

VILLAGE OF WEBBERVILLE

ORDINANCE No. 2013-_____

LANDSCAPING ORDINANCE

AN ORDINANCE OF WEBBERVILLE, TEXAS (“VILLAGE”), 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; REPEALER; SEVERABILITY; EFFECTIVE DATE; AND PROPER NOTICE & MEETING.

WHEREAS, the Commission of the Village of Webberville (“Commission”) seeks to improve the community through long-term environmental care and stewardship; and

WHEREAS, the Commission seeks to protect the creeks, streams, drainage ways and other watershed areas within the jurisdiction of the Village; and

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

WHEREAS, the Commission finds that to protect, preserve, and promote nature in the Village in turn protects the public health, safety, and welfare of the community’s residents; and

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

WHEREAS, the Commission 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, responsible regulation of landscaping is integral to the Village's Water Quality Protection Program; and

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

WHEREAS, pursuant to Section 51.051 and Section 217.022 of the Texas Local Government Code, as a Type C, general-law municipality, the Village has the authority to adopt ordinances that define, declare, abate, and remove nuisances; and

WHEREAS, pursuant to Texas Local Government Code Chapter 211, the Village has general authority to regulate zoning to promote the healthy, safety, morals, and general welfare protect and protect and preserve places and area of historical and cultural significance; and

WHEREAS, pursuant to Texas Water Code Section 26.177, a municipality may establish a water pollution control and abatement program; and

WHEREAS, pursuant to Texas Local Government Code Chapter 212, a municipality may adopt rules governing plats and subdivision of land within the municipality's jurisdiction to promote the healthy, safety, morals, and general welfare of the municipality and promote healthful development; and

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

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

NOW, THEREFORE, BE IT ORDAINED by the Webberville Commission:

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

The Village of Webberville Landscape Ordinance 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. EFFECTIVE DATE

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

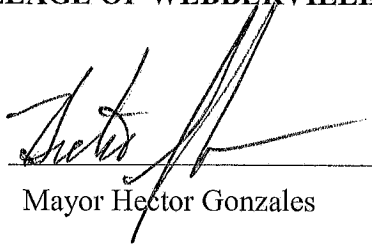
6. PROPER NOTICE & MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed

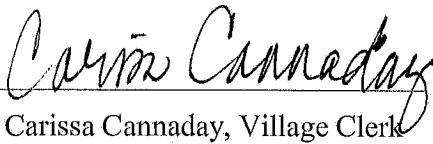
was open to the public, and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Texas Government Code, Section 551. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED & APPROVED this, the 11 day of June 2013, by a vote of 2 (ayes) to 0 (nays) to 1 (abstentions) of the Commission of Webberville, Texas.

VILLAGE OF WEBBERVILLE:

by: 
Mayor Hector Gonzales

ATTEST:


Carissa Cannaday, Village Clerk

4.11 Landscape Ordinance

(a) Purpose

The purpose of this Ordinance 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 Floodplains and Low Terraces sub-regions of the Texas Blackland Prairie and East Central Texas ecoregions. The purpose of this Ordinance is also to enhance the community's ecological, environmental, and aesthetic qualities.

(1) Health, Welfare, & General Well-Being

Preserving and improving the natural environment, and maintaining a working ecological balance are of increasing concern to the Village. 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.

(2) Water Conservation & Drainage

The Village experiences frequent droughts and is characterized by alluvial soils; therefore, it is the purpose of this Ordinance to encourage the use of drought resistant vegetation and landscaping that minimizes runoff and erosion.

(b) Scope

This Ordinance applies to all **Non-Residential and Multi-Family** property within the incorporated municipal boundaries (*i.e.*, "city limits") for which Site Plan approval by the Village is required under the Village's Ordinances. This Ordinance applies to actions taken after the date of enactment. See Section 4.12(a) below for exemptions.

4.12 Landscape Administration

(a) Application

This Ordinance applies to all new **Non-Residential and Multi-Family** development requiring Site Plan approval subject to zoning requirements. **Any Non-Residential (e.g., business structures) or Multi-Family property in existence on the effective date of this**

Ordinance shall be exempt from this Ordinance, except that all **Non-Residential and Multi-Family** properties going through re-development through extension, reconstruction, resurfacing, or structural alteration of at least fifty (50) percent increase in size or value, whichever is less, must come into compliance with this Ordinance. Site plan approval shall be conditioned on compliance with this Ordinance.

(b) Landscaping Fund

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

(c) Prohibition

It shall be an offense to damage or remove trees in violation of this Ordinance. The penalty is governed by Section 6.5 of the Ordinance

4.13 Landscape Requirements

(a) A landscape plan showing existing and proposed topography, existing trees, and proposed landscaping improvements shall be submitted to the Village with the proposed Site Plan. The landscape plan shall comply with the Landscape Requirements, and provide required calculations. The landscape plan shall be signed and sealed by a Landscape Architect licensed by the State of Texas. The existing tree survey shall be signed and sealed by a Surveyor licensed by the State of Texas. Tree surveys are valid for a period of five years.

(b) Landscape Buffer Planting Requirements:

(1) All plants shall comply with the City of Austin “Native and Adapted” plant guide (<http://www.austintexas.gov/department/plants>), as amended. The use of plants listed as “very low water” is encouraged. Invasive plants in this guide are specifically prohibited.

(2)

Screening & Buffer Point System

Tree Classification	1.5" caliper	2.5" caliper	3.5" caliper
Large Tree	4 points	6 points	8 points
Small Tree	3.5 points	5.5 points	7.5 points

Shrub Classification	1 gallon	5 gallon
Large Shrub	1.5 points	3.5 points
Medium Shrub	1 points	3 points
Small Shrub	0.5 points	N/A

- (3) For each linear foot of screening and buffer area required, one (1) point of buffering element as listed above should be provided within the buffer area. The buffer area does not have to be planted at the same density throughout. No more than twenty five (25) percent of the buffer length may be absent of any elements. At least two (2) elements are required for fifty (50) percent of the buffer length. Seventy-five (75) percent of the plants used must be evergreen.
- (4) Plant Classifications: Large Trees are twenty-five (25) feet in height or greater with a mature canopy spread. Small Trees are less than twenty-five (25) feet in height with a mature canopy spread. Large Shrubs are three (3) feet in height or greater with a mature spread. Medium shrubs are eighteen (18) to thirty-six (36) inches in height with a mature spread. Small shrubs are less than less than eighteen (18) inches in height with a mature spread.
- (5) Existing trees within Screening or Buffer areas may count as eight (8) points each. Existing vegetation may discount the linear feet of screening which it provides as approved by the Commission or Commission's designee.
- (6) No more than fifty (50) percent of the trees or shrubs shall be from the same species.
- (7) All new proposed shade trees shall be a minimum of four (4) inches in diameter.
- (8) All proposed ornamental trees shall be a minimum of two (2) inches in diameter.
- (9) All large shrubs shall be a minimum of five (5) gallon container size and small shrubs/groundcovers a minimum of one (1) gallon container size.
- (10) Buffers shall include at least one (1) shade tree per forty (40) feet of buffer frontage.

(c) Landscape Buffer Applicability

- (1) Nonresidential or multifamily uses whose side or rear lot lines are adjacent to a residential district shall be shielded from view of the residential use by landscape buffers reserved for landscaping only.
- (2) Nonresidential or multifamily uses whose side or rear lot lines are adjacent to a residential district require a Buffer Setback. The width of the Buffer Setback shall be a minimum of twenty-five (25) feet from the property line. New plant material shall be placed near the building, parking, and other structures to be screened, and is not required to be placed within the Buffer Setback. No other improvements may be placed within a Landscape Buffer without prior approval of the Commission or Commission's designee.
- (3) The following shall be screened from view of public and private roadway: parking, dumpsters, above ground utilities, detention ponds, refuse and/or recycling

containers, and other objects deemed necessary by the Commission or Commission's designee.

- (4) A minimum 6-foot masonry screening wall, or other such screening along the property line, as approved by the Village, may be submitted as an alternative to buffer shrubs and trees. The required full width of Buffer Setback shall still be provided. Compliance with all building codes is required when a screening wall is used.

(d) Landscape Plan and Tree Survey Submittal

- (1) A landscape plan and tree survey shall be submitted to the Village with the proposed Site Plan.
- (2) The landscape plan shall comply with the Landscape Requirements. The landscape plan shall be signed and sealed by a Landscape Architect licensed by the State of Texas.
- (3) The existing tree survey should be signed and sealed by a Surveyor licensed by the State of Texas.

(e) Parking Area Landscaping Requirements

- (1) No parking space shall be located further than fifty (50) feet from a landscaped island, peninsula, median, or tree. Parking area trees shall be a minimum two (2) inch caliper. Islands must be a minimum of eight (8) feet wide. Existing trees may be credited toward this requirement. 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.
- (2) 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.
- (3) 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) 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.

(f) Street Trees

- (1) At least one (1) tree, two inches (2") in caliper is required for each twenty-five feet (25'), or fraction thereof, of linear street frontage. The required number of trees need not be placed uniformly, but may be clustered in groups. Trees shall be a minimum of five feet (5') overall height immediately after planting. Trees of species whose roots are known to cause damage to public roadways, or other public works shall be prohibited.

- (2) Trees must be located within twenty (20) feet of the right of way. Alternative locations may be approved if trees are in conflict with existing utilities.
- (3) Existing trees, or screening and buffer trees may count toward Street Tree requirements if located within twenty (20) feet of the public right of way.

(g) Tree Preservation Requirements

- (1) A topographic and tree survey shall be submitted with the Site Plan.
- (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). Existing trees may not be counted toward mitigation.
- (3) Healthy trees of the following species that require removal to accommodate the development shall be replaced at a ratio of 1:1 for trees that are eighteen (18) inches in diameter or larger: Ash varieties, Elm varieties, Cypress varieties, Maple varieties, Oak varieties, Pecan varieties, Pine varieties, Sycamore varieties, and Walnut varieties.
- (4) Replacement trees must be a minimum of one and one-half (1 ½) inch caliper. Replacement inches may be added on to other required trees above their minimum size requirement. Replacement inches are in addition to required Parking, Screening & Buffer, and Street Tree inches. Cash-in-lieu may be paid to the Village if mitigation through replacement trees is not feasible, not to exceed one hundred and fifty dollars (\$150.00) 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.
- (5) 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.
- (6) 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.
- (7) During construction trees must be protected with fencing, shielding, and/or signage, as necessary.

(h) Sample Landscape Calculations

SCREENING AND BUFFERING	Vegetation Type	Size	Quantity Provided	Points Each	Points Earned
	Larger Trees	1.5" caliper	00	4	00
		2.5" caliper	00	6	00
		3.5" caliper	02	8	00
	Small Trees	1.5" caliper	10	3.5	00
		2.5" caliper	00	5.5	00
		3.5" caliper	00	7.5	00
	Large Shrubs	1 gallon	00	1.5	00
		5 gallon	00	3.5	00
	Medium Shrubs	1 gallon	00	1	00
		5 gallon	10	3	00
	Small Shrubs	1 gallon	00	5	00
	TOTAL				00

PARKING	Parking Area	Square Feet for every 12 Parking Spaces	Number of Parking Spaces	Square Footage Required	Square Footage Provided
	Street Yard	90	00	00	00
	Non Street yard	60	00	00	00
	TOTAL			000	000

STREET TREES	Public Street Frontage	Public Street Frontage ÷ 25	Street Trees Required every 25' of Frontage	Quantity Required	Quantity Provided
	00	00	1	00	00

REMOVED	Quantity of Protected Trees (Trees ≥ 18") Removed	Total Number of Protected Inches Removed per Caliper	Replacement Inches Required
	00	00 @ 18"	00
	00	00 @ 18.5"	00
	00	00 @ 19"	00
	SUBTOTAL		00

PROPOSED	Landscape Area Tree Type	Quantity of Replacement Trees	Total Number of Replacement Tree Caliper Inches
	Screening & Buffering	00	00
	Parking	00	00
	Street Tree	00	00
	SUBTOTAL		00

REQUIRED REPLACEMENT (Removed- Proposed)	Replacement Inches Provided	Mitigation Inches	Mitigation Amount \$150 per Caliper Inch * (not to exceed \$6,000 per acre)
TOTAL	00	00	\$000

* Cash in lieu of replacement inches must be approved by Commission.

(i) Landscape Maintenance Requirements

The owner shall be responsible for:

- (1) 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;
- (2) The repair or replacement of required landscape structures (walls, fences, etc.) to a structurally sound condition;
- (3) The regular maintenance, repair, or replacement, where necessary, of any screening or buffering;

- (4) Replacing planted trees if they die or become diseased beyond repair within five (5) years after planting; and
- (5) 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.

(j) Integrated Pest Management

An integrated pest management plan (IPM) shall be submitted with the Site Plan. The IPM shall include the fertilizer ratios, brands, and types of fertilization application methods to be used. Fertilizers must be phosphate-free.

(k) Irrigation Requirements

- (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.
- (2) Turf grass plantings may be Buffalo, Zoysia, or Bermuda. St. Augustine is expressly prohibited.
- (3) Landscaped areas must be mulched to reduce evaporation and preserve water.

4.14 Prohibition

It shall be an offense to violate the Landscape Requirements in Section 4.13 of this Ordinance. The penalty is governed by Section 6.5 of this Ordinance.

SECTION 5. DEFINITIONS

Buffer Setback: Undisturbed areas intended to enhance compatibility between surrounding development activities. Buffer setbacks shall remain free of construction, development, or other alterations except for utility crossings as approved by the Commission.

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.

Commission: The governing body of the Village of Webberville, Texas.

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 at 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).

Landscape Architect: A person who holds a license to practice landscape architecture in the State of Texas.

Natural Area: An area where the naturally grown landscaping is left primarily undisturbed, except for the removal of poison ivy, greenbriar, 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.

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