

ORDINANCE NO. 305

AN ORDINANCE OF THE CITY OF UHLAND, TEXAS ESTABLISHING A CLEARING AND GRADING PERMIT AND OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING THAT VIOLATIONS OF THIS ORDINANCE ARE CLASS C MISDEMEANORS SUBJECT TO FINES NOT TO EXCEED \$2,000.00; REPEALING ALL ORDINANCE OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY, OPEN MEETING, PUBLICATION AND EFFECTIVE DATE

WHEREAS, the Environmental Protection Agency of the United States (the “EPA”) mandated the regulation of storm water discharge under the Clean Water Act; and

WHEREAS, the EPA authorizes the Texas Commission on Environmental Quality (“TCEQ”) to adopt rules to carry out its powers and duties under the Act; and

WHEREAS, the Clean Water Act, at the discretion of the TCEQ, further requires cities and towns in the State of Texas to implement and enforce water management practices to ensure that stormwater pollution is minimized to the extent required by Federal Law through, inter alia, the Clean Water Act; and

WHEREAS, it is necessary to regulate the clearing and grading of land through permitting, to ensure compliance with Federal, State, and City laws related to stormwater management; and

WHEREAS, the City is responsible for the promotion of public health, safety, morals and the general welfare of the community and land development; and

WHEREAS, the City Council has determined that it is in the best interest of the City to adopt a permitting process and associated regulations for the clearing and grading of land, which will benefit the health, safety and general welfare of the community.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UHLAND, TEXAS THAT:

SECTION 1. The foregoing recitals are hereby adopted as true and correct factual findings of the City Council as if fully set forth herein and made a part hereof.

SECTION 2. The City of Uhlend, Texas hereby adopts the following:

CLEARING AND GRADING ACTIVITIES

Sec. 1. Compliance required.

- A. No indiscriminate removal of trees, land clearing, and/or grading activities shall occur without the required approvals and permits including but not limited to the Clearing and

Grading Permit. Clearing and grading activity shall be limited to the limits of the work area identified on an approved grading plan.

Sec. 2. Applicability

- A. A Clearing and Grading Permit is required for any land disturbing activities greater than 0.25 acres outside of the Federal Emergency Management Agency (FEMA) designated special flood hazard area (SFHA), and all areas within the SFHA unless specifically exempted in this ordinance.
- B. The following shall be exempt from the requirement for a Clearing and Grading Permit:
 - 1. Clearing and grading in emergency situations involving immediate danger to life and property or substantial fire hazards; and
 - 2. The removal of underbrush, dead trees or diseased or damaged trees which constitute a hazard to life and property based upon field inspection verification; and
 - 3. Clearing and grading practices associated with agricultural operations, excluding timber cutting, grading cuts or fills, and/or work within SFHA.

Sec. 3. Clearing and Grading Permit

- A. A request for a Clearing and Grading Permit shall be accompanied by an application prepared in accordance with the City's Development Manual and any applicable fees.
- B. All Clearing and Grading Permits shall be reviewed and approved by the City Administrator or his/her designee. Clearing and Grading Permits shall be reviewed in accordance with the Ordinances of the City of Umland, and any other applicable law, code, or regulation governing stormwater, land grading and clearing activity.
- C. Clearing and Grading Permit may be issued as a stand-alone permit or in combination with other development permits including but not limited to Public Infrastructure Permit, ROW Construction Permit, Building Permit.
- D. Stabilization and revegetation. Upon completion of the proposed clearing and grading activities the site shall be stabilized and revegetated in accordance with the approved permit.
- E. Inspections.
 - 1. Periodic inspections of the work area may be made by the City or its representative to ensure compliance with permit.
 - 2. Upon completion of the work and stabilization and revegetation of the site in accordance with the permit, the permit holder shall request a completion of work inspection from the City. A passing inspection for completion of work shall be considered acknowledgement from the City that the work is complete and permit is closed.
- F. Expiration & Extension.

1. A Clearing and Grading permit shall be valid for 180 days from issuance of the permit.
2. Upon the written request of the permit holder, the City Administrator may extend the permit expiration for one or more periods not to exceed six (6) months each.

Sec.4. Revocation or denial of permit.

If any of the provisions of this article are not followed, a permit may be revoked by the city administrator or designee. If a person has not followed the terms and conditions of this article in work done pursuant to a prior permit, new permits may be denied or additional terms required.

Sec. 5. Appeals.

Appeal from denial or revocation of permit or from the decision of the city administrator is to the city council. Appeal shall be filed with the city secretary within 15 days from the date of the decision being appealed.

Sec. 6. Violations and penalties.

Any person, firm, or corporation who shall violate any of the provisions of this ordinance, or fails to comply therewith, or who shall violate or fail to comply with any order or regulation made hereunder, shall, for each and every violation and noncompliance respectively be deemed guilty of a misdemeanor and upon conviction thereof shall be fined a sum not to exceed two thousand dollars (\$2,000) or the appropriate legal maximum as determined by statute. Each and every day that such violation and/or noncompliance shall exist shall be deemed a separate offense. In case any person, firm, or corporation violates any of the provisions of this ordinance or fails to comply therewith, the City, in addition to imposing the penalties above provided may institute any appropriate action or proceedings in court to prevent, restrain, correct, or abate or to prevent any illegal act, conduct, business, or use in or about any land, and the definition of any violation of the terms of this ordinance as a misdemeanor, shall not preclude the City from invoking the civil remedies given it by law in such cases, but same shall be cumulative of and in addition to the penalties prescribed for such violation.

SECTION 3. If any provision of this Ordinance is illegal, invalid, or unenforceable under present or future laws, the remainder of this Ordinance will not be affected and, in lieu of each illegal, invalid, or unenforceable provision, a provision as similar in terms to the illegal, invalid, or unenforceable provision as is possible and is legal, valid, and enforceable will be added to this Ordinance.

SECTION 4. That a violation of this Ordinance shall be an offense punishable upon conviction as a Class C Misdemeanor punishable by a fine not to exceed \$2,000.00.

SECTION 5. This ordinance shall be cumulative of all other ordinances of the City of Uhland, and this ordinance shall not operate to repeal or affect any other ordinances of the City of Uhland

except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, are hereby repealed.

SECTION 6. That it is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered at such meeting, including this ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

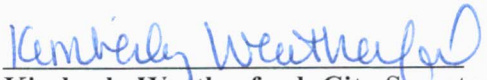
SECTION 7. This Ordinance becomes effective immediately upon its passage, approval and any publication required by law.

PASSED AND APPROVED THIS 1st DAY OF NOVEMBER, 2023.



**Lacey Duke, Mayor
City of Umland, Texas**

ATTEST:



**Kimberly Weatherford, City Secretary
City of Umland, Texas**