 10 feet tall, for up to 50 percent of the required project trees subject to approval by the building official or their designee.
 - 3. Trees placed within fifteen feet of vehicular entrances or exits shall be single trunk canopy trees.
 - 4. Trees in pedestrian areas shall be planted and maintained, with an upward branch pattern, and a branching structure having a minimum of 80-inch clearance from ground level.

5. All trees shall be healthy and vigorous. Trees shall be planted in beds with a minimum area of 48 square feet of surface area and have no interior dimension less than three feet measured at 90 degrees to the interior edges. Islands in parking lot planters shall be 6 feet by 6 feet (36 square feet) interior dimension measured at the 90-degree edge.
6. 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.

F. Ground Cover.

1. Turf shall be limited to play and park areas and not be installed on slopes exceeding 20 percent.
2. All non-vegetative ground covering shall be a minimum of three-inch depth.
3. Nonporous materials shall not be installed under organic or inorganic ground covering. For the areas of the parcel that are not parking lot, ground treatment that is not plant material shall be permeable or disconnected impermeable surfaces.
4. Natural and inorganic ground coverings may be used as a groundcover but not substituted for required plant coverage. Exposed raw soil or seeding on raw soil without additional inorganic or organic groundcover shall not be permitted.
5. Any weed barrier materials used must allow the percolation of standing water within 72 hours and be placed at minimum of three inches below the mulch or ground covering surface.

ARTICLE III - STANDARDS

18.46.090 Installation Standards.

- A. An individual with a state irrigator, irrigation technician, master plumber, or journeyman plumber license shall be on the project site during all irrigation installation work for review and inspection.
- B. Minor modifications (field changes) at the time of installation may be made to the landscape design (plant materials and irrigation system), by the designer, as long as the changes comply with the standards in this chapter and approved by the building official or designee.
- C. Installation shall be completed according to the approved permit documents prior to the building final inspection and issuance of a certificate of occupancy or completion.

18.46.100 Fees in Lieu of Installation.

- A. Landscape Buy Out Fee. The city shall establish a special fund for the deposit of all sums paid in lieu of installation pursuant to this chapter. The fees shall be listed in Schedule C as approved by City Council. In no case shall the funds be used for routine park, landscaping maintenance or other recreational facility maintenance. The fees shall be spent to plant new landscaping throughout new and existing City

owned property., visible by the general public and compliant with the standards set forth in this chapter. Check on the fund name. Talk to Sean.

- B. Unmanned facilities, such as personal wireless service facilities, may pay fees based on units of plant material required according to Schedule C.
- C. Unmanned utility facilities such as Pump station, water towers, electrical substations etc. may pay a flat fee of 1 unit based on Schedule C, if a 6-foot minimum rock wall is installed around the project. Any project abutting a street frontage shall provide the street and buffer trees.
- D. Form tendered. A cash payment made pursuant to this section shall be tendered in the form of a cashier's check, payable to the City of El Paso. The cashier's check shall be submitted to the building official and shall accompany the building permit application.
- E. Accountability. The building official shall maintain a written record of all moneys received in lieu of installation, including, at a minimum, the total amount of fees received, the property address generating the fees and the date the fees were received. The building official shall maintain a record of all expenditures incurred from these funds and shall also perform a periodic reconciliation to the general ledger system of the city to ensure accountability of these funds.

18.46.110 Maintenance Standards.

The property owner is responsible for proper maintenance of all landscaping and irrigation to ensure a healthy landscape and continued compliance.

- A. Maintenance and trimming of sidewalk trees and replacement of dead trees are the responsibility of the owner of the property adjoining the parkway or sidewalk on which the trees are located.
- B. In the event that required landscape is removed due to private or government action, the property owner shall replace the lost landscape materials on another portion of the parcel or parkway in order to meet requirements of the code that established criteria for the most recent certificate of occupancy.
- C. Landscaping which dies or is removed 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 no later than 60 days after notification from the building official. The building official may extend this time period up to an additional 30 days due to weather or events outside of the control of the property owner.

ARTICLE IV - ADMINISTRATION

18.46.120 Enforcement.

- A. Revocation of permit. Permits may be revoked in accordance with the provisions in Chapter 18.02 of this Code.
- B. Citations. The building official and the code enforcement division are authorized to enforce the provisions of this chapter and shall have the power to issue misdemeanor citations to any persons violating the provisions of this chapter.

- C. Any property designed, constructed, and approved under the adopted landscape ordinance, shall be subject to annual site inspections to ensure the property stays in compliance.

18.46.130 Appeals. When the building official does not approve a landscape or irrigation plan, or the installation of these improvements, the owner or duly authorized representative may appeal in writing that decision to the Appeals Officer in accordance with the requirements and procedures of Chapter 2.30 of the City Code.

18.46.140 Violations and Penalty. Any person, firm, corporation, or agent who shall violate a provision of this chapter, or who has erected, constructed, altered, installed, demolished, or moved any landscaping or irrigation system in violation of 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.

- A. Criminal prosecution. Any person violating any provision of this chapter shall, upon conviction, be fined a sum not exceeding 2,000 dollars. Each day that a provision of this chapter is violated shall constitute a separate offense.
- B. 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 500 dollars per 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.

18.46.150 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. Except as herein amended Title 18 (Building & Construction) of the El Paso City Code shall remain in full force and effect.

(Signatures following next page)

ADOPTED this ____ day of _____, 2026.

THE CITY OF EL PASO

ATTEST:

Renard U. Johnson
Mayor

Laura D. Prine
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Russell T. Abeln
Senior Assistant Attorney

Philip F. Etiwe, Director
Planning & Inspections Department