

ORDINANCE NO. 08-63

AN ORDINANCE OF THE VILLAGE OF PLEAK, TEXAS, ESTABLISHING RULES AND REGULATIONS REQUIRING THE LANDSCAPING, SCREENING, AND MAINTENANCE OF COMMERCIAL AND RESIDENTIAL PROPERTY WITHIN THE VILLAGE AND EXTRATERRITORIAL JURISDICTION (ETJ); REQUIRING THE SCREENING OF ACCESSORY STRUCTURES ON COMMERCIAL AND RESIDENTIAL PROPERTIES; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.

WHEREAS, the Village Council of the Village of Pleak, Texas (the "Village") desires to promote and maintain the aesthetic and natural aspects of its character as it develops; and

WHEREAS, the Planning Commission of the Village of Pleak, at the request of the Village Council, has considered at length the regulations of landscaping on commercial and residential properties which will be developed in the future; and

WHEREAS, the Village Council of the Village of Pleak finds that it is in the best interest of the health, safety and welfare of its citizens to regulate the development of commercial and residential properties within the Village limits and the ETJ with regard to tree preservation and landscaping. It is the goal of the Village of Pleak to maintain its natural character in a manner consistent with the rights and privileges of its citizens while recognizing the need for quality economic development; now, therefore,

BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF PLEAK, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are found to be true and correct.

Section 2. Purpose. The purpose of this ordinance is:

- A. To preserve and improve the appearance of commercial and residential properties when viewed from the street.
- B. To safeguard and enhance property values and protect public and private investments.
- C. To screen from public view the unattractive aspects of commercial and residential properties.
- D. To reduce the negative environmental effects of commercial and residential development while protecting and enhancing the value of developed properties and the surrounding area.
- E. To promote and protect the health, safety and welfare of the citizens by creating an urban environment that is aesthetically pleasing and that promotes economic development through an enhanced quality of life.

Section 3. Definitions

The following terms, when used in this Ordinance, shall have the meanings ascribed to them herein, except where the context clearly indicates a different meaning:

Commercial Use shall mean any use other than single family residential use.

Residential Use shall mean a use providing wholly or primarily non-transient living accommodations, including institutional living arrangements, forced residence, or therapeutic settings.

Section 4. Scope and Application

- A. This ordinance shall apply to the section of property that borders any streets of all building sites where any of the following conditions are present, except as provided in subsection B below.
 - 1. There is new construction of a building for which a building permit is required.
 - 2. There is an enlargement exceeding five hundred (500) square feet or ten (10%) percent in area of the exterior dimensions of an existing building for which a building permit is required.
 - 3. There is construction of a new parking lot or expansion of an existing parking lot within the section of property that borders any street by more than one thousand (1,000) square feet or ten (10%) percent in area.
- B. When a building or parking lot is enlarged, the requirements of this ordinance shall be applied incrementally such that landscaping shall be required in proportion to the enlarged building area or off-street parking area to the existing development.
- C. This ordinance shall not apply to the following situations:
 - 1. Interior finish work or remodeling in a portion of a building unless the work results in an increase in the paving area of the parking facilities within the section of property that borders any streets or in an enlargement of the exterior dimensions of an existing building.
- D. A building located within the section of property that borders any streets of another building shall be considered as a separate building site unless it has previously been included within an approved landscape plan.

Section 5. Landscape Plan

- A. The person, corporation, partnership, developer, entity as owner of the property ("landowner"), shall at the time of applying for a building permit and prior to commencement of any work on the site, shall submit a landscape plan to the Village Engineer and pay all applicable plan review fees pursuant to the fee schedule on file with the Village Secretary.
- B. No building permit shall be issued for work on property to which this ordinance applies until a landscape plan has been submitted and approved by the Village Engineer.
- C. The landscape plan submitted for approval shall:

1. Identify the project and location,
2. Show a north arrow,
3. Be drawn to scale and identify the scale, (24" x 36" minimum),
4. Identify the landscape designer giving names, address and telephone number,
5. Show structure location,
6. Show parking locations,
7. Show set back lines,
8. Identify plant types and spacing,
9. Show plant quantity,
10. Show plant size,
11. Show street front locations of trees,
12. Show parking space tree locations,
13. Show location, type and size of existing trees,
14. Show ponds, lakes and fountain locations, and
15. Show screening and layout details.

Section 6. Commercial and Multi-Family Landscaping Requirements

- A. All commercial and multi-family construction located within the Village limits or within the Village ETJ shall include the following minimum landscaping and architectural standards:
 1. Buildings and Parking Setbacks:
 - a. Buildings: Minimum of 40' from street R.O.W. and 10' from all rear and side property lines.
 - b. Surface Parking: Minimum of 25' from street R.O.W. and 6' from all rear and side property lines.
 2. Landscape Requirements:
 - a. Landscaping shall consist of trees as required by this Ordinance, and a choice of plant materials including but not limited to planted grass, shrubs and ground cover. Except as provided herein, required landscaping shall be chosen from the trees, shrubs, groundcovers and other plant materials contained on Exhibit "A: attached hereto and incorporated herein by this reference for all purposes.
 3. Tree Presentation:
 - a. A tree survey shall be submitted by the landowner.
 - b. Trees greater than 30" in diameter shall not be removed without written approval from the Village of Pleak.
 4. Landscaping Along Street R.O.W. shall be a minimum of:
 - a. Primarily grass and trees.
 - b. Grass shall be sod or hydromulch with proper drainage.
 - c. Areas shall be removed of weeds and underbrush and topsoil provided.
 - d. All grass areas shall be irrigated with automatic sprinkler systems.

- e. Trees shall be planted in groupings of 3 to 7 trees on 40' centers.
 - f. Trees shall be randomly spread.
 - g. All dead and dying plants or grass shall be replaced within 90 days of notice.
 - h. All landscaping shall be located in such a manner to:
 - (i) avoid conflicts with utility lines;
 - (ii) not encroach upon traffic visibility and appropriate sight distances necessary for the safe movement of traffic and pedestrians; and
 - (iii) any other related safety concerns as determined by the Village of Pleak.
5. All trees required by this ordinance shall be a minimum of three (3") inch caliper as measured by twelve (12") inches above grade. Grade shall be measured from the top of the ball or the top of the soil level inside a containerized tree.
 6. If a living Live Oak or Pecan tree of ten (10") inch caliper or greater must be removed as part of the development or enlargement process, two (2) trees, as described in subsection (4) above, shall be planted as a replacement for each tree removed.
 7. Required plant/trees shall be maintained in a healthy condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as needed. Any plant/trees that dies or is destroyed shall be replaced with another living plant that is compatible with the approved landscape plan as soon as practicable but no later than ninety (90) days after notification by the building official or his designee. The building official or his designee may extend this time period up to an additional thirty (30) days due to weather considerations.
 8. Any damage to utility lines resulting from the negligence of the landowner or the landowner's agents or employees in the installation and maintenance of required landscaping in a utility easement is the responsibility of the landowner. If a public utility disturbs plants/trees within a utility easement, the public utility shall make every reasonable effort to preserve the plants/trees and return them to their prior locations after the utility work is completed. If, nonetheless, plants/trees subsequently die, it is the obligation of the landowner to replace them.
 9. Landscaping for buildings:
 - a. Single row of wax leaf ligustriums or equal in triangular spacing of 18" along side property lines.
 - b. Trees shall be planted on 40' centers along side property lines.
 - c. Owner and/or management company shall regularly maintain and keep in healthy condition all grass, shrubs, and trees at all times. Any landscaping requiring replacement will be replaced within ninety (90) days of notice. All landscaped areas shall be irrigated with automatic sprinkler systems.

10. Landscaping for parking lots:
 - a. Planting islands at the end of every other parking bay.
 - (i) Two trees per island 10' from the end of each bay planter.
 - b. 6" curbed planter diamond every 10th space.
 - (i) One tree in each diamond planter.
 - c. A 4' high (mature) ligustrum or equal hedge along the outside border of all parking lots, as follows:
 - (i) Single row, 18" centers, 4' (mature) heights, automatic irrigation system.
11. Automatic irrigation of all landscaped areas shall be required.
12. Automatic irrigation systems shall only be installed by persons holding a "Texas Irrigation License" and a permit issued by the Village of Pleak. All systems shall provide minimum standards and specifications for design, installation and operation of irrigation systems, including the proper installation of back-flow preventers, installed for commercial or multi-family use within the Village of Pleak or its extraterritorial jurisdiction.

Section 7. Landscape Visibility Requirements

No tree or shrub shall be planted so as to create a traffic hazard or interfere with driver visibility.

Section 8. Accessory Structure Screening Requirements

The following landscape and screening requirements apply to every premise used for commercial use:

- A. Exterior ground-mounted or building-mounted equipment to serve a building, including mechanical equipment, utility meter banks, and heating or cooling equipment must be secured from public view with landscaping or with an architectural treatment compatible with the building architecture.
- B. All rooftop equipment must be screened from public view with an architectural treatment, which is compatible with the building architecture. The methods of screening rooftop equipment include the use of parapet walls and the encasement of partition screens.
- C. All materials, products, or equipment, which are stored outside of a fully enclosed building, other than for display, must be entirely screened from public view.
- D. For purposes of this section, "screened from public view" means not visible at eye level from any point on the lot line of the abutting premises or from any point on a street.

Section 9. Residential Landscaping

- A. Residential single family dwellings in the Village of Pleak City Limits or in a subdivision located within the ETJ shall have the minimum landscaping requirements:

1. New homes with lots larger than 5,000 square feet shall have a minimum of two trees.
2. All landscaping shall be located in such a manner to:
 - a. avoid conflicts with utility lines;
 - b. not encroach upon traffic visibility and appropriate sight distances necessary for the safe movement of traffic and pedestrians; and
 - c. any other related safety concerns as determined by the Village of Pleak.

Section 10. Compliance

- A. All requirements of this ordinance shall be completed prior to the time a certificate of occupancy or approval of a parking area is issued or given.
- B. The obligations to create and maintain landscape areas shall apply to the landowner, their successors and assigns.

Section 11. Tree Preservation.

No living tree shall be removed from any public right-of-way or easement without authorization from the building official or his designee, unless the tree in question is diseased, severely damaged, or dead.

Section 12. Appeal

- A. Appeals may be made to the Village Council.
- B. Any person who is denied a building permit and such denial is based solely on non-compliance with the Landscaping, Screening and Maintenance Ordinance may file notice of appeal with the Village Council. Such appeal must be made within fifteen (15) working days following the date of the denial of a permit. The notice of appeal shall contain a statement of the grounds of the denial and the name of the person who denied the permit (the notice). The original notice shall be sent to the Village Council by mailing to the Village Secretary of the Village of Pleak, 6621 FM 2218 South, Richmond, Texas 77469. Within ten (10) working days after receipt of the notice, the building official or his designee shall deliver to the Village Council copies of all documents and papers filed with the department relative to the permit denial (the documents). Only papers and documents relating to landscaping need be submitted.
- C. Any decision of the Village Council or variance granted by the Village Council shall be in writing and a copy mailed by certified mail, return receipt requested, to the landowner at the address shown on the permit application. The decision shall be mailed within three (3) working days following the date the Village Council has rendered its decision. The building official or their designee shall also state in writing the grounds for the denial.

Section 13. Penalty

Any person, including the property owner, the manager, or agent who violates any provision of this ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed five hundred dollars

(\$500.00). Each day in which any violation shall occur, or each occurrence of any violation, shall constitute a separate offense.

In addition to the penalties herein above provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance or any law shall be deemed a public nuisance and may be abated by the Village as provided by law.

In addition to the remedies as herein provided, the Village of Pleak may at any time seek such injunctive relief as shall be necessary to insure compliance with the terms and provisions of this ordinance.

Section 14. **Severability**

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the Village Council of the Village of Pleak, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

PASSED, APPROVED, AND ADOPTED this 21st day of May, 2008.

Margie Krenek, Mayor

ATTEST:

Ruth Ester, Village Secretary

EXHIBIT A

PREFERRED LANDSCAPING MATERIALS

Preferred trees and Shrubs to be used to meet Village landscaping standards include, but are not specifically restricted to:

	BOTANICAL NAME	COMMON NAME
SHADE TREES		
		Red Oak
	<i>Quercus Virginiana</i>	Live Oak
	<i>Quercus Nigra</i>	Water Oak
	<i>Ulmus Parvifolia</i>	Drake Elm
	<i>Carya Illinoensis</i>	Pecan
		Chinese Elm
		Laurel Oak
ORNAMENTAL TREES		
	<i>Magnolia Grandiflora</i>	Southern Magnolia
	<i>Betula Nigra</i>	Riverbirch
	<i>Cercis Canadensis</i>	Redbud
	<i>Ilex Opaca</i>	Savannah Holly
	<i>Photinia Fraseri</i>	Photinia Tree
	<i>Lagerstroemia Indica</i>	Crepe Myrtle
	<i>Pyrus Calleryana</i>	Bradford Pear
		Wax Myrtle
SHRUBS FOR SCREENING AND BUFFERING		
	<i>Ligustrum Japonica</i>	Waxleaf Ligustrum
	<i>Photinia Fraseri</i>	Redtip Photinia
		Oleander
		Wax Myrtle
		Burford Holly
	<i>Raphiolepis</i>	Indian Hawthorn
	<i>Ilex Vomitoria</i>	Nana' Dwarf Youpon Holly
	<i>Ilex Conruta</i>	Dwarf Chinese Holly
	<i>Rhododendron Indica</i>	Azaleas
	<i>Ilex Furfodii</i>	Dwarf Burford Holly
	<i>Pittosporum Tobira</i>	Green Pittosporum
	<i>Pittosporum Wheeleri</i>	Dwarf Pittosporum
	<i>Lagerstroemia Indica</i>	Dwarf Crepe Myrtle
	<i>Nandina Domestica</i>	Compact Nandina
	<i>Juniperus C. Parsonii</i>	Parson Juniper
	<i>Juniperus C. Tamariscifolia</i>	Tam Juniper
	<i>Juniperus C. Pfitzerana</i>	Pfitzer Juniper
GROUND COVER PLANTINGS		
	<i>Trachelospermum Asiaticum</i>	Asian Jasmine
	<i>Ophiogon Japonica</i>	Monkey Grass
	<i>Buxus Macrophylla</i>	Boxwood
	<i>Gelsemium Sempervirens</i>	Carolina Jessamine
	<i>Liriope Muscari</i>	Liriope
		Honeysuckle

SEASONAL COLOR

Annuals and perennials are especially recommended for enhancing the landscape treatment.

April through October:	Petunias	Begonias
	Salvia	Verbena
	Daylillies	Impatiens
	Lantana	Porulaca
	Mexican Heather	
November through March:	Dianthus	Pansies