

CITY OF UHLAND

ORDINANCE No. 136

LANDSCAPING

AN ORDINANCE ENACTING THE CITY OF UHLAND CODE OF ORDINANCES; ESTABLISHING REGULATIONS FOR LANDSCAPING; PROVIDING FOR THE FOLLOWING: RULES; STANDARDS; PROCEDURES; CRIMINAL PENALTIES NOT TO EXCEED \$2,000 OR CIVIL PENALTIES OF UP TO \$500 PER VIOLATION; AND SEVERABILITY

WHEREAS, the City Council of the City of Umland ("City Council") seeks to improve the community through long-term environmental care and stewardship; and

WHEREAS, the City Council seeks to protect the Plum Creek Watershed;

WHEREAS, the City Council seeks to attract and improve the City's business climate and attract residents and retain business by ensuring the City's atmosphere includes attractive landscaping and the comfort of native shade trees; and

WHEREAS, the City Council finds that to protect, preserve, and promote nature in the city in turn protects the public health, safety, and welfare of the community's residents; and

WHEREAS, the City is undergoing substantial growth and construction, and the City Council seeks to ensure revegetation following common construction activities; and

WHEREAS, the City Council has determined that trees are vital to community health, human health, water conservation, and the economy; and

WHEREAS, the City Council has determined that landscaping preserves erosive slopes, reduces surface water runoff, provides for native habitats, and provides privacy, noise reduction, and a reduction in headlight glare, thus ensuring and sustaining a healthy environment; and

WHEREAS, nationally municipalities are embracing landscaping ordinances that protect the health, safety, and welfare of the community in an environmentally, historically, geographically, and aesthetically sensitive manner; and

WHEREAS, pursuant to Texas Local Government Code Section 51.001, the City has general authority to adopt an ordinance or police regulation that is for the good government, peace, or order of the City and is necessary or proper for carrying out a power granted by law to the City; and

WHEREAS, pursuant to Section 217.002 of the Texas Local Government Code, as a Type-A General Law municipality, the City has the authority to adopt ordinances that define, declare, abate, and remove nuisances; and

WHEREAS, pursuant to Texas Local Government Code Chapter 211, the City has general authority to regulate zoning; pursuant to Texas Local Government Code Chapter 214 the City has the authority to adopt ordinances that regulate housing.

WHEREAS, the landscaping and tree preservation standards established by this Ordinance are consistent with the City Council's comprehensive effort to preserve the cultural, historical, ecological, and geological treasures of the *City* and enhance economic development; and

WHEREAS, the City Council finds that it is necessary and proper for the good government, peace, or order of the City of Umland to adopt this Ordinance regulating landscaping.

NOW, THEREFORE, **BE IT ORDAINED** by the Umland City Council:

1. FINDINGS OF FACT

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as if expressly set forth herein.

2. ENACTMENT

Volume 2, Article 15, Chapter 13 of the City of Umland Code of Ordinances is hereby approved and enacted, and shall read in accordance with *Attachment "A"*, which is attached hereto and incorporated into this Ordinance for all intents and purposes.

3. REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance

shall be and remain controlling as to the matters regulated herein.

4. SEVERABILITY

Should any of the clauses, sentences, paragraphs, sections, or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

5. CODIFICATION

The City Secretary is hereby directed to record and publish the attached rules, regulations, and policies in the City's Code of Ordinances as authorized by Section 52.001 of the Texas Local Government Code.

6. EFFECTIVE DATE

This Ordinance shall be effective immediately upon passage and publication as provided for by law.

7. PROPER NOTICE & MEETING


It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Chapter 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this day of July 10, 2013, by a vote of 5 (ayes) to 0 (nays) to 0 (abstentions) of the City Council of Umland Texas.



Mayor, Glenn Smith

ATTEST,



City Secretary, Karen Gallaher

Attachment "A"

City of Umland

CODE OF ORDINANCES

SECTION 1. ENACTMENT PROVISIONS

1.1. Popular Name

This Chapter shall be commonly cited as the "Landscape Ordinance".

1.2. Purpose

The purpose of this Chapter is to provide for the preservation of native trees, prevent the clear-cutting of land, and provide for minimum landscaping and screening requirements, in recognition that trees, landscaping, screening, and buffering protect the health and welfare of the community, while addressing the water conservation and drainage issues particular to the region. The purpose of this Chapter is also to enhance the community's ecological, environmental, and aesthetic qualities.

1.2.1 Health, Welfare, & General Well-Being

Preserving and improving the natural environment, and maintaining a working ecological balance are of increasing concern to the City. The fact that the proper use of landscape elements can contribute to the processes of air purification, oxygen regeneration, water absorption, water purification, and noise, glare, and heat abatement as well as the preservation of the community's aesthetic qualities indicates that the use of landscape elements is of benefit to the health, welfare, and general well-being of the community and, therefore, it is proper that the appropriate use of such elements be required.

1.2.2 Water Conservation & Drainage

The City experiences frequent droughts and is characterized by clay rock formations; therefore, it is the purpose of this Chapter to encourage the use of drought resistant vegetation and landscaping that minimizes runoff and erosion.

1.3. Scope

This Chapter applies to all commercial property within the incorporated municipal boundaries (i.e., "city limits") for which Site Plan approval by the City is required under the City's Code of Ordinances. This Chapter applies to actions taken after the date of enactment.

SECTION 2. DEFINITIONS

2.1. Interpretation

Words and phrases used in this Chapter shall have the meanings set forth in this section. Terms that are not defined below, but are defined elsewhere in the Code of Ordinances, shall be given the meanings set forth in the Code. Words and phrases not defined in the Code of Ordinance shall be given their common, ordinary meaning unless the context clearly requires otherwise. When not inconsistent with the context, words used in the present tense shall include the future tense; words in the plural number shall include the

singular number (and vice versa); and words in the masculine gender shall include the feminine gender (and vice versa). The word "shall" is always mandatory, while the word "may" is merely directory. Headings and captions are for reference purposes only.

2.2. Terminology

City: The City of Uhland, an incorporated municipality located in Hays and Caldwell Counties, Texas.

City Administrator: The chief administrative officer of the City of Uhland, Texas. The term shall also include the Deputy City Administrator.

City of Austin Environmental Criteria Manual: The document promulgated by the City of Austin, which is commonly used throughout the region and is widely regarded as the standard in the development community, as may be amended.

City of Austin Grow Green Guide: The document promulgated in part by the City of Austin, entitled *Native and Adapted Landscape Plants: An Earthwise Guide for Central Texas*, as may be amended.

City Council: The governing body of the City of Uhland, Texas.

City Permit: A city license, certificate, approval, registration, consent, permit, or other form of authorization required by a City ordinance, regulation, or rule in order to develop, construct, and operate the improvements on the Property.

Code: The Code of Ordinances enacted by the City of Uhland, as may be amended from time to time.

DBH (diameter at breast height): The tree trunk diameter of an existing tree measured in inches at a height of 4.5 feet above the ground. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

Designated Tree: Any of the following:

- (a) A hardwood tree having a trunk of eight (8) inches in caliper or greater measured a DBH;
- (b) A multi-trunked hardwood tree having a total trunk DBH of thirty (30) inches or more (not counting trunks less than eight (8) inches in diameter); or
- (c) A cluster of hardwood trees within a ten (10) foot radius circle having a total trunk DBH of forty (40) inches or more (not counting trunks less than eight (8) inches in diameter).

Impervious Cover: Buildings, parking areas, roads, and other impermeable man-made improvements covering the natural land surface that prevents infiltration.

Landscape Architect: One whose profession is the decorative and functional alteration and planting of grounds, especially at or around a building site

Landscaping: Consists of introduced vegetation, as well as related improvements to a lot including, but not limited to, forming and berming, irrigation systems, landscape subsurface drainage systems, site furnishings, and nonstructural retaining walls.

Natural Area: An area where the naturally grown landscaping is left primarily undisturbed, except for the removal of poison ivy, green briar, and similar vegetation, oak wilt removal and/or prevention measures, and allowing for maintenance of the trees to maintain vigorous growth.

Owner: A person with legal control over property in question.

Person: A human individual, corporation, agency, unincorporated association, partnership, or sole proprietorship, or other legal entity.

TCEQ: The Texas Commission on Environmental Quality, or its successor agency.

SECTION 3. ADMINISTRATION

3.1 Application

This Chapter applies to all new commercial development requiring Site Plan approval subject to zoning requirements. All properties going through re-development through extension, reconstruction, resurfacing, or structural alteration must come into compliance. Site plan approval shall be conditioned on compliance with this Chapter.

3.2. Landscaping Fund

A fund is hereby created in which any cash-in-lieu paid to the City pursuant to the mandates of this Chapter shall be deposited. The fund may be drawn upon by the City to implement landscaping improvements on City land and City controlled right-of-ways.

SECTION 4. LANDSCAPING

4.1. Landscape Requirements

4.1.1. Landscape Buffer Planting Requirements:

- (a) All plant material shall be of native or adapted species.
- (b) All new proposed shade trees shall be a minimum of 4 inches in diameter.
- (c) All proposed ornamental trees shall be a minimum of 2 inches in diameter.
- (d) All large shrubs shall be a minimum of 5 gallon container size and small shrubs/groundcovers a minimum of 1 gallon container size.

4.1.2. Landscape Buffer Spacing Requirements:

The following landscape buffer spacing requirements shall apply to all designated landscape buffers.

- (a) Shade Trees (such as Live Oak or Cedar Elm):
one per 50' of buffer frontage
- (b) Ornamental Trees (such as Crape Myrtle or Desert Willow):
one per 25' of buffer frontage
- (c) Large Shrubs, five-gallon (such as Wax Myrtle, DW Yaupon, or Agarita):
one per 6' of buffer frontage
- (d) Small Shrubs/Groundcovers, one-gallon (such as Lantana or Liriope):
one per 3' of buffer frontage

All plants shall comply with the City of Austin "Grow Green" recommended plant guide (www.ci.austin.tx.us/growgreen). Invasive plants in this guide are specifically prohibited.

4.2. Parking Area Landscaping Requirements

4.2.1. Parking lots and all vehicular parking and maneuvering areas, excluding driveways behind buildings, shall contain areas constructed, planted, and maintained as landscaped islands, peninsulas, or medians.

4.2.2. The minimum total area in landscaped islands, peninsulas, or medians in the parking lots in front of buildings shall be ninety (90) square feet for each twelve (12) parking spaces.

- 4.2.3. No parking space shall be located further than fifty (50) feet from a landscaped island, peninsula, median, or tree. They shall be located evenly through the parking areas, however the location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features.
- 4.2.4. Landscape terminal islands (end islands) shall be located at the end of all parking modules in a configuration to allow for turning radii of intersecting aisles to protect parked vehicles, provide for visibility, confine moving traffic to aisles and driveways, and provide space for landscaping.

4.3. Dumpster Screening

- 4.3.1. For outdoor condensers, utility huts, and other building service equipment (other than a roof top), such equipment shall be reasonably screened from view on all sides using a masonry wall and vegetative screen using at least two (2) varieties of plant material from the "Grow green" plant guide, that, at maturity, are at least the height of the equipment to be screened.
- 4.3.2. All refuse and/or recycling containers shall be reasonably screened with landscaping from public view and the view of adjoining properties.

4.4. Landscape Maintenance Requirements

- 4.4.1. The owner shall be responsible for:
 - (a) Regular maintenance of all required landscaped areas and plant materials in a vigorous and healthy condition, free from diseases, pests, weeds, and litter. This maintenance shall include weeding, watering, fertilization, pruning, mowing, edging, mulching, or other necessary maintenance in accordance with generally accepted horticultural practice;
 - (b) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
 - (c) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;
 - (d) Replacing planted trees if they die or become diseased beyond repair within five (5) years after planting; and
 - (e) Repairing damage to landscaped areas, structures, screening, buffering, or trees as a result of ingress or egress from site easements by authorized or unauthorized parties.

4.5. Tree Preservation Requirements

- 4.5.1. A grading and tree survey shall be submitted with the Site Plan.
- 4.5.2. The tree survey shall include all existing, live, healthy trees with an eight (8) inch DBH in diameter and larger. The survey shall indicate the size (DBH) and species of tree. Trees observed to be distressed will be indicated with an asterisk on the tree list. Trees shall be represented by circles using the formula of one (1) foot of radius for every one inch of trunk diameter. Unbroken circles indicate trees that are to remain. Dashed circles indicate trees that are to be removed (including trees identified to be distressed).
- 4.5.3. Healthy, designated Class I and II trees (as defined by the City of Austin Environmental Criteria Manual) that require removal to accommodate the development shall be replaced at a ratio of 1:1 or cash-in-lieu may be paid to the City, the amount equal to the cost of nursery stock required to replace the caliper amounts lost and the cost of installation on a per unit basis, not to exceed one hundred dollars (\$100.00) per caliper inch or six thousand dollars (\$6,000.00) per acre (prorated for sites of more or less than one acre) for the entire site. Trees identified as distressed shall not be included in Tree Preservation Requirements evaluation.
- 4.5.4. Pre- and post-construction fertilization is required for existing trees that will be or have been disturbed by construction activities, including disturbance of the critical root zone. Fertilizers must be phosphate-free.
- 4.5.5. The planting, preserving, and maintaining of trees which are contagiously diseased trees or the storage of cut oak unless first determined by a certified arborist to be devoid of oak wilt or properly treated, shall be deemed a public nuisance and are prohibited.
- 4.5.6. During construction, take measures to protect trees, including fencing, shielding, and/or signage, as necessary.

4.6. Irrigation Requirements

- 4.6.1. An irrigation plan is required as part of the Site Plan and will be prepared by a licensed irrigator (i.e., licensed landscape architect or engineer). The plan should include rain/freeze sensors on all controllers. The irrigation plan should provide drip irrigation in shrub beds where appropriate and bubblers on all trees.
- 4.6.2. Turf grass plantings may be Buffalo, Zoysia, or Bermuda. St. Augustine is expressly prohibited.
- 4.6.3. Landscaped areas must be mulched to reduce evaporation and preserve water.

SECTION 5. PROHIBITION

It shall be unlawful for any person to violate this Chapter.

SECTION 6. ENFORCEMENT

6.1. Compliance

Violators of this Chapter will be required to come into compliance within sixty (60) days, unless a variance of has been approved by the City. Compliance with this Chapter may be grounds for withholding of other related, pending permits for the project by the City.

6.2. Civil & Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Chapter as may be required by governing law. Any person violating any provision of this Chapter is subject to stop work order, suit for injunctive relief, and/or prosecution for criminal violations. Any violation of this Chapter is hereby declared to be a nuisance. Any violation of this Chapter may serve as grounds to withhold or delay issuance of other permits and revocation of a Certificate of Occupancy.

6.3 Criminal Prosecution

Any person violating any provision of this Chapter shall, upon conviction, be fined a sum not exceeding two thousand dollars (\$2,000.00) to be deposited in the Landscaping Fund. Each day that a provision of this Chapter is violated shall constitute a separate offense. An offense under this Chapter is a misdemeanor.

6.4 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:

6.4.1 Injunctive relief to prevent specific conduct that violates the Chapter or to require specific conduct that is necessary for compliance with the Chapter; and

6.4.2 A civil penalty up to five hundred dollars (\$500.00) a day to be deposited in the Landscaping Fund, when it is shown that the defendant was actually notified of the provisions of the Chapter and after receiving notice committed acts in violation of the Chapter or failed to take action necessary for compliance with the Chapter; and other available relief.

6.4.3. Stop Work Order. In the event work is not being performed in accordance with this Chapter, the City shall issue a stop work order and all work shall immediately cease. No further work

shall be undertaken on the project as long as a stop work