

ORDINANCE NUMBER 021205

ORDINANCE APPROVING AND ADOPTING A SET OF LANDSCAPING REGULATIONS IN CERTAIN AREAS IN THE CITY OF CHINA GROVE, PROVIDING FOR VARIANCES AND ENFORCEMENT AND PROVIDING PENALTIES FOR VIOLATIONS

WHEREAS, the City of China Grove presently does not have landscape regulations; and

WHEREAS, the City is experiencing growth in commercial and industrial areas that are utilizing green space for buildings, parking lots and other purposes; and

WHEREAS, the City Council desires to create an attractive community for future generations to enjoy, without placing an unreasonable cost upon local developers.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of China Grove, Texas that:

1. Purpose of Regulations

- (a) For the purpose of providing for the health, safety and general welfare of the community, it is deemed necessary to establish requirements for the installation and maintenance of landscaping elements and other means of site improvements in off-street parking areas and other developed properties.
- (b) The regulations contained herein are necessary to enhance the community's ecological, environmental and aesthetic qualities.

2. Definitions

For the purpose of the administration and enforcement of this ordinance and, unless otherwise stated in this ordinance, the following words shall have a meaning as indicated herein; words used in the present tense shall include the future tense; words used in the singular number shall include the plural number, and words used in the plural number shall include singular numbers; and the word "shall" is mandatory not directory.

- (a) Buffer: A visual screen constructed of wood, masonry or landscape material in such a manner that adjacent property will be screened from the use contemplated so noise, solid waste or other objectionable influences will be avoided. Such

buffer shall be a standard of six (6) feet in height, except where extraordinary circumstances exist where additional height will more adequately accomplish the desired end.

- (b) Caliper: Diameter at breast height (DBH).
- (c) Contiguous: For the purpose of this ordinance, contiguous is defined as adjacent property whose property lines are shared or are separated by only a street, alley, easement or right-of-way.
- (d) Frontage: Lineal distance measured along all abutting street right-of-way.
- (e) Ground cover: Low growing plants planted in such a manner as to form a continuous cover over the ground, such as Liriope, low growing varieties of honeysuckle, English ivy or others.
- (f) Landscape development: Trees, shrubs, ground cover, vines or grass installed in planting areas for the purpose of fulfilling the requirements of this ordinance.
- (g) Shrub: Any self-supporting woody evergreen or similar species.
- (h) Tree: Any self-supporting woody plant species which normally grows to an overall minimum heights of fifteen (15) feet.

3. Required Landscape Installation

- (a) A minimum percentage of the total lot area of property on which development, construction or reconstruction occurs after the effective date of this ordinance shall be devoted to landscape development in accordance with the following schedule; provided, however, that this requirement shall not apply to the development, construction or reconstruction of single-family detached residential structures.

Required Landscape Schedule

Land Use	Per cent Landscaping Required
Office and professional uses	15
Commercial	10
Industrial or manufacturing	10

- (b) On large tracts of land, of 10 acres or more, exceptions to this ordinance may be granted to require a lesser amount of landscaping, by the City Council if the aesthetic, buffering and environmental intent of this ordinance is met, and it is not located along rights-of-way or in strategic environmentally sensitive areas.
- (c) The landscaping required by this ordinance shall be on the front and/or sides of the building being constructed. Undeveloped portions of a tract or lot shall be considered subject to landscaping in conformity with the following criteria:
- (1) The required area shall be planted in lawn grass, ground cover or shrubs as defined and in the manner below.
 - (2) A minimum of one tree per 500 square feet of required landscaping shall be planted. If the area of require landscaping is less than 500 square feet, one tree shall be planted.
- (d) In addition to the requirements in sections a and b, any commercial or industrial use which has a side or rear yard contiguous to any noncommercial or nonindustrial use shall be buffered as defined herein. Where such commercial or industrial use will side-up to or back-up to the use for which the buffer is required, a fence a standard of six (6) feet in height, except where the commercial or industrial building is constructed on the property line. The screen shall be located no closer to the street than the property line. Sight obstructions of intersections shall not be allowed in constructing the buffer.

Prior to construction of buffers, as defined, compete plans showing type of material, depth of beam, and structural support shall be submitted to the City Council for analysis to determine whether or not:

- (1) The screen will withstand the pressures of time and nature.
- (2) The screen adequately accomplishes the purpose for which it was intended.

The City Council shall determine if such buffer meets the requirements of this section. Upon approval by the City Council of the plans, a permit will be issued.

4. Credit for Existing and New Trees

- (a) Whereas trees contribute greatly to the quality of the community's environment and aesthetic qualities, and whereas the extent of the above positive contributions are a function of the size of the tree rather than of the planting area in which the tree is planted; therefore, in recognition of the contributions made by trees to the objectives of this ordinance, a credit of one tree shall be given for healthy and existing three-inch to six-inch caliper.
- (b) In order to encourage the preservation of trees that are already established and growing, an additional credit of two trees shall be given for healthy existing trees of six-inch to twelve-inch caliper.
- (c) Should a tree die or be removed for which credit has been obtained pursuant to the terms of this section, the planting of a replacement tree of similar variety and of no less than two-inch caliper shall be required.

5. Landscape Plan to be Filed

A landscaping plan shall be filed with the City Secretary in addition to other documents required to be filed in applying for a building permit for construction subject to this ordinance.

6. Application to Existing Development

- (a) All property with existing development on the effective date of this ordinance which is not in compliance with the provisions of this chapter shall be considered nonconforming and allowed to continue until such time as a building permit is granted to reconstruct or enlarge a structure on the property to an extent exceeding fifty (50) per cent of the current replacement cost of the

structure. At such time the provisions of this ordinance shall apply to the previous existing parcel areas as well as any new paved areas, and said shall be brought into compliance. A plan showing existing and new development and the proposed landscaping shall be submitted.

- (b) No structure existing on the effective date of this ordinance shall be required to be altered or moved in order to comply with the provisions of this ordinance except in the event of reconstruction.

7. General Requirements

- (a) Installations: All landscape materials shall be installed according to Texas Association of Nurserymen, (TAN) standards.

- (b) Maintenance: The owner of the building, or the manager or agent of the owner, shall be responsible for the maintenance of all landscape areas. Said areas shall be maintained so as to present a healthy, neat and orderly appearance at all times and shall be kept free of refuse and debris. All planted areas shall be provided with a readily available water supply and watered regularly to ensure continuous healthy growth and development. Maintenance shall include the replacement of all dead plant material if that material was used to meet the requirements of this ordinance.

- (c) Planting criteria:

- (1) Trees: Trees planted for credit under this ordinance be a minimum of two-inch caliper when measured immediately after planting. Trees shall have an average mature crown greater than fifteen (15) feet in Central Texas.
- (2) Shrubs, vines and ground cover: Shrubs, vines and ground cover planted pursuant to this ordinance should be good, healthy nursery stock. Shrubs must be, at a minimum, a one-gallon container size.
- (3) Lawn grass: Grass areas should be planted in species normally grown as permanent lawns in the San Antonio area, such as Bermuda Zoysia or buffalo grass. Although St. Augustine grass is allowed, the City discourages the useage of this type of grass due to its water needs. Grass areas may be

sodded, plugged, sprigged or seeded except that solid sod shall be used in swales or other areas subject to erosion.

- (4) Synthetic lawns or plants: Synthetic or artificial lawns or plants shall not be used in lieu of plant requirements in this section.

8. Enforcement by injunctive relief

Where it is deemed necessary by the City Council, the City Attorney is hereby empowered to secure injunctive relief to enforce the provisions of this article. This shall be in addition to, and not in lieu of, the criminal penalties provided for in this article.


9. Enforcement and Penalty for Violation

- (a) It shall be the duty of the City Council to enforce the provisions of this ordinance, and to refuse to issue any permit for any building, or for use of any premises, which would violate any of the provisions of said ordinances.
- (b) Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply therewith or with any of the requirements thereof shall be guilty of a misdemeanor and shall be liable to a fine of not more than two hundred dollars (\$200.00), and each day such violation exists shall constitute a separate offense, after notice of violation.

This ordinance is to become effective the date of its passage.

If any section or clause of this ordinance is deemed invalid, the remaining portions of this ordinance are to remain in full force and effect.

PASSED AND APPROVED by the CITY COUNCIL OF CHINA GROVE, TEXAS at a meeting open to the public this 5th day of December, 2002, after public notice of the time, place and purpose of said meeting was given and posted as required by law.


Dennis Dunk, Mayor

Attest:

Susan Copaway

Susan Copaway, City Secretary