

ORDINANCE NO. 193-06

**AN ORDINANCE OF UINTAH CITY AMENDING THE
STORMWATER AND DRAINAGE ORDINANCE NO.169-03
TO ADD CHAPTER 3**

RECITALS

Uintah City (“the City”) is a municipal corporation created and existing under the laws of the State of Utah.

Pursuant to Utah Code Ann. §10-8-84(1), the City has authority to adopt ordinances necessary to “provide for the safety and preserve the health, and promote the prosperity, improve the morals, peace and good order, comfort, and convenience of the city and its inhabitants, and for the protection of property in the city.”

Pursuant to the City's Storm Water General Permit for Construction Activities from the Division of Water Quality, Uintah City is required to inspect construction sites that have not been finally stabilized to ensure that there is control of pollutants in storm water discharges after construction operations have been completed.

The City has experienced problems with building lots which have not had landscaping installed within a reasonable time after occupation of the building.

The City wishes to address these issues.

NOW THEREFORE, it is hereby ordained by the Uintah City Council as follows:

SECTION 1: The following new Chapter 3 entitled “Landscaping Requirements for New Construction” shall be added to the Stormwater and Drainage Ordinance 169-03 as follows:

**CHAPTER 3.
LANDSCAPING REQUIREMENTS FOR NEW CONSTRUCTION**

- 3.1 PURPOSE AND INTENT**
- 3.2 DEFINITIONS**
- 3.3 LANDSCAPING REQUIRED**
- 3.4 LANDSCAPING ON NEW CONSTRUCTION TO BE COMPLETED WITHIN ONE YEAR**
- 3.5 LANDSCAPING FOR EXISTING BUILDINGS**
- 3.6 EXTENSION OF TIME FOR LANDSCAPING**
- 3.7 VARIANCES**
- 3.8 APPEAL**
- 3.9 PENALTIES**

3.1 Purpose and Intent.

The purpose of this Chapter is to provide for landscaping requirements for all lots in the City. It is the City’s intent that this ordinance will reduce discharge of pollutants into the City’s storm water system.

3.2 DEFINITIONS.

As used in this Ordinance, the following terms shall have the following meanings:

- A. **“Building”** shall mean any structure having a roof supported by columns or walls, intended or used for the shelter, housing, or enclosure of any person, animal, chattel, or property of any kind.
- B. **“Landscaping”** shall mean the cultivation of the land and the installation of living plant materials (i.e., lawn, ground cover, annual and perennial flowering plants, vines, shrubs, and trees) planted directly on the property and kept free from all hard surfaces. The use of water (i.e., pools, fountains, falls, and streams), sculptures and ornamental rocks and boulders are also included as landscape design materials.

3.3 LANDSCAPING REQUIRED.

- A. On lots on which a building has been constructed, all parts of the lot shall be landscaped, except for portions of the lot which are occupied by:
 - a. The building.
 - b. Required off-street parking.
 - c. Driveway, sidewalk, curb, or gutter.
 - d. Corrals, if horses or approved animals are present as outlined in the animal ordinance, Title 6 of this Code.
 - e. Agriculture uses as approved in the zone, Title 6 of this Code.
- B. On residential lots in excess of one acre, the area between the street and the residence shall be landscaped and the area of any required side yards or backyard (as determined by Title 6 of this Code) shall be landscaped. The rest of the lot shall be maintained in such a way as not to create a health or fire risk.

3.4 LANDSCAPING ON NEW CONSTRUCTION TO BE COMPLETED WITHIN ONE YEAR.

For new buildings, the landscaping required in Section 3.3 shall be completed within one year of the time that the certificate of occupancy is issued for the building.

3.5 LANDSCAPING FOR EXISTING BUILDINGS.

- A. Existing buildings which do not meet the provisions of Section 3.3 will be notified in writing after this ordinance has been passed.
- B. Landowners shall be given one year from the date of the notification letter to comply with section 3.3.
- C. Any landowner who has not met one of the following conditions listed below may be prosecuted under Section 3.9:
 - 1. complied with Section 3.3 of this title;
 - 2. obtained and Extension of Time pursuant to Section 3.6; or
 - 3. obtained a variance pursuant to Section 3.7.

3.6 EXTENSION OF TIME FOR LANDSCAPING.

The owner of any lot which is required to comply with Chapter 3.4 or Chapter 3.5 may apply to the City for an extension of time to complete the landscaping required by Chapter 3.3.

- A. Extensions of time under this provision shall be granted only for good cause. Extensions of time shall be for a maximum of one year and only one extension of time shall be granted to any particular lot. An application for an extension must be filed before the time period for installing the landscaping has expired.
- B. The Planning Commission shall consider any application for an extension of time under this Chapter within 30 days of the time the application is received. The applicant shall have the right to attend the meeting and to be heard on the reasons he or she believes the extension should be granted. The applicant may call witnesses at the meeting. The applicant may also be represented by an attorney at

the hearing, but under no circumstances will the City have an obligation to provide an attorney for any applicant.

- C. The Planning Commission may visit the property for which the application has been made. If the Planning Commission determines to visit the property, all of the commissioners shall go at one time and the applicant shall have the right to be present during the visit.
- D. The Planning Commission may continue the hearing on the application from time to time, provided that the Planning Commission shall have an absolute maximum of 75 days from the time the application is received to make a decision on the application. If the Planning Commission fails to make a decision on the application within that time, the application shall be deemed to be granted.
- E. If the Planning Commission grants the application for an extension, the minutes of the meeting shall contain a description of the good cause which justified the extension.
- F. If the applicant is unsatisfied with the decision of the Planning Commission, the applicant may appeal the decision to the Board of Adjustments. Any appeal must be filed within 10 days of the time the Planning Commission makes its final decision on the application. Any review of the application by the Board of Adjustment shall be limited to a review of the record to determine whether the Planning Commission correctly decided the issue of good cause. The Board of Adjustment shall make its final decision on the appeal within 30 days of the time the appeal is filed.

3.7 VARIANCES.

The owner of a lot may apply for a variance from the terms of this Ordinance.

- A. Variances will only be granted for good cause shown. Economic considerations shall not be considered good cause for a variance. Good cause may include, but is not limited to:
 - a. Inaccessibility of the land makes landscaping infeasible;
 - b. Topographic considerations or the shape of the property make landscaping infeasible; or
 - c. The use of the property makes landscaping infeasible.
- B. Variances shall run with the land, provided that variances based on the use of the property shall terminate when the use of the land is changed.
- C. Applications for a variance shall be submitted to the Board of Adjustments. The Board of Adjustments shall consider the request at its next regularly scheduled meeting after the application is made.
- D. The applicant shall have the right to attend the meeting and to be heard on the reasons he or she believes the variance should be granted. The applicant may call witnesses at the meeting. The applicant may also be represented by an attorney at the hearing, but under no circumstances will the City have an obligation to provide an attorney for any applicant.
- E. The Board of Adjustments may visit the property for which the application has been made. If the Board determines to visit the property, all of the Board members shall go at one time and the applicant shall have the right to be present during the visit.
- F. The Board of Adjustments may continue the hearing on the application from time to time, provided that the Board shall have an absolute maximum of 75 days from the time the application is received to make a decision on the application. If the Board fails to make a decision on the application within that time, the application shall be deemed to be granted.
- G. If the Board of Adjustments grants a variance, it shall describe the good cause for the variance in the minutes of the meeting.
- H. The Board of Adjustment's decision on an application for a variance shall be final.

3.8 APPEAL.

Appeals filed under Chapter 3.6 shall be heard by the Board of Adjustments at its next regularly scheduled meeting after receipt of the notice of appeal.

- A. Appeals shall be limited to determining whether the provisions of this Chapter have been properly applied. The Board of Adjustments may not grant variances from the terms of this Chapter in an appeal.
- B. The person filing the appeal shall be given at least five days' notice of the date, time, and location of the hearing. The notice shall be delivered by first-class mail or by delivery to the premises.

- C. At the hearing of the appeal, the person filing the appeal shall have the right to be heard, to call witnesses on his own behalf, and to be represented by counsel, provided that the City shall not, under any circumstances, provide counsel for the person.

3.9 PENALTIES.

Any person who fails to comply with the landscaping requirements of this Ordinance shall be guilty of a Class C misdemeanor and may be sentenced accordingly. Each day for which a lot is not in compliance shall be a separate offense.

SECTION 2: This ordinance shall take effect immediately upon passage and posting as required by law.

PASSED and ADOPTED this 3rd day of October 2006.

MAYOR:

/s/ Craig Kendell

CRAIG KENDELL

ATTEST:

/s/ Sherma Mildon

Sherma Mildon, Clerk/Recorder