

**City Council
Agenda Memo**



**City Council
Meeting Date: 5/14/2015**

TO: David A. Vela, Interim City Manager
**FROM: Jon James, AICP
Director of Planning and Development Services**
SUBJECT: Final reading and public hearing of an ordinance amending the Land Development Code regarding detention requirements related to pre-existing impervious cover.

GENERAL INFORMATION

At a recent Planning & Zoning Commission meeting, a discussion item was held to discuss detention requirements related to pre-existing impervious cover. Specifically the discussion centered on a site that had been developed at one time in the past and has since been demolished and whether credit would be given for existing impervious cover when determining if detention on the site is required.

Historically, properties that had once been developed but improvements were removed were given credit for those past improvements and a drainage plan would not be needed. Recently it was discovered that the Land Development Code (LDC) may not be explicitly clear in this regard and has caused a delay in at least one development project.

The LDC does have a definition for 'natural' which allows for the staff to give credit for man-made improvements that were in existence on April 30, 1983. The proposed amendments clarify this exception in 2 locations and are described with the following:

Section 3.2.11.1 Purpose, Definitions, and Methods

The LDC includes a list of methods for reducing flood losses. The first is to 'limit runoff from development to a level not to exceed that runoff that would exist under natural, undeveloped conditions unless provided for in a regional detention facility.' The amendment would add a reference to the definition for 'natural' as described above.

Section 3.2.11.4 Drainage Plans

This section specifically determines when drainage plans are required. One criterion is for development which creates less than twenty thousand (20,000) total square feet of impervious surface on the site will not be required to submit a formal Drainage Plan. The amendment clarifies that the calculation is determined as new impervious surface from its natural state and includes the reference to the definition for 'natural' as described above.

STAFF RECOMMENDATION

Staff recommends approval of the proposed amendments to Sections 3.2.11.1(c)(1) and 3.2.11.4(c)(2) of the LDC.

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

May 1, 2015

Item No. 7.8

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 23rd day of April 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 20th day of March, 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 14th day of May, 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 14th day of May, A.D. 2015.

ATTEST:

CITY SECRETARY

MAYOR

APPROVED:

CITY ATTORNEY

EXHIBIT "A"

AMEND: Section 3.2.11.1 Purpose, Definitions, and Methods

REVISE: Revise Methods for Reducing Flood Losses to define what a 'natural' state is.

- (c) **Methods for Reducing Flood Losses.** In order to accomplish its purpose, this Division 11 uses the following methods:
- (1) Limit runoff from development to a level not to exceed that runoff that would exist under natural, undeveloped conditions unless provided for in a regional detention facility. The 'natural' state shall be as defined in (b) Definitions above.
 - (2) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flood, or cause increases in flood heights or velocities.
 - (3) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.
 - (4) Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters.
 - (5) Control filling, grading, dredging and other development which may increase flood damage.
 - (6) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

AMEND: Section 3.2.11.4 Drainage Plans

REVISE: Add a reference to define what a 'natural' state is.

- (c) **Determination of Requirement in Relation to a Floodway Development Permit.** Prior to the Floodplain Administrator's approval of any Floodway Development Permit, and prior to the issuance of a building permit or a Site Development Permit for the construction of a parking lot, when a Drainage Plan has not been previously required under the terms of this Section, the Floodplain Administrator shall determine whether a Drainage Plan should be required and may require such plan in such instances where the same is necessary to meet the purposes of this Section.
- (1) In general, development on a tract of less than one-half (1/2) acre that has less than forty-five percent (45%) impervious surface will not be required to submit a formal Drainage Plan.
 - (2) Development which creates less than twenty thousand (20,000) total square feet of impervious surface on the site will not be required to submit a formal Drainage Plan. This calculation is determined as new impervious surface from its natural state as defined in 3.2.11.1 (b) Definitions for 'Natural'.
 - (3) Development located within the following designated infill areas will not be required to submit a formal Drainage Plan:
 - a. The Central Business District, as defined in the City's adopted Comprehensive Plan.
 - b. Infill development corridors, as defined in the City's Infill Development Strategy, excluding East Highway 80.
 - (4) When a Drainage Plan is required prior to issuance of a Building Permit, the structure for which the Building Permit has been obtained shall not be used or occupied until the facilities as shown

on the approved Drainage Plan have been completed by the permit applicant and accepted by the Floodplain Administrator.

- (5) An updated Drainage Plan is required when associated with a revised site plan where drainage plans have been previously approved.

-END-