

City Council  
Agenda Memo



City Council  
Meeting Date: 2/26/2015

**TO:** David A. Vela, Interim City Manager  
**FROM:** Jon James, AICP  
Director of Planning and Development Services  
**SUBJECT:** First reading on a request to amend the Land Development Code (LDC) in regards to Site Development Regulations to include sections: 4.1.1.2(b) Improvements & Related Triggers; 4.1.2.5 Compliance; 4.2.1.1 (c) Parking Lot Permit; & 4.2.4 Screening, Buffering & Fencing; and setting a public hearing for March 12, 2015.

**GENERAL INFORMATION**

A number of amendments are being proposed to Chapter 4: Site Development Regulations of the City's Land Development Code (LDC), as outlined below:

Section 4.1.1.2, Improvements & Related Triggers

- The first amendment adds a new subsection (b)(3) that would automatically trigger the requirement for site plan review for the conversion of any residential structure for a non-residential use.
- The second amendment adds a new subsection (b)(4) that reintroduces a trigger based on the value of improvements to a site. Prior to 2010, a site plan was triggered by a 30% increase in value. The new Code eliminated that trigger for being too restrictive. However, now a large, major expansion that does not represent a physical expansion of 30% is not required to meet development standards. This proposal reintroduces a value-based trigger, but increases the threshold to only those sites where the new investment exceeds 100% of the current value (i.e., a doubling of the value of improvements on a property). *{P&Z Commission removed this}*

Section 4.1.2.5, Compliance

- There are sites throughout the City that are either not subject to an approved site plan or are subject to an older site plan that pre-date the current Land Development Code standards. Many of these sites are currently in compliance with at least some of our current standards. However, there is nothing in the Code that requires them to maintain such compliance. This proposed revision would not require existing sites to make any changes or come into compliance with rules that they currently don't meet, but would simply say that if a site meets our standards today, it must continue to meet those standards.

Section 4.2.1.1, Applicability, Review & Approval (Parking, Stacking & Loading)

- This would clarify that a parking lot permit triggers compliance with relevant site plan standards, such as screening and lighting, and not just parking standards. *{P&Z Commission recommends this apply to new parking lot areas only}*

Section 4.2.4, Screening, Buffering & Fencing

- The first changes are primarily to clarify the fencing regulations for residential and non-residential fencing. The second change corrects a discrepancy between this section and a section in Chapter 3 regarding the distance from the street to any proposed gates.
- The third change to this section would eliminate the requirement for industrial properties to provide screening and buffering when adjacent to General Commercial or Heavy Commercial. The fourth change would add a provision for low screening where a parking lot is adjacent to, or across the street from, a residential property.

**STAFF RECOMMENDATION**

Staff recommends approval.

**BOARD OR COMMISSION RECOMMENDATION**

The Planning and Zoning Commission recommends approval by a vote of 6 in favor (Bixby, Calk, Ellinger, McClarty, Rosenbaum, & Famble) and none opposed.

**ATTACHMENTS**

Ordinance

Prepared by:

Name: Ben Bryner

Title: Planning Services Manager

February 13, 2015

Item No. 6.7

Disposition by City Council

- Approved Ord/Res# \_\_\_\_\_
- Denied \_\_\_\_\_
- Other \_\_\_\_\_

\_\_\_\_\_  
City Secretary

AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY AND CALLING A PUBLIC HEARING.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 26<sup>th</sup> day of February A.D. 2015.

A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 17<sup>th</sup> day of January, 2015, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 12<sup>th</sup> day of March, 2015, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of March, A.D. 2015.

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

\_\_\_\_\_  
MAYOR

APPROVED:

\_\_\_\_\_  
CITY ATTORNEY

EXHIBIT "A"

**AMEND:** Section 4.1.1.2 Improvements & Related Triggers

**REVISE:** Revise site plan triggers to include residential conversion and a value of improvement.

(b) **Triggers.** Expansions to an existing property that meet any of the following criteria shall trigger the requirement for a site plan and all of the improvements outlined in (a) above, unless otherwise specified:

(1) New Structure or Expansion:

- a. Construction of a new principal structure; or
- b. The expansion of a principal structure that is equal to or more than thirty percent (30%) of the floor area; or
- c. The expansion of a principal structure that is equal to or more than twenty thousand (20,000) square feet.
- d. Expansion of a principal structure greater than 30% where the total floor area of the structure, including the expansion, does not exceed more than 2,500 square feet shall be exempt from this trigger.

(2) Parking Spaces Increase: An increase in the number of parking spaces or surface area equal to or more than thirty percent (30%) or five thousand (5,000) square feet. In this case, façade material requirements shall not be required. Parking lots of ten (10) parking spaces or less shall be exempt from this trigger.

~~(3) Residential Conversion: The conversion of a residential use or structure to a non-residential use.~~

~~(4) Major Expansion: The total of all repairs, reconstruction, or improvements on a site which have occurred less than twelve months prior to application for a permit for a proposed repair, reconstruction, or improvement the cost of which equals one hundred percent (100%) or more of the market value of existing improvements on the site before the improvement or repair is started, or if structures on the site have been damaged, the value before the damage occurred. {Removed by the P&Z Commission}~~

**AMEND:** Section 4.1.2.5 Compliance

**REVISE:** Add a site compliance section for properties that comply but did not go through a site plan approval process.

(a) **Duties and Responsible Parties.**

- (1) It shall be incumbent upon the Building Official to make all inspections and certifications necessary to ensure that a structure is built in accordance with the approved Site Plan as recorded.
- (2) In the event that the Building Official finds that a condition or modification of the approved Site Plan or a provision of this LDC has not been met, he/she shall issue a stop work order.

- a. It shall be incumbent upon the contractor or developer to correct those items that are in violation of the Site Plan or LDC regulation before construction may resume.
  - b. In the event that the structure has been completed, a Certificate of Occupancy may not be issued by the Building Official until the conditions of the Site Plan or provisions of this LDC, as applicable, have been substantially fulfilled.
  - c. All action required in order to bring a structure into substantial compliance with the approved Site Plan shall be at the builder's or contractor's expense.
- (3) Following issuance of the Certificate of Occupancy, it shall be the continuing duty of the owner and occupant of the site or their successors in interest to maintain compliance with the approved Site Plan and amendments thereto. Failure to maintain compliance shall constitute a violation of this Land Development Code and expiration of Certificate of Occupancy.

(4) Any site that is not subject to an approved site plan or is governed by a pre-existing site plan that does not conform to the current standards of this Chapter must maintain compliance with the standards within this Chapter to the extent that the site currently complies with those standards.

**AMEND:** Section 4.2.1.1      Applicability, Review & Approval

**REVISE:** Clarify that a parking lot permit triggers compliance with relevant site plan standards, such as screening and lighting, and not just parking standards.

**(c) Parking Lot Permit.**

- (1) When Required: A parking lot permit shall be required for the addition of 5,000 square feet or more of parking lot area, or the addition of 20 spaces or more, when a site plan would not otherwise be required.
- (2) Site Exhibit: Compliance with the requirements of this ~~division Article~~ shall be shown as part of a Site Exhibit, which shall be reviewed and approved by the Planning Director, or designee. Compliance shall only be required for the new parking area. Existing parking areas may remain in their existing design. {Added by the P&Z Commission}

**AMEND:** Section 4.2.4      Screening, Buffering & Fencing

**REVISE:** Clarify fencing regulations for residential & non-residential fencing, correcting a discrepancy regarding distance from the street to any proposed gates; eliminate the requirements for industrial properties to provide screening & buffering when adjacent to GC & HC property; and add a provision for low screening where a parking lot is adjacent to or across the street from a residential property.

**Section 4.2.4.1      Fences, Walls and Hedges**

- (a) **Opaque Fences, Walls and Hedges in Residential Zoning Districts.** Opaque fences, walls and hedges are permitted in the required front yard of any lot in all ~~RS and the Medium Density (MD)~~ residential zoning districts, except MF zoning, only if the height of such fence, wall or hedge does not exceed the height represented by a line connecting a height of seven feet (7') at the building line with a height of two and one-half feet (2 ½') at the front property line. No such fence, wall or hedge may exceed two and one-half feet along the front property line.

- (b) **Non-Opaque Fences, Walls and Hedges in Residential Zoning Districts.** Non-opaque fences in all residential zoning districts, except MF zoning, should shall not exceed a line connecting a height not to exceed seven feet (7') at the building line with a height of four feet (4') at a setback of seven feet (7') from the front property line. The four-foot (4'), non-opaque fence may extend to the front property line. Non-opaque shall be defined as a chain-link fence or other fence in which vertical or horizontal members are a minimum of four inches apart.
- (c) **Fences, Walls and Hedges in Rear, Interior and Exterior Yards in Residential Zoning Districts.** Fences, walls and hedges are permitted in all residential zoning districts, except MF zoning, in rear yards, interior yards, and exterior yards, and shall not exceed seven feet (7') in height between the property line and the building setback line. Reverse (or double) frontage lots and lots having a street on more than two (2) sides shall meet the same requirements on each yard adjoining a street as those lots facing said street. This shall not apply to lots backing up to an arterial street or freeway.
- ~~(d) **Location.** All fences, walls or hedges shall be located at least ten feet (10') from the curb or edge of pavement, whichever is closer, of all streets.~~
- (ed) **Fences, Walls and Hedges in Multi-Family & Non-Residential Zoning Districts.** Fences, walls and hedges in non-residential zoning and MF zoning districts must be located on private property and a minimum of ten feet (10') from any curb or edge of pavement where no curb exists. The shall have a maximum height permitted for such fences isof ten feet (10').
- ~~(de) **Location.** All fences, walls or hedges must be located on private property and shall be located at least ten feet (10') from the curb or edge of pavement, whichever is closer, of all streets.~~
- (f) **Gates for Vehicular Access.** Gates for vehicular access adjacent to a street, not including alleys, must be set back from the curb or edge of pavement by a minimum of 20 feet distance as specified in the Driveways and Access Management Division in Chapter 3.
- (g) **Fencing Materials Prohibited.** Razor wire, barbed wire, and similar fencing materials are:
- (1) Prohibited within residential zoning, except for agricultural or related uses.
  - (2) Prohibited within non-residential zoning within the front yard setback and in side or rear setbacks where adjacent to residential zoning, except for agricultural related uses or in Heavy Commercial or industrial zoning districts.
- (h) **Additional Regulations.**
- (1) Where a fence is adjacent to or visible from the public right-of-way, except an alley, the "finished" side of the fence should face the right-of-way.
  - (2) Where screening walls or fences exist or are required, openings to ensure adequate pedestrian connectivity shall be provided where appropriate.
  - (3) Fences, walls, and hedges must be maintained in a safe and attractive manner.
  - (4) New or replacement fences must be constructed of standard fencing materials and may not be constructed of scrap metal, plywood, or other non-standard fencing materials.
  - (5) Existing nonconforming fences, walls, and hedges may continue in good condition.

#### **Section 4.2.4.2 Land Use Buffers**

- (a) Buffer yards consisting of a minimum width landscaping area, landscape plantings, and/or walls or fencing are required between land uses of different intensities for the purpose of mitigating negative impacts such as noise, trash, light, and visual appearance.

- (1) Type A Buffer is required between Residential Multi-family (MD and MF), Office (NO and O), College-University (CU), Medical Use (MU), or Neighborhood Retail (NR) districts and any lower intensity residential district, ~~which A Type A Buffer~~ shall consist of a 5 foot wide buffer yard plus at least 15 points based on the points listed in (3) below.
- (2) Type B Buffer is required between Heavy Commercial (HC), General Commercial (GC), or General Retail (GR) districts and a residential district or between any Industrial district and any other non-industrial district ~~other than Heavy Commercial (HC) and General Commercial (GC), which A Type B Buffer~~ shall consist of a 5 foot wide buffer yard plus at least 25 points based on the points listed in (3) below.
- (3) Points.
  - a. Opaque masonry wall with 6 foot minimum height = 15 points
  - b. Opaque fence with 6 foot minimum height = 5 points
  - c. An existing, continuous fence or wall on the adjacent property = ½ the points of a fence or wall on the subject property.
  - d. Each additional 5 feet of buffer yard = 5 points (maximum of 15 points)
  - e. One tree with a mature height of at least 20 feet and height of at least 8 feet at time of planting per 25 lineal feet of buffer yard = 10 points
  - f. Three smaller trees per 25 lineal feet of buffer yard = 10 points
- (b) Buffer yards are required between adjacent uses as indicated. For purposes of this section adjacent includes properties separated by an alley, but does not include properties separated by a street.
- ~~(c) Parking lots, driving lanes, loading areas, or other similar areas of vehicular access shall be screened from residentially zoned property, whether adjacent or across a street, by a continuous hedge, fence, wall, berm, or combination of these, with a minimum height of 36 inches.~~
- (d) Open space in buffer yards shall be planted in grass or other vegetative ground cover, except for authorized driveways across the buffer yard or approved pedestrian facilities.
- (e) Alternative buffering may be allowed through the site plan review process as long as the buffering and aesthetic intent of these requirements are met.

-END-