

Landscaping Chapter 17.54

Chapter 17.54 LANDSCAPE REGULATIONS

AN ORDINANCE AMENDING ORDINANCE 2015-14, CHAPTER 17.54.010-17.54.050 LANDSCAPE REGULATIONS FOR THE PURPOSE OF REQUIRING WATER-WISE LANDSCAPING THROUGHOUT THE CITY AND DECREASING COMMUNITY HEAT IMPACTS RESULTING FROM DEVELOPMENT.

17.54.010 INTENT OF REGULATIONS.

The intent of this ordinance is to require landscaping in developed areas that conserves water, provides shading to mitigate the urban heat island effect, mitigate erosion caused by development, and reduce non-point pollution from runoff and where possible preserves existing vegetation and trees.

Water conservation shall guide landscape and site planning, design, installation and management. Landscape design shall apply the principle of xeriscape if applicable and achieve the highest industry standards for irrigation efficiency, and shall include a non-point pollution mitigation plan incorporating native species when possible. The purpose of these strategies is to develop drought tolerant and non-point pollution reduction, and reduce the demand and potential pollution to the potable water system.

No building permit shall be issued for new commercial, industrial, or residential development without compliance with this chapter. Lack of compliance with this chapter may result in withholding or revocation of a certificate of occupancy.

The City of Belen Director of Development Services or their designee shall have discretion to allow alternate means of compliance with the requirements of the is chapter when the proposed alternative means satisfy the intent, and are equivalent or exceed the requirements of this chapter.

17.54.020 APPLICABILITY.

These regulations shall apply to the following:

- A. All new commercial, industrial, or residential subdivision development as defined and permitted in this title.
- B. Substantial modifications to existing commercial, industrial, or residential developments.

17.54.030 LANDSCAPING PLAN

I. New Construction

All applicants for a building permit for new construction (commercial, industrial, or residential development, or for expansion of existing commercial, industrial, or residential development), shall submit a landscaping plan, with a required administrative review fee, to the City's Development Services Director who shall determine compliance with this ordinance. The landscaping plan shall include:

- A. A site map drawn to scale showing topography in the form of finished contour lines and areas proposed to be landscaped upon completion of the building construction project;

- B. Common or botanical names of the plants to be used, including plant size at installation, size at maturity, location and spacing shown on the site map, all landscape features must be drawn to scale;
- C. Proposed treatment of all ground surfaces clearly indicated (paving, turf, gravel, grading, etc.);
- D. Water features, including but not limited to fountains, streams and ponds are classified as high water use and shall be integrated into an overall site water conservation plan;
- E. The location, type and size of any underground or overhead utility lines on the site with reference to the landscaped areas;
- F. Type and layout of the irrigation system, for landscaped areas, indicating connections to the water supply source. Irrigation system operation information and water budgets based on water conservation for landscaping plants shall be included on the landscape plan, or with attached documents. Irrigation systems shall be designed to prevent water waste, over-watering and overspray or drainage of water onto paved or unplanted surfaces, and shall install backflow prevention devices.
- G. A storm water drainage plan for the site shall be attached or referenced in accordance with the city drainage regulations for commercial, industrial, and residential development. (***Belen, New Mexico - Code of Ordinances Title 15 - BUILDINGS AND CONSTRUCTION- Chapter 15.32 - DRAINAGE REGULATIONS***)

II. Existing Structures and Landscapes

- A. Substantial modifications to existing landscaping shall require review and approval of a landscape plan by the City's Director of Development Services. Plans for substantial renovations of existing landscaping must be submitted, with a required administrative fee, to the City's Development Services Director or designee who shall determine compliance with the intentions of the ordinance. Major renovations of irrigation systems shall be designed to prevent water waste, over-watering and overspray or drainage of water onto paved or unplanted surfaces, and shall install backflow prevention devices.
- B. Minor modifications of existing landscaping that occurs as a result of routine maintenance or replacement of vegetation because of damage or disease are not subject to City approval.

17.54.040 LANDSCAPING REQUIREMENTS FOR NEW COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL CONSTRUCTION.

All new landscaping created pursuant to the ordinance shall be planned, designed, and installed in compliance with the following requirements:

A minimum of five (5) percent of the total site area shall be landscaped in a manner that will meet the intent of these regulations. Landscaping shall consist of trees, shrubs, ground-cover, or other low-growing plants, and may include natural or manufactured materials such as rocks, walls, pavements for walkways or patios, works of art, and outdoor furniture. Drainage areas designed and constructed to be

usable open-space shall qualify as part of the five (5) percent requirement. Eighty-five (85) percent of the total area designed for drainage shall be designed and designated for active use.

A. Plant material selection shall emphasize drought tolerant native plant species and shall limit the use of high water use plant species.

B. There is sufficient information to believe that certain trees and shrubs produce allergens that adversely impact the health and well-being of many residents, and that actions to reduce the production of these harmful allergens are therefore appropriate. Tree species that increase harmful allergens are prohibited and include, but are not limited to, Cypress, Juniper, Mulberry, Elm and Ash. *Elaeagnus angustifolia* (Russian Olive) and *Tamarix ramosissima* (Tamarix also known as Salt Cedar) shall not be sold or installed anywhere within the City limits.

C. Warm season grasses are recommended for decorative lawns. When installed, cool season turf grass lawns shall be limited to the variety *Festuca arundinaceais* (Tall Fescue), due to its drought resistance.

Public parks and athletic fields are exempt from this restriction, but these locations shall be designed with only the minimum cool season turf required for the active recreational use;

D. To the extent possible, healthy existing trees and shrubs should be preserved, especially if drought tolerant, and incorporated into the landscaped area.

E. Trees and shrubs shall be planted as a landscape border along or near roadways and shall be planted as an interior landscape border within vehicle parking areas. Trees must be of deciduous or coniferous types and must have a diameter of 1 ½ inches at time of planting. A multi-trunk tree shall have no fewer than three trunks, each of which is at least one inch in diameter.

F. Vegetation may be used to satisfy a screen requirement in accordance with this title to visually separate the land use on the commercial or industrial development site from an abutting residential land use.

G. Landscaping shall not create a physical or visual obstruction to vehicular traffic, whether on or off public rights-of-way as per **Section 18.31.6.18 – NMAC STATE HIGHWAY ACCESS LOCATION AND DESIGN STANDARDS section F**: *“Sight distance at all access locations shall be adequate to provide safe operating conditions for the motoring public. Any potentially obstructing objects such as but not limited to advertising signs, structures, trees and bushes, shall be designed, placed and maintained at a height not to interfere with the sight distances needed by any vehicle using the access.”*

H. Placement of new trees shall avoid locations where the future tree growth might interfere with utility lines or cause structural upheaval of pavements or buildings.

I. New landscaping shall be irrigated with automatic underground irrigation systems designed such that the overall water consumption is limited. New irrigation systems shall be designed to prevent water waste, over-watering, and overspray or drainage of water onto any paved surfaces. All new irrigation systems shall install backflow prevention devices.

J. All landscape areas shall make use of storm-water catchment and retention on site for purposes of flood control, non-point pollution prevention, soil erosion prevention, and increased soil moisture for

vegetation. On-site storm water retention structures shall be designed to ensure public health and safety, during and following storm events.

K. Substitution of plant materials will be considered in review of a landscaping plan if the proposed landscaping is environmentally sound and aesthetically pleasing.

17.54.050 Streets; sidewalks; curbs and gutters; public grounds GUIDANCE



Pursuant to NMSA section 3-49-1, the City may lay out, establish, open, vacate, alter, repair, widen, extend, grade, pave or otherwise improve streets; including, but not necessarily limited to median and divider strips, parkways and boulevards; alleys, avenues, sidewalks, curbs, gutters and public grounds..

If applicable and subject to the City's adopting resolution(s), the City of Belen provides the following guidance for the property owners to install and maintain landscaping on the sidewalk border directly adjacent to their property to contribute to the aesthetic character of the streetscape, support biodiversity, reduce the use of impervious surfaces, incorporate water sensitive urban design principles and to meet all required safety standards.

Environmental benefits include:

- Biodiversity value: Native plants provide greater habitat value for wildlife and assist fauna to move through the urban landscape.
- Water infiltration: On-site infiltration of storm water contributes to the replenishment of groundwater while also reducing the volume of water needing to be managed by the City.
- Carbon reduction: Plants capture and store carbon, removing it from the atmosphere and helping to mitigate the impacts of climate change.
- Urban cooling: Well-maintained sidewalk borders play an important role in cooling our streets and communities to encourage active transportation options.

Sidewalk border treatments need to be low growing for maintenance of sight lines, be clear of footpaths and provide access for pedestrians and services. The following criteria should be addressed:

- Additional paths through the sidewalk border shall be constructed of a suitably trafficable material; and laid flush with the existing footpath;
- Where a bus stop, furniture or other asset infrastructure exists within a sidewalk border, the proposed landscape must provide a minimum four (4) foot access around the asset;
- Plants must be placed a minimum distance of two (2) feet away from existing footpaths, crossovers and/or curbs to limit encroachment. Branches shall be kept trimmed a minimum of six (6) feet from the surface. It is important to ensure there is adjacent space available between planting and curbside parking to provide a landing area for pedestrian comfort and safety;
- Sufficient clearances around utility assets e.g. water meters should be maintained to ensure assets are unobstructed and safely accessible for reading and maintenance.

- Appropriate measures are undertaken and maintained to minimize erosion and dust.

The following are non-compliant uses:

- The installation of synthetic turf within the sidewalk border;
- Planting of trees whose expanding root systems would cause damage to the curb, sidewalk and adjacent street paving;
- Landscaping that has plants that are known to be toxic;
- Landscaping that impedes sightlines/public access is not permitted within the sidewalk border;
- The installation/construction of tree houses and other play structures or equipment within the sidewalk border;
- Parking vehicles of any type;
- Fences of any type.

Obligations of the City and property owner:

Subject to limitations and conditions herein, the ongoing maintenance of the sidewalk border is the responsibility of the property owner as described in this Section. The sidewalk border treatment must be kept in a good and tidy condition, free of weeds, debris, ice and snow and must not obstruct the footpath or street adjoining the sidewalk border. Where a sidewalk border treatment is identified to present an immediate safety issue or hazard, the City will make the street sidewalk border safe within 24 hours and request (in writing) the property owner to carry out other remedial works within 14 days of notification.

17.54.060 MAINTENANCE STANDARDS FOR NEW COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL CONSTRUCTION.

A. Any plant material in areas of required new landscaping that does not survive shall be replaced with an equivalent size and species of plant within three (3) months. If the three (3) month period falls at a time of year when planting is inadvisable, a waiver may be granted by the Development Services Director or their designee, to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the City Development Services Office.

B. Plants shall be pruned as necessary to control size or shape, but not to endanger its health, in order to prevent visual and physical obstructions to pedestrians or vehicles.

C. Regular landscaping maintenance shall ensure water efficiency and include, but not be limited to, pruning, mulching, weeding, litter and dead plant removal, fertilizing, insect and disease control, and improvements or repair of non-vegetative materials.

D. Irrigation systems shall be routinely inspected, maintained and replaced as necessary to minimize loss of water due to leaks or the inefficient use of water.

E. Damaged irrigation systems shall be replaced with new water efficient systems.

F. Only plants that can withstand reflected heat from asphalt and pavement shall be planted and shall also be maintained with automatic underground irrigation system and/or automatic drip irrigation system.

17.54.070 TREE, SHRUB AND TURF SPECIFICATIONS BY ZONE FOR NEW COMMERCIAL, INDUSTRIAL, AND RESIDENTIAL DEVELOPMENTS.

Cool season turf grasses include but are not to be limited to the following species: *Poa pratensis* (Kentucky Bluegrass), *Festuca spp.* (Fescues), and *Lolium spp.* (Ryegrasses). Plant materials in front yards shall be limited to species that are not listed as high water use on the City of Belen's plant list.

A. R-1: Single-Family Residential, A-R: Agricultural Residential, R-1A: Single-Family Mixed

All single-family residential development shall include the installation and maintenance of landscaping in the front yard, and when an unscreened side yard abuts a street right-of-way, in that side yard as well. A minimum of two (2) trees, each 1 ½ inches in caliper (deciduous trees) or 8-foot high conifers (evergreen trees), and three 5-gallon shrubs, or the equivalent thereof, shall be installed not more than five (5) months after occupancy, in accordance with a written plan submitted to and approved by the Director of Development Services or the Director's designee. If the five (5) month period falls at a time of year when planting is inadvisable, a waiver may be granted by the Development Services Director or their designee, to allow planting at the earliest possible time. The installation of cool season grasses in residential front yards is prohibited except turf grass of the variety *Festuca arundinaceais* (Tall Fescue), due to its drought resistance, is permitted in side and rear yards but shall not exceed 225 sq. ft. or 10% of the total lot area, whichever is less. Existing turf and other plants installed prior to adoption of this ordinance are exempt. After this ordinance is adopted, future homeowner association bylaws or new restrictive covenants shall have requirements that do not conflict with the landscaping restrictions herein.

B. Multi-Family Residential

All Multi-Family residential development shall include the installation and maintenance of landscaping in the front yard, and when an unscreened side yard abuts a street right-of-way, in that side yard as well. A minimum of two (2) trees, each 1 ½ inches in caliper (deciduous trees) or 8-foot high conifers (evergreen trees), and three 5-gallon shrubs, or the equivalent thereof, shall be installed not more than five (5) months after occupancy, in accordance with a written plan submitted to and approved by the Director of Development Services or the Director's designee. If the five (5) month period falls at a time of year when planting is inadvisable, a waiver may be granted by the Development Services Director or their designee, to allow planting at the earliest possible time. The installation of cool season grasses in residential front yards is prohibited. Cool season turf grass as described in section A above is permitted in side and rear yards but shall not exceed 225 sq. ft. or 10% of the total lot area, whichever is less. Existing turf and other plants installed prior to adoption of this ordinance are exempt.

C. M-H: Mobile Home Park

The installation of cool season grasses in residential front yards is prohibited. Cool season turf grass as described in section A above is permitted in side and rear yards but shall not exceed 225 sq. ft. or 10% of the total lot area, whichever is less. Existing turf and other plants installed prior to adoption of this ordinance are exempt. The entrance of any mobile home park shall be maintained in accordance with this ordinance. The entrance plans shall be heard for approval or disapproval by the City's Planning and Zoning Commission.

D. Retail Commercial, Wholesale and Warehousing Commercial Industrial/Manufacturing

Cool season turf grass as described in section A above is permitted in side and rear yards but shall not exceed 225 sq. ft. or 10% of the total lot area, whichever is less. Existing turf and other plants installed prior to adoption of this ordinance are exempt. Vegetation may be used to satisfy a screen requirement in accordance with this title to visually separate the land use on the commercial or industrial development site from an abutting residential land use.

17.54.080 ADMINISTRATIVE REVIEW AND FEE.

A. Review

Complete plans and revisions shall be reviewed as expeditiously as possible by the City Development Services Director or their designee, who is authorized to review and approve landscape design plans. All reviews shall be completed within thirty (30) days of receipt and documents shall be provided with reasons for approval or disapproval. Extenuating circumstance shall allow for a 15-day extension for the Development Services Department for further review, the reason(s) for the extension shall be given in writing to the applicant. Requests for variances or waivers to the requirements of these regulations shall be submitted to the City Development Services Director, or their designee, in writing. A variance or waiver may be granted or denied at the discretion of the City Development Services Director or their designee, with reasons given in writing and returned within thirty (30) days of the receipt of the request for variance or waiver. Any decision made by the City Development Services Director in carrying out the provisions of these regulations may be appealed to the Belen Planning Commission.

B. Fees

i. New Retail Commercial and Industrial Developments

Applicants for building permits to be granted by the City for commercial or industrial development shall confer with the City Development Service Director or designee regarding the landscape requirements contained herein. An administrative fee according to the Development Service Department fee schedule shall be paid to the City to cover the landscape plan review costs for complex and extensive landscape plans for new commercial and industrial developments. The City Development Services Director or their designee may request an independent review of such a plan by the City engineer or other qualified individual. Specific costs associated with and independent review of a landscape plan shall be paid to the City by the building permit applicant.

ii. New Residential Construction

An administrative fee according to the Development Service Department fee schedule shall be paid to the City to cover the landscape plan review costs for new residential construction.

17.54.090 LANDSCAPING AND BUFFER LANDSCAPING REGULATIONS

Where a nonresidential zone, which is hereafter developed for a business purpose abuts a residentially zoned property, special buffer landscaping is required to minimize noise, lighting and sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping shall be required in all zones for office, commercial, industrial and multi-family residential uses. Certain residential uses may be exempt as determined by the Development Services Director or their designee.

1. For sites of one (1) acre or less:

- a. There shall be a landscaped buffer along all streets of no less than ten (10) feet.
- b. There shall be a landscaped buffer of six (6) feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent (15%) of all parking areas shall be landscaped.

2. For sites greater than one (1) acre and less than five (5) acres:

- a. There shall be a landscaped buffer along all streets of no less than ten (10) feet.
- b. There shall be a landscaped buffer of six (6) feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- c. Fifteen percent (15%) of all paved areas shall be landscaped.

3. For sites of five (5) acres or more:

- a. There shall be landscaped buffer along all streets of no less than ten (10) feet.
- b. The landscaped buffer shall not be counted toward the landscaping as a result of paving.
- c. There shall be a landscaped buffer of six (6) feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
- d. Fifteen percent (15%) of all paved areas shall be landscaped.

B. In nonresidential zones, a solid wall or a solid fence of at least six (6) feet high shall be erected on sides that abut a single-family residential zone, except those side that abut a public right-of-way.

C. The Development Services Director or their designee, may approve an alternate landscaping plan which locates the buffer landscaping away from a residential/nonresidential boundary if they find that:

1. Noise, lighting and sight buffering of the residential zone will be accomplished at least as well with the alternate plan.
2. The alternate landscaping plan does not result in less landscaped area than would have been required with the normal six (6) foot landscaping strip; and

3. There is a solid wall or fence at least six (6) feet high along all segments of the residential/nonresidential boundary which does not have the standard buffer landscaping strip.

D. The landscaped buffer between residential and office, commercial, industrial, and multifamily residential uses shall consist primarily of trees one and one-half (1 ½) inch minimum caliper, measured at two (2) feet above ground level, and/or shrubs, five (5) gallon minimum size, the trees and shrubs shall form a largely opaque screen. However, within a clear site triangle, the trees or shrubs shall be maintained to a height of no higher than three feet. Planting of drought resistant varieties and using rainwater collection and distribution system to meet the intent of the buffering requirements is strongly encouraged.

E. Landscaping which dies shall be replaced by the property owner who is obligated to provide it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-day period falls at a time of year when planting is inadvisable, a waiver may be granted by the Zoning Administrator or Development Services Director to allow planting at the earliest possible time. The waiver and date of the planting deadline shall be recorded by the City Zoning Office.

F. The landscaping strip shall not eliminate the requirements for a six (6) foot fence or wall if parking is adjacent to the landscaping strip.

G. Parking spaces within a parking lot shall be no more than fifty (50) feet from tree.

17.54.100 Landscape Interpretation

A. Nonconforming Clause. Any turf grass or other plant materials installed prior to this ordinance being adopted may be maintained but cannot be replaced or expanded.

B. Severability Clause. If any section, paragraph, clause, or provision of the Ordinance, or any section, paragraph, clause, or provision of any regulation promulgated hereunder shall for any reason be held to be invalid, unlawful, or unenforceable, the invalidity, illegality, or unenforceability, of such section, paragraph, clause, or provision shall not affect the validity of the remaining portions of the Ordinance or the regulation so challenged.

C. Compiling Clause. This Ordinance shall be incorporated in and compiled as part of the Revised Ordinances of the City of Belen.

D. Penalties and non-compliance. Community Preservation shall have the authority to enforce compliance with this ordinance.

E. Effective Date. This Ordinance shall become effective ten (10) days after adoption.

PASSED, APPROVED, and ADOPTED this ____ day of _____, 2023.

Robert Noblin, Mayor

ATTEST:

Dorothy Flores, City Clerk