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State: New Mexico
Jurisdiction Type: Municipal
Municipality: City of Albuquerque
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Community Type – applicable to: Urban; Suburban
Title: City of Albuquerque Water Conservation
Landscaping and Water Waste Ordinance
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Abstract

This law attempts to set out guidelines for water conservation in Albuquerque, NM. It includes restrictions on landscape watering, guidance on water conservative fixtures for home building, and a program to promote xeriscaping.

Resource

This article shall be known as the “Water Conservation Landscaping and Water Waste Ordinance.”

(Ord. 18-1995)
§ 6-1-1-2 INTENT.

(A) To implement the outdoor water use recommendations of the Water Conservation Task Force, as called for in Resolution Bill No. R-58, Enactment No. 49-1992, adopted by the Council in May of 1992.

(B) To assist in reducing overall per capita water use in the city by 30%.

(C) To reduce yard irrigation and irrigation-related water waste, which comprise over 40% of the city's total annual water usage. To reduce peak summer usage, which is two to three times winter usage and determines the need for capital facilities to adequately meet system demand. To reduce irrigation water usage without sacrificing landscape quality by using lower water use plants, improved design and planting practices, different watering practices, and better irrigation system design and maintenance.

(D) To reduce water waste; i.e., overwatering, inefficient watering, or release of excess water which generates fugitive water in the public right-of-way. To reduce damage to publicly owned streets and the public expenditures necessary to repair the damage caused by this wasted water. To increase street safety by reducing the potential of frozen water on public right-of-way.

(E) To initially encourage voluntary water conservation for existing single-family residences while requiring conservation on all other properties. To apply more stringent requirements to city-owned facilities to set an example.

(Ord. 18-1995)

§ 6-1-1-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ATHLETIC FIELD. A turf area used primarily for organized sports.

AUTOMATIC CONTROLLER. A solid state timer capable of operating valve stations to set the days and length of time water is applied.

BUBBLERS. Irrigation heads which deliver water to the soil adjacent to the heads.

CITY OWNED. Property owned by the City of Albuquerque.

DEVELOPMENT. The construction, erection, or emplacement of one or more buildings, structures, or surface improvements on land which is a premises in order to establish or expand a principal residential or nonresidential use.

DISTURBED SLOPES. Slopes that have been altered from their natural configuration or vegetative cover by human activity.

DRIP IRRIGATION. Low pressure, low volume irrigation applied slowly, near or at ground level to minimize runoff and loss to evaporation.

EVAPOTRANSPIRATION. The quantity of water evaporated from adjacent soil surfaces and transpired by plants during a specific time.

EVEN-NUMBERED PROPERTIES. Properties whose official address ends in an even number, excluding city parks and golf courses. Landscaped areas associated with a building will use the number of that building as their address. Only one address shall be used for a large landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.

FLOW RESTRICTION DEVICE. Device applied by the water utility to the customer's meter that restricts the volume of flow to the customer.

FUGITIVE WATER. The pumping, flow, release, escape, or leakage of any water from any pipe, valve, faucet, connection, diversion, well, or any facility for the purposes of water supply, transport, storage, disposal, or delivery onto adjacent property or the public right-of-way.

HAND WATERING. The application of water for irrigation purposes through a hand-held hose, including hoses moved into position by hand and left to flow freely or through a shut-off nozzle.

HARVESTED WATER. Precipitation or irrigation runoff collected, stored and available for reuse for irrigation purposes.

HIGH WATER USE TURF. A surface layer of earth containing regularly mowed grass, with its roots, which requires large volumes and/or frequent application of water throughout its life. High water use grasses include but are not limited to varieties of Bluegrass, varieties of Ryegrass, varieties of Fescue, and Bentgrass.

INFILTRATION RATE. The amount of water absorbed by the soil per unit of time, usually expressed in inches per hour.

INSPECTION. An entry into and examination of premises for the purpose of ascertaining the existence or nonexistence of violations of this article.

LANDSCAPE AREA. The entire parcel less the building footprint, driveways, non-irrigated portions of parking lots and required off-street parking. Includes the public right-of-way.

LOW WATER USE PLANTS. Plants which are able to survive without supplemental water once established as specified in the "Albuquerque Plant List", published by the city.

MAYOR. The Mayor of Albuquerque or his/her designated representative.

MEDIUM AND LOW WATER USE TURF. A surface layer of earth containing regularly mowed grass, with its roots, which requires moderate or low volumes and/or frequency of application of water once established as specified in the "Albuquerque Plant List" published by the city. Low and medium water use grasses include but are not limited to Bermuda and Bermuda hybrids, Zoysia, blue grama, and Buffalo grass.

MEDIUM WATER USE PLANTS. Plants which require some supplemental watering throughout the life of the plant as specified in the "Albuquerque Plant List" published by the city.

MISTER. A device that produces a cooling effect by emitting fine particles of water into the air in the form of a mist.

MULCH. Any material such as leaves, bark, straw, or other materials applied to the soil surface to reduce evaporation.

NEW DEVELOPMENT. Any development approved by the Albuquerque Planning Department on or after October 1, 1995. For development for which landscaping is required, which is all development except single family residential, only that portion approved by the

Albuquerque Planning Department on or after October 1, 1995 shall be considered new development. Development approved by the Albuquerque Planning Department prior to October 1, 1995, but not completed by October 1, 1998 shall also be considered new development.

NON-CITY OWNED. All property which is not owned by the City of Albuquerque.

ODD-NUMBERED PROPERTIES. Properties whose official address ends in an odd number, excluding city parks and golf courses. Large landscaped areas associated with a building will use the number of that building as their address. Only one address shall be used for a large landscaped area associated with one building or activity, even if the landscaped area is broken into many separate subareas.

PRECIPITATION RATE. The amount of water applied per unit of time, usually expressed in inches per hour.

PUBLIC RIGHT-OF-WAY. The area of land acquired or obtained by the city, county, or state primarily for the use of the public for the movement of people, goods, vehicles, or storm water. For the purposes of this article the public right-of-way shall include curbs, streets, and storm water drainage inlets.

RESPONSIBLE PARTY. The owner, manager, supervisor, or person who receives the water bill, or person in charge of the property, facility, or operation during the period of time the violation(s) is observed.

RESTRICTED PLANTS. Plants which, as specified in the "Albuquerque Plant List" published by the city, are classified as restricted due to their high water use requirements and their potential for extensive use in landscaping. Restricted plants include high water use turf, clover, and Dichondra.

RUNOFF. Water which is not absorbed by the soil or landscape to which it is applied. Runoff occurs when water is applied too quickly (application rate exceeds infiltration rate), particularly if there is a severe slope. This article does not apply to stormwater runoff which is created by natural precipitation rather than human-caused or applied water use.

SHUT-OFF NOZZLE. Device attached to end of hose that completely shuts off the flow, even if left unattended.

SINGLE-FAMILY RESIDENTIAL. A lot or premises upon which is established one dwelling only. Of the allowable principal uses, such use shall be the only use on that lot or premises.

SPRAY IRRIGATION. The application of water to landscaping by means of a device that projects water through the air in the form of small particles or droplets.

SPRINKLER HEAD. A device that projects water through the air in the form of small particles or droplets.

STATIC WATER PRESSURE. The pipeline or municipal water supply pressure when water is not flowing.

TEMPORARY IRRIGATION SYSTEMS. Irrigation systems which are installed and permanently disabled within a period of 36 contiguous months.

VALVE. A device used to control the flow of water in the irrigation system.

WATER WASTE. The nonbeneficial use of water. Nonbeneficial uses include but are not restricted to:

(1) Landscape water applied in such a manner, rate and/or quantity that it overflows the landscaped area being watered and runs onto adjacent property or public right-of-way;

(2) Landscape water which leaves a sprinkler, sprinkler system, or other application device in such a manner or direction as to spray onto adjacent property or public right-of-way;

(3) Washing of vehicles, equipment, or hard surfaces such as parking lots, aprons, pads, driveways, or other surfaced areas when water is applied in sufficient quantity to flow from that surface onto adjacent property or the public right-of-way;

(4) Water applied in sufficient quantity to cause ponding on impervious surfaces on non-city owned property.

(Ord. 18-1995; Am. Ord. 24-1998; Am. Ord. 42-2001)
§ 6-1-1-4 APPLICABILITY.

(A) Section 6-1-1-8, Water Budgets and Planting Restrictions, applies to all new development and to existing golf courses, city owned parks, and city owned athletic fields.

(B) Section 6-1-1-9, Design Regulations, applies to all new development and to major renovations of existing golf courses, city owned parks, and city owned athletic fields originally constructed after 1971.

(C) Section 6-1-1-10, Irrigation System Standards, applies to all new development and to expansions or major renovations of existing golf courses, city owned parks, and city owned athletic fields originally constructed after 1971. Single family residential shall be exempt from this section.

(D) Section 6-1-1-11, Inspection Requirements, applies to all new development.

(E) This article does not apply to water provided through the Middle Rio Grande Conservancy District for irrigation purposes. Water obtained through non-city water system

sources, however, will be included in the calculation of inches per year for the water budgets for golf courses and parks, as described in Section 6-1-1-8.

(F) Certificates of occupancy for all new development except single family residential shall depend upon compliance with all requirements of this article.

(Ord. 18-1995; Am. Ord. 24-1998)

§ 6-1-1-5 WATERING RESTRICTIONS.

These restrictions apply to all properties within the city limits and/or served by the municipal water utility.

(A) All spray irrigation during the period beginning on April 1 and ending on October 1 of each year must occur between 6:00 p.m. and 10:00 a.m. beginning April 1, 2000. This restriction serves as a guideline for landscape watering on non-city owned property during 1999. This restriction shall not apply to drip irrigation and low precipitation bubblers, hand watering, or watering of containerized plants and plant stock.

(B) All spray irrigation on city owned property during the months of December through March must occur between 10:00 a.m. and 2:00 p.m. This restriction serves as a guideline for landscape watering on non-city owned property. This restriction shall not apply to drip irrigation and low precipitation bubblers, hand watering, or watering containerized plants and plant stock. This restriction shall not apply to golf courses or parks that are in regular use or in use for a special event during these hours.

(C) Shutoff nozzles are required on any hoses used for hand watering, car washing or other outdoor uses, excepting hoses on single-family residential.

(D) All city owned properties other than parks and golf courses shall water no more than every other day. All even-numbered properties shall water only on even-numbered dates. All odd-numbered properties shall water only on odd-numbered dates. This restriction serves as a guideline for landscape watering on non-city owned property.

(E) Restrictions in divisions (A), (B) and (D) above do not apply to the following:

(1) Outdoor irrigation necessary for the establishment of newly sodded lawns and landscaping within the first 30 days of planting or watering of newly seeded turf within the first year of planting;

(2) Irrigation necessary for one day only where treatment with an application of chemicals requires immediate watering to preserve an existing landscape or to establish a new landscape;

(3) Water used to control dust or compact soil;

(4) Visually supervised operation of watering systems for short periods of time to check system condition and effectiveness.

(F) The city shall undertake an aggressive public information campaign to address the requirements of the spray irrigation restrictions for the remainder of 1999 and each year thereafter.

(G) 6-1-1-1 through 6-1-1-99 Water Conservation Landscaping and Water Waste shall be reviewed in its entirety in FY/04 as to its effectiveness and for necessary revisions. This evaluation will be incorporated into the FY/04 budget process.

(Ord. 18-1995; Am. Ord. 24-1998; Am. Ord. 54-1999) Penalty, see § 6-1-1-99
§ 6-1-1-6 WATER WASTE.

These restrictions apply to all properties within the city limits and/or served by the municipal water utility.

(A) No person, firm, corporation, or municipal or other government facility or operation shall waste, cause or permit to be wasted any water.

(B) No person, firm, corporation, or municipal or other government facility or operation shall cause or permit the flow of fugitive water onto adjacent property or public right-of-way.

(C) The restrictions in divisions (A) and (B) of this section do not apply to the following:

(1) Storm runoff allowed under provisions of the city's Drainage Ordinance as currently adopted or subsequently amended;

(2) Flow resulting from temporary water supply system failures or malfunctions. These failures or malfunctions shall be repaired as quickly as possible;

(3) Flow resulting from firefighting or routine inspection of fire hydrants or from fire training activities;

(4) Water applied as a dust control measure as may be required under Chapter 9, Article 5 of this code;

(5) Water applied to abate spills of flammable or otherwise hazardous materials, where water is the appropriate methodology;

(6) Water applied to prevent or abate health, safety, or accident hazards when alternate methods are not available;

(7) Flow resulting from routine inspection, operation, or maintenance of the municipal water supply system;

(8) Flow resulting from routine inspection or maintenance of irrigation systems;

(9) Water used by the Traffic Engineering Division, City of Albuquerque, in the course of installation or maintenance of traffic flow control devices;

(10) Water used for construction or maintenance activities where the application of water is the appropriate methodology and where no other practical alternative exists.

(Ord. 18-1995; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-7 SPECIAL PERMITS

These requirements apply to all properties within the city limits and/or served by the municipal water utility.

(A) Use of Misters

(1) The use of misters shall require a special permit, issued by the city. The Mayor shall develop regulations and administrative procedures for the issuance and conditions of such permits. The Mayor shall have the authority to limit the number of permits or revoke permits as deemed necessary to protect the public interest.

(2) Effective April 1, 1999, the use of misters without a permit, or in violation of permit conditions, shall constitute a violation of this article and shall be subject to the fee assessment processes described in §§ 6-1-1-13 and 6-1-1-99.

(3) Any person, firm, corporation, or municipal or other government facility selling, leasing, renting, installing or otherwise making misters available to any other person, firm, corporation, or municipal or other government facility shall provide notification to their customers of the special permit requirement for mister use. Notice may be delivered by prominently posting a sign at the point of purchase or by providing a document to each individual customer. The city shall provide approved language for such notification.

(Ord. 24-1998)
§ 6-1-1-8 WATER BUDGETS AND PLANTING RESTRICTIONS

Subsection (A) of this section applies to all city and non-city owned golf courses, and to all city owned parks and athletic fields. Subsection (B) of this section applies to all new development.

(A) Water Budgets for Parks and Golf Courses.

(1) Parks and golf courses shall use medium and low water use plants as much as possible. High water use turf or other restricted plants shall be allowed only in those areas with heavy usage or foot traffic, such as athletic fields, playgrounds, and golf course tees, greens, and fairways.

(2) All golf courses existing prior to October 1, 1995 will be allowed up to 40 inches of water per acre of landscape area per year. Golf courses using wells must report well usage to the city on a monthly basis. Any usage over the allowable amount will be subject to the excess use surcharge(s) described in division (A)(6) of this section. Usage will be calculated on a per individual golf course basis and shall include municipal and non-municipal water supplies.

(3) All new golf courses or existing golf course expansions permitted by the city after October 1, 1995 will be allowed up to 37 inches per acre of landscape area per year. Any usage over the allowable amount will be subject to the excess use surcharge(s) described in division (A)(6) of this section. Usage will be calculated on a per individual golf course basis and shall include municipal and non-municipal water supplies. The landscaped area for new golf courses shall not exceed 90 acres per 18 holes or 45 acres per 9 holes.

(4) All parks will be allowed up to 35 inches of water per acre of landscape area per year. Any usage over the allowable amount will be subject to the excess use surcharge(s) described in division (A)(6) of this section. Usage will be calculated on a per individual park basis and shall include municipal and non-municipal water supplies.

(5) Athletic fields will be allowed up to 45 inches per acre of landscape area per year. Any usage over the allowable amount will be subject to the excess use surcharge(s) described in division (A)(6) of this section. Usage will be calculated on a per individual athletic field basis and shall include municipal and non-municipal water supplies.

(6) Any usage over the approved water budget will be subject to the excess use surcharge(s) defined in the Water and Sewer Rate Ordinance as currently adopted or subsequently amended (6-4-1 et seq.), and established by the Mayor's rules and regulations. This surcharge(s) will be calculated on an annual basis and applied to the February water bill for the property. If two different surcharges are defined in the Water and Sewer Rate Ordinance or the Mayor's rules and regulations, the surcharge for excess usage up to 10% of the water budget shall be the lower of the surcharges. The surcharge for excess usage over 10% of the water budget shall be the higher of the surcharges.

(7) For all parks, golf courses and other facilities with greater than ten acres of restricted plants, and developed after the effective date of this section, the owner or developer shall, when available and economically feasible, use reclaimed wastewater, shallow groundwater or other alternative water supplies, as specified by the policies of the Albuquerque Water Resources Management Strategy.

(C) Planting Restrictions .

(1) All city owned new development other than parks, golf courses, and housing shall use medium and low water use plants on 100% of the landscape area.

(2) All city owned housing and all non-city owned properties other than golf courses shall not use high water use turf or other restricted plants on more than 20% of the landscape area, except that for single family residential properties;

(a) In the event that 20% of the landscape area is greater than 3,000 square feet, high water use turf and other restricted plants shall not be used on more than 3,000 square feet of the landscape area;

(b) In the event that 20% of the landscape area is less than 300 square feet, high water use turf and other restricted plants may be used on up to 300 square feet of the landscape area.

(Ord. 18-1995; Am. Ord. 1-1998; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-9 DESIGN REGULATIONS

The following regulations apply to all new development, and to expansions or major renovations as existing city owned parks, city and non-city owned golf courses, and city-owned athletic fields originally constructed after 1971.

(A) With the exception of temporary irrigation systems needed to establish low water use plants, spray irrigation shall not be used on slopes greater than four feet of horizontal distance per one foot vertical change (4:1).

(B) All existing disturbed slopes and all man-made slopes shall receive erosion control from plantings and/or terracing. Concrete, asphalt, or any other water and air impervious paving/cover will be allowed only where it is the most appropriate methodology and where no other practical alternative exists.

(C) Plants that require spray irrigation or a mowing frequency of more than three times per year shall not be used in street medians, except that spray irrigation may be used in street medians for up to 36 months where the primary objective is to reclaim disturbed areas with low water use plants.

(D) Spray irrigation shall not be used to apply water to any area within eight feet of a street curb or storm sewer inlet. These areas may be irrigated by drip, bubbler, soaker, or sub-surface irrigation systems.

(E) Sprinkler heads shall be installed at least eight inches away from impermeable surfaces.

(F) No spray irrigation shall be used in areas less than ten feet in any dimension excepting within back or side yards of residential properties, or where such an area is contiguous with adjacent property so that the dimension totals ten feet minimum. Within parking lots no spray irrigation shall be used on any area less than 15 feet in any dimension. These areas may be irrigated by drip, bubbler, soaker, or sub-surface irrigation systems.

(G) Any existing features should be evaluated for incorporation in design to include natural drainage, rock outcroppings, stands of native vegetation which can be protected, or detention areas where vegetation has grown and is being supported by nuisance flows or harvested water.

(H) The potential for using harvested water should be evaluated and, when practical, incorporated into landscape design. Such design shall be consistent with the requirements of the city's Flood Hazard Control Ordinance and the Drainage Ordinance as currently adopted or subsequently amended.

(I) Ponds, fountains, wetlands, marshes, water features for wildlife habitat, functional holding ponds or other reservoirs that are supplied in whole or in part by the municipal water supply shall not exceed 500 square feet or surface area unless approved by the Mayor. Multiple water features on the same property will be considered together to determine surface area. Flowing water used in fountains, waterfalls and similar features shall be recirculated.

(Ord. 18-1995; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-10 IRRIGATION SYSTEM STANDARDS

The following standards apply to all expansions or major renovations at existing parks, golf courses and athletic fields originally constructed after 1971, and to all new development except single family residential. The standards serve as voluntary guidelines for single-family residential development. In general, irrigation systems shall be designed to be site-specific, reflecting plant type, soil type, infiltration rates, slopes, and prevailing wind direction.

(A) Irrigation systems shall be designed to be in conformance with all provisions of this article. Temporary irrigation systems shall not be required to meet these standards.

(B) Application equipment for which the manufacturer specifies flow rates in gallons per minute (gpm) shall not share a control valve with equipment for which the manufacturer specifies flow rates in gallons per hour (gph). Irrigation systems shall be controlled by an automatic controller equipped with the following features:

- (1) Two or more independent programming schedules;
- (2) Capable of programming run times in one-minute increments and displaying the programmed run time as a numeric display;
- (3) Total program memory retention;
- (4) Ability to be fitted with an external rain switch interrupter and soil moisture sensor.

(C) No intentional overspray is allowed where it may obstruct pedestrian traffic on a city-required pedestrian walkway, as defined by the city's Sidewalk, Drive Pad, Curb and Gutter Ordinance as currently adopted or subsequently amended.

(D) Irrigation systems shall be designed such that water pressure at the sprinkler or emitter is not more than 20% in excess of the manufacturer's maximum recommended pressure range for that device. Pressure may be regulated by design or by the installation of a pressure regulating device or devices.

(E) Irrigation systems shall be designed to minimize low head line drainage.

(F) All new development with new spray irrigated landscaped areas totaling one-half acre or more shall have a Landscape Irrigation Audit performed by a Certified Landscape Irrigation Auditor, certified by the Irrigation Association. The auditor shall be independent of the property owner and of all contractors associated with the property. The audits will be conducted in accordance with the current edition of the Landscape Irrigation Auditor's Handbook. The minimum efficiency requirements to meet in the audit are a 60% distribution uniformity for all fixed spray systems and a 70% distribution uniformity for all rotary systems. The results of the audit shall be provided to the city in a letter or other form acceptable to the city and shall be signed by the Auditor. Compliance with this provision is required before the city will issue a Certificate of Occupancy or, in the case of park development, a Letter of Final Acceptance.

(G) All new development with spray irrigated landscapes greater than ten acres shall have the sprinkler heads tested for uniformity of performance using the Center for Irrigation Technology's (CIT) Sprinkler Profile and Coverage Evaluation (SPACE) program, or a comparable assessment acceptable to the city. The sprinkler heads shall have a scheduling coefficient of 1.3 or less for full circle heads and 1.5 or less for partial circle heads, with a rating of 1.0 being perfect. The sprinkler heads shall be installed in the spacing and pressure range tested. The results of this test shall be provided to the city in a form acceptable to the city. Compliance with this provision is required before the city will issue a Certificate of Occupancy or, in the case of park development, a Letter of Final Acceptance.

(Ord. 18-1995; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-11 INSPECTION PROCEDURES

The following procedures apply to all new development:

(A) Inspection by Consent.

(1) Within the scope of his authority, the Mayor may conduct an inspection, with the voluntary consent of an occupant or custodian of the premises to be inspected who reasonably appears to be in control of the places to be inspected or otherwise authorized to give such consent.

(2) Before requesting consent for an inspection, the Mayor shall inform the person to whom the request is directed of the authority under and purposes for which the inspection is to be made and shall exhibit an identification card or document evidencing his authority to make such inspections.

(3) Inspections undertaken pursuant to this section shall be carried out with due regard for the convenience and privacy of the occupants, and during the daytime, unless, because of the nature of the premises, the convenience of the occupants, the nature of the possible violation or other circumstances, there is a reasonable basis for conducting the inspection at night.

(4) Notice of the purpose and approximate time of an inspection of an area not open to the general public shall be sent to the occupants or custodians of premises to be inspected not less than seven days before the inspection is undertaken.

(B) Inspection without Consent.

(1) Upon sufficient showing that consent to an inspection has been refused or is otherwise unobtainable with a reasonable period of time, the Mayor may make application for an inspection order/search warrant. Such application shall be made to a court having jurisdiction over the premises to be inspected. Such application shall set forth:

(a) The particular premises, or portion thereof sought to be inspected;

(b) That the owner or occupant of the premises has refused entry;

(c) That inspection of the premises is necessary to determine whether they comply with the requirements of this article;

(d) Any other reason necessitating the inspection, including knowledge or belief that a particular condition exists on the premises which constitutes a violation of this article; and

(e) That the Mayor is authorized by the city to make the inspection.

(2) The application shall be granted and the inspection order/search warrant issued upon a sufficient showing that inspection in the area in which the premises in question are located, or inspection of the particular premises, is in accordance with reasonable legislative or administrative standards, and that the circumstances of the particular inspection for which application is made are otherwise reasonable. The court shall make and keep a record of the proceedings on the application, and enter thereon its finding in accordance with the requirements of this section.

(3) While executing the inspection order/search warrant the Mayor shall, if the premises in question are unoccupied at the time of execution, be authorized to use such force as is reasonably necessary to effect entry and make the inspection.

(4) While conducting the inspection the Mayor shall, if authorized by the court on proper showing, be accompanied by one or more law enforcement officers authorized to serve search warrants who shall assist the Mayor in executing the order at his direction.

(5) After execution of the order or after unsuccessful efforts to execute the order, as the case may be, the Mayor shall return the order to the court with a sworn report of the circumstances of execution or failure thereof.

(Ord. 18-1995; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-12 VARIANCES AND APPEALS

The Mayor shall be responsible for the enforcement of this article. The Mayor may prescribe policies, rules, or regulations to carry out the intent and purposes of this article.

(A) Variances to § 6-1-1-5 (Watering Restrictions) and § 6-1-1-6 (Water Waste), and § 6-1-1-7 (Special Permits).

(1) Administrative variances to the restrictions in §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 may be issued by the Mayor or his/her designee, provided that the general intent of this article has been met, compliance with this article is proven to cause practical difficulties and unnecessary hardship, and all options for abatement through modified water management have been exhausted. The criteria to determine hardship shall include level of capital outlay and time required to be in compliance with this article.

(2) Variances may be issued for a period not to exceed one year and shall stipulate both short-term corrective measures and a schedule for completion of long-term corrective measures. Variances must be renewed on an annual basis if long-term corrective measures cannot be completed within one year.

(B) Appeal of § 6-1-1-5 (Watering Restrictions), § 6-1-1-6 (Water Waste), and § 6-1-1-7 (Special Permits). Any responsible party may appeal fees for violations of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 to the City Hearing Officer by filing an appeal within seven calendar days of receiving a notice of violation. Such request shall be made in writing and filed in the Office of the City Clerk. The appeal shall identify the property and state the grounds of appeal together with all material facts in support thereof. A filing fee of \$20 shall be added to the water bill in the event the violation is upheld by the Hearing Officer. When a hearing is requested, the Hearing Officer shall send written notice by certified mail, return receipt requested, to the appellant of the time and place of the hearing. At the hearing the appellant shall have the right to present evidence as to the alleged fact upon which the Mayor based the determination of the need for assessment of fee or restriction of service and any other facts which may aid the Hearing Officer in determining whether this article has been violated. The Hearing Officer shall, within seven working days following the hearing, issue a written decision specifying the fee, if appropriate, and the action that must be taken to avoid additional penalty. Fees will be void and service will not be restricted if the written decision is not issued within seven working days.

(C) Judicial Review. The exclusive remedy for parties dissatisfied with the action of the City Hearing Officer on §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 shall be the filing of a petition for a writ of certiorari with the State District Court. The petition for review shall be limited to the record made at the administrative hearing held pursuant to this article.

(D) Variances to §§ 6-1-1-8 through 6-1-1-10 requirements. A variance to the regulations in §§ 6-1-1-8 through 6-1-1-10 may be issued by the Mayor, through the Zoning Hearing Examiner, provided that the general intent of this article has been met and compliance with this article is proven to cause practical difficulties and unnecessary hardship. The variance procedure for this article will comply with the variance procedure in the Zoning Code as currently adopted or subsequently amended. (This procedure is described in § 14-16-4-2.) Appeals of decisions of the Zoning Hearing Examiner are to the Environmental Planning Commission. Appeals of decisions of the Environmental Planning Commission are to the City Council. Appeal is made by filing written notice with the Planning Department within 15 days after the request for variance has been denied. Appeal procedures will comply with those in the Zoning Code, § 14-16-4-4.

(Ord. 18-1995; Am. Ord. 24-1998)
§ 6-1-1-13 FEES; ASSESSMENT

(A) Fees and Restriction of Service. Any responsible party who violates any of the provisions of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 shall be subject to progressively higher fees and flow restriction until the violation ceases or a variance is granted. The assessment of fees and application of flow restriction shall be consecutive for violations separated by less than three calendar years. Fees and flow restriction shall be suspended pending the outcome of an appeal or variance request.

(B) Assessment of Fees. Assessment of fees for violations of the regulations in §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 will be through the city utility bills for the responsible party's billing account. Fees shall be assessed to the account within 15 days following expiration of the appeal period or issuance of appeal findings and shall be listed as separate line item on the utility bill. Responsible parties shall be notified of the fee through certified mail within 15 days of the violation. Fees must be paid within the normal payment period allowed by the city utility billing system.

(C) In lieu of fees for violations of §§ 6-1-1-5 and 6-1-1-6, the responsible party may have a landscape water audit performed by an authorized landscape irrigation auditor, certified by the Irrigation Association. The audit will be conducted in accordance with the current edition of the Landscape Auditor's Handbook. The audit must be performed within 30 days of notification of violation and the audit recommendation must be implemented within 60 days of the audit. If these deadlines are not met, the fees for violation will apply.

(Ord. 18-1995; Am. Ord. 24-1998) Penalty, see § 6-1-1-99
§ 6-1-1-99 PENALTY.

(A) The schedule for assessment of fees and application of flow restriction for a violation of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7 shall be as follows:

- (1) First observed violation - \$20;
- (2) Second observed violation - \$50;
- (3) Third observed violation - \$100;
- (4) Fourth observed violation - \$150;
- (5) Fifth observed violation - \$200;
- (6) Sixth observed violation - \$300;
- (7) Seventh observed violation - \$400;
- (8) Eighth observed violation - \$500;

(9) Ninth or more observed violation: Either a \$500 fee per violation plus application of a flow restriction device at meter or a \$1,000 fee per each violation. The flow restriction device cannot be removed by the responsible party and will not be removed by the utility until the responsible party adequately demonstrates to the city that the violation has ceased or until a variance is granted.

(B) For the purpose of assessing fees or flow restriction for violations of §§ 6-1-1-5, 6-1-1-6, and 6-1-1-7, any previous violation shall not be considered if:

- (1) A period of five years has elapsed since the violation was incurred; or
- (2) The property is acquired by a new owner; or
- (3) The violation occurred prior to July 1, 1998.

(C) Any responsible party who violates any provision of §§ 6-1-1-8 through 6-1-1-10 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$500 and/or imprisonment for a period not to exceed 90 days. Application of fines for violations of the regulations in §§ 6-1-1-8 through 6-1-1-10 will comply with the Zoning Code as currently adopted or subsequently amended. (See §§ 14-16-4-1 through 14-16-4-12, and 14-16-4-99).

(D) Any person who violates the provisions of this article for which no other penalty is set forth, shall be subject to the general penalty provision of this code set forth in § 1-1-99.

(Ord. 18-1995; Am. Ord. 24-1998; Am. Ord. 42-2001)

From Albuquerque Code of Resolutions – Chapter 4 Programs and Plans
§ 4-3-16 LONG-TERM WATER CONSERVATION STRATEGY.

(A) *Adoption.* The city's Long-term Water Conservation Strategy, as described in this section, is hereby adopted.

(B) *Planning and overall approach.* The city shall initiate the following measures:

(1) Promote the regional awareness and planning that is essential to ground water resource management in the Middle Rio Grande Basin and includes the following:

(a) A long-range water resource planning process which incorporates the goal of sustainable growth;

(b) Inclusion of other city, county, and tribal governments and water users in the planning process;

(c) Addressing water quality and quantity issues as well as conservation.

(2) In general, encourage voluntary water conservation for existing single family residences while requiring conservation for other properties.

(3) Apply more stringent requirements to city-owned facilities to set an example within the city.

(4) Set the example for water conservation in the Middle Rio Grande Basin and strive to involve other communities and water users in the conservation effort.

(5) Determine the best use of San Juan-Chama water and reuse of effluent to reduce aquifer depletion.

(6) Embrace the natural and cultural environment of Albuquerque in the water conservation effort.

(7) Evaluate existing land use planning and zoning laws affecting water use and revise them to be consistent with the conservation strategy.

(8) Create a water resources intern program in cooperation with the University of New Mexico's Master of Water Resource Administration Program.

(C) *Reduction goals.* The city shall adopt the following water use reduction goals:

(1) Reduce current overall per capita usage of 250 gallons per capita per day by 30% to achieve 175 gallons per capita per day by the year 2004.

(2) Reduce current summer outdoor usage by 25%.

(3) Reduce current year-round indoor usage by 33%.

(4) Reduce peak day usage by 20% within six to ten years.

(5) Set parcel-specific goals for all customers by the year 1998.

(6) Measure and evaluate the effectiveness of the elements of the Water Conservation Strategy on an ongoing basis; revise the strategy annually, as necessary, to reflect and enhance the effectiveness of its various elements.

(D) *Rates.* The city shall implement the following measures related to rates:

(1) Allow sufficient lead time for extensive public education prior to implementation of higher excess use surcharges.

(2) Retain average residential winter median by meter size for meter sizes up to and including two inch meters.

(3) Utilize excess use surcharge revenues to offset declining revenues resulting from decreased demand. The Mayor shall not increase the excess water use surcharge prior to April 1996. Before any increase in the excess water use surcharge, the Mayor shall authorize

a thorough analysis of alternative surcharge rates, their impact on different categories of water customers in terms of current use, family size, income, etc., and their reasonableness and fairness with regard to financial penalties for individual households failing to meet their water conservation goals. As conservation is achieved and surcharge revenues decrease significantly, alternative funding sources will be necessary.

(E) *Education/public awareness.* The city will initiate or continue the following to educate and get feedback from the community about conservation issues:

(1) Establish a citizens Water Conservation Advisory Committee.

(2) Continue the water conservation marketing and awareness program and provide adequate funding to effectively inform the public of the need for water conservation and of the ways that they can conserve.

(3) Include a bar chart of the previous month's usage and the current month's usage on the monthly bill, in addition to conservation tips and information.

(4) Cooperatively, with the Albuquerque Public Schools, fund a K-12 environmental education specialist in 1995 to develop and implement an on-going ecological program for water conservation and related environmental issues in our schools.

(5) Continue the annual education programs offered in all public schools.

(6) Collaborate with existing community organizations to promote water conservation.

(F) *Residential use/plumbing.* The city shall implement the following measures to reduce interior/plumbing uses:

(1) Adopt a Plumbing Code amendment requiring low-volume plumbing fixtures for all customers (now mandatory for only residential customers).

(2) Initiate a voluntary residential fixture retrofit program to install, without charge to customers, water-saving retrofit devices in existing residential development.

(3) Implement a 1.6 gallon-per-flush, low-volume toilet rebate program with rebates of up to \$100 per toilet for replacement of three gallons or more per flush toilets for all residential and commercial customers.

(4) Actively encourage owners to replace high volume toilets with low-flow toilets whenever a building permit is obtained.

(5) Promote voluntary, city-provided water use surveys and retrofit kits for residential customers to reduce both indoor and outdoor usage; target the highest 25% of users but make available to all customers.

(6) Encourage plumbing fixture wholesalers and retailers to sell only low-flow plumbing fixtures.

(G) *Landscaping/water waste.* The city shall implement the following measures to reduce landscaping water use and water waste:

(1) Adopt the proposed “Water Conservation Landscaping and Water Waste Ordinance” which makes compliance with water conservation measures a condition of water service from the Albuquerque water utility system and requires the following:

(a) No watering of city properties in April through September between 10:00 a.m. and 5:00 p.m.; voluntary for private sector;

(b) Water even/water odd watering on city properties; voluntary for private sector;

(c) No water waste or fugitive water in the public right-of-way, onto adjacent property, or into storm or sanitary sewers;

(d) Water waste fees applied to water bill; increasingly higher fees for repeat violations; installation of flow-restriction device at water meter with the eighth violation to provide only enough water for basic drinking and sanitation needs;

(e) No more than 20% of landscaped area in high water use plants for new private development or as allowed through water budget formula to achieve comparable low use; voluntary for existing single family residential;

(f) No high water use plants for new city development, excepting parks and golf courses, or as allowed through water budget formula to achieve comparable low use;

(g) Surcharge on parks or golf course usage above annual allowance; allowance goes down over time;

(h) No high water use turf in medians, on slopes steeper than 6:1, or in areas less than ten feet in any dimension; voluntary for existing single family residential;

(i) Efficient new irrigation systems;

(j) Installation of new sprinkler heads at least eight inches from the curb.

(2) Initiate irrigation system water use surveys on new properties with one acre or more turf area, beginning in the year 1996; voluntary for single family residential.

(3) Combine all city requirements regarding landscaping into one manual; eliminate conflicts with the conservation strategy.

(4) Initiate Xeriscape landscape retrofit program offering \$0.25 per square foot credit against the water bill, with a customer limit of \$700 maximum for Commercial, Industrial, and Institutional class customers and \$500 maximum for Residential class customers and \$100 minimum for all customers, for replacement of high water use turf and landscape plants with low or medium water use turf and plants.

(5) Initiate efficient irrigation system retrofit and rebate program offering rebates or credits of up to \$150 for replacement of old, inefficient irrigation systems with approved water-efficient systems.

(6) Initiate a Xeriscape education program including:

- (a) Creation of additional Xeriscape demonstration gardens;
- (b) Expansion of Parks and General Services irrigation efficiency weather network;
- (c) Sponsoring an irrigation auditor training and certification program;
- (d) Promotion and participation in Xeriscape research projects;
- (e) Initiation or cooperation with other agencies on public workshops, tours, videos, newsletters, events, etc.

(7) Improve the effectiveness of water waste enforcement:

- (a) Escalate fees for repeat offenders; install flow restriction device with eighth violation;
- (b) Assess fee on first violation observed by enforcement officers;
- (c) Apply fees to water bill;
- (d) Hire an irrigation specialist to supervise unit.

(H) *Evaluation.* After this strategy has been in effect for approximately nine months from the date of publication, a comprehensive evaluation and analysis shall be conducted by the Public Works Department in which input is received from residents, businesses, and others. This report shall be forwarded to the City Council.

(I) *Institutional, commercial, and industrial use (ICI).* The city shall implement the following measures to reduce water use in the institutional, commercial, and industrial billing classifications:

(1) Prepare, through a public process, and adopt a Large Water Users Policy specific to institutional, commercial, and industrial water uses and including, but not limited to, these provisions:

(a) Require new customers using over 50,000 gallons per day to prepare and implement a Water Conservation Plan;

(b) Prohibit use of city water for the purpose of diluting customer's effluent.

(c) Initiate periodic surveys of new customers using more than 300,000 gallons per day; require implementation of auditor's recommendations defined through negotiations with the city;

(d) Retrofit existing large water users to reduce use by 2000, in proportion to their growth or downsizing, unless longer period agreed to by the city.

(2) Adopt ordinance prohibiting once-through cooling systems.

(3) Promote city-provided water use surveys and retrofit for the highest 25% of the ICI customers to address both indoor and outdoor usage.

(4) Initiate a city and school building plumbing fixture retrofit program; costs to be shared by the customer and the city.

(5) Implement a strategy for reducing excess water use for city facilities or services.

(6) Initiate a water utility unaccounted-for-water loss reduction program including:

(a) Water loss reduction program to audit and repair system water losses on a continuous basis;

(b) Meter maintenance and replacement program to identify, repair, and/or replace inaccurate or malfunctioning meters;

(c) Installation of meters in all unmetered city parks;

(d) Development and implementation of strategy to reduce and use well wash water and water system discharge water.

(J) *Operating standards.* The Xeriscape Retrofit Rebate Program shall incorporate the following operating standards:

(1) At least 50% of the rebated area must be covered by plants at maturity.

(2) Whenever possible, the rebate shall be issued in the form of a credit to the customer's water bill. A direct payment shall be available only if the city is confident that a water account credit will not be received by the owner or occupant whose action resulted in the credit or rebate.

(K) The Mayor or his or her designee may prescribe policies, rules or regulations to carry out the intent and purposes of this section and the Xeriscape Retrofit Rebate Program..

(L) If it is necessary to contract for landscape inspections, the Mayor is encouraged to evaluate the use of the Rapid Procurement provisions of the city's Public Purchases Ordinance, or other provisions of this ordinance, in order to implement the Xeriscape landscape retrofit program as soon as possible in the Summer of 1996.

(Res. 40-1995, approved 3-24-95; Am. Res. 89-1996, approved 8-23-96; Am. Res. 31-1998, approved 3-5-98; Am. Res. 3-2001, approved 1-10-01)