

**CITY COUNCIL MEETING
April 23 2009, 8:30 a.m.**

**CITY COUNCIL OF THE CITY OF ABILENE, TEXAS
COUNCIL CHAMBERS, CITY HALL**

The City Council of the City of Abilene, Texas, met in Regular Session on April 23, at 8:30 a.m. in the Council Chambers at 555 Walnut Street. Mayor Archibald was present and presiding with Councilmen Sam Chase, Stormy Higgins, Joe Spano, Anthony Williams, Robert O Briley and Councilwoman Laura Moore. Also present were City Manager Larry Gilley, City Attorney Dan Santee, City Secretary Danette Dunlap, and various members of the City staff.

Mayor Archibald gave the invocation.

Mayor Archibald introduced Zackery Hambrick; Zackery is a 5th grader at Lee Elementary. Zackery led the Pledge of Allegiance to the Flags of the United States of America and the State of Texas.

PROCLAMATIONS

Mayor Archibald presented the following proclamations:

May 1, 2009

Silver Star Banner Day

In Support of Silver Star Families of America

Forty-six States, Virgin Islands, District of Columbia and over 200 cities have issued proclamations declaring May 1st as Silver Star Day.

May 3-9, 2009

National Music Week in Abilene

Sue Siltman, Harmony Club of Abilene received the Proclamation

May 15-23, 2009

National Police Week

Chaplin Donna Clayman accompanied by fellow officers received the Proclamation

RECOGNITIONS

AEP presented Mayor and Council with a check in the amount of \$19,253.00 for the city's participation in the CitySmart program for energy efficiency upgrades. The upgrades can save the city approximately \$3 million through the next couple of years.

DISPOSITION OF MINUTES

5.0 Mayor Archibald stated Council has been given the minutes from the Special Called Meeting April 2, 2009 and the Regular Meeting April 9, 2009. There being no deletions, no addition, and no corrections Councilman Higgins made a motion to approve the minutes as presented. Councilman Spano seconded the motion and the motion carried.

AYES: Councilman Chase, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald
NAYS: None

CONSENT AGENDA

Councilman Williams made the motion to approve consent items 6.1 through 6.9 as presented. Councilwoman Moore seconded the motion, the motion carried.

AYES: Councilman Chase, Spano, Higgins, Williams, Briley, Councilwoman Moore and Mayor Archibald
NAYS: None

Ordinances:

- 6.1** *First Reading Z-2009-05* a request from Glen Weatherbee, Agent: Tal Fillingim to rezone property from PDD-104 to AO zoning, located at the northwest corner of Oldham Lane and Loop 322; and setting a public hearing for May 14, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.2** *First Reading Z-2009-06*, a request from Steve Stovall, Agent: Enprotec/Hibbs & Todd Inc., to rezone property from RS-6 (Single Family Residential) to RS-6/PH (Single Family Residential/Patio Home Overlay) zoning, located at 3501 Chimney Rock Rd.; and setting a public hearing for May 14, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.3** Appealed Item: *First Reading Z-2009-07*, a request from Steve Stovall, Agent: Enprotec/Hibbs & Todd Inc. to rezone property from RS-6 (Single Family Residential) to O (Office) zoning, located at 3501 Chimney Rock Rd.; and setting a public hearing for May 14, 2009.

- Charles Jordan came forward – Mr. Jordan opposes the zone change.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.4** *First Reading Z-2009-08*, a request from Sojourner Drilling Corporation, Agent: Mary Ann Fergus, to rezone property from RS-6 (Single Family Residential) to AO (Agricultural Open Space) zoning, located at 3865 Old Anson Rd.; and setting a public hearing for May 14, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.5** *First Reading* **SNC-2009-01** a request from Nick Coates to change the name of Nichol Drive to John C. Stevens Street; and setting a public hearing on May 14, 2009.

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 23, SUBPART E, "ZONING," OF THE ABILENE MUNICIPAL CODE, BY CHANGING THE ZONING DISTRICT BOUNDARIES AFFECTING CERTAIN PROPERTIES; CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

- 6.6** *First Reading* on an Ordinance to amend **Section 23-313** of the City of Abilene Zoning Ordinance regarding building lines; and setting a public hearing for May 14, 2009.

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT" SUBPART E, "ZONING," 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.

Bid Awards:

- 6.7** Emergency repair of International Brush Truck 4 – City Council approved the repair bid of \$66,998.61 as submitted by Roberts Truck Center.
- 6.8** Bid #**CB-9028** – Sayles Blvd Rehabilitation Phase IV – South 7th Street to South 1st Street. City Council awarded the bid in the amount of \$596,300.83 to Contract Paving, Tye, Texas.

Oral Resolution:

- 6.9** Street Use License request from the Center for Contemporary Arts. City Council authorized the Mayor to execute the Street Use License agreement with the Center for Contemporary Arts.

REGULAR AGENDA

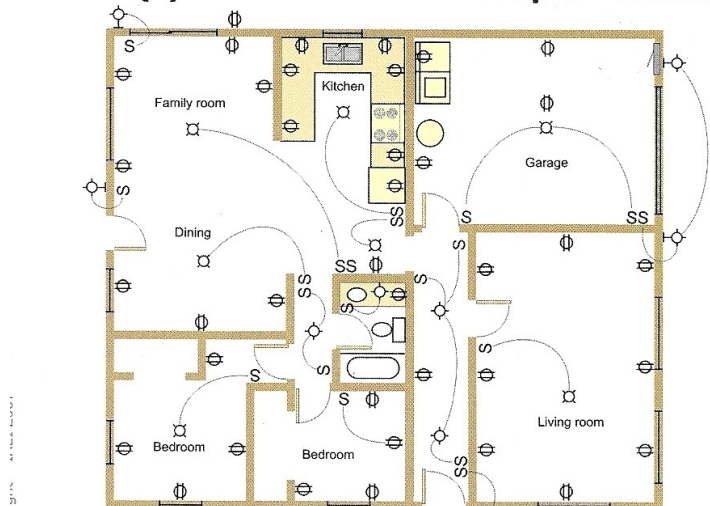
- 7.1** David Sartor, Building Official briefed the council on the adopting of the 2008 National Electrical Code with Local Amendments. The National Electrical Code is utilized throughout the United States. The City of Abilene is currently utilizing the 2005 National Electrical Code, with amendments. It is recommended that the 2008 National Electrical Code, with local amendments, be adopted in order that the City's construction regulations are kept up to date. Local amendments pertain to licensing and administrative procedures with very limited modifications made to the technical provisions of the National Electrical Code. It is important that Abilene maintains compatible construction regulations with other cities, in order to reduce variation to typical standards, and eliminate uncertainty to the design professions and the electrical contractors.

**City of Abilene Electrical Code
2008 National Electrical Code and Local Amendments**

- Local amendments to the 2008 NEC are unchanged from the 2005 NEC with the following exceptions:
- The amendment to Article 210.63, requiring the installation of a 125 volt receptacle when replacing existing rooftop mounted heating and cooling equipment, is recommended to be deleted.
- Article 220.14 amended to allow up to a maximum of fourteen (14) outlets when on a 20 amp breaker. 2005 amendment allows only ten (10) outlets.
- Several editorial changes to reflect article number changes and correlation with no change to the requirements or intent.

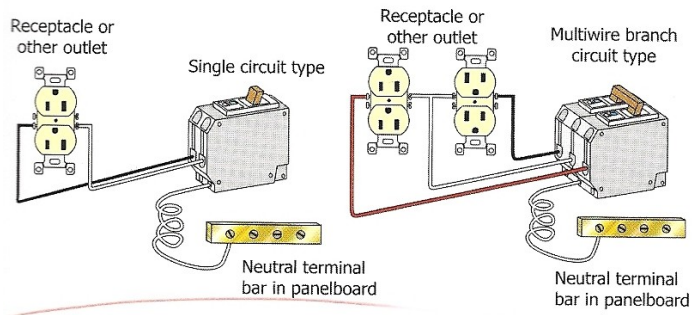
210.12(B) Arc-Fault Circuit-Interrupter Protection

- Combination-type AFCI protective devices are now required in all dwelling unit rooms except for kitchens, bathrooms, garages, basements, and rooms not specified in this section.
- 2005 NEC required AFCI in dwelling unit bedrooms only.
- AFCI devices protect the entire branch circuit, not just at the device.



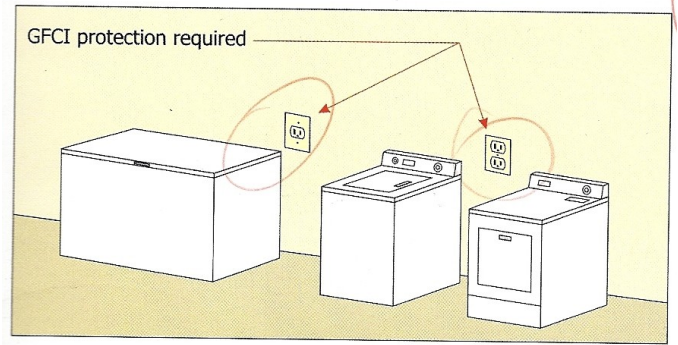
210.12(B) Dwelling Units

- AFCI protective devices must be provided for all 120-volt 15 and 20 amp branch circuits installed in dwelling unit family rooms, dining rooms, living rooms, parlors, libraries, dens, bedrooms, sunrooms, recreation rooms. Closets, hallways, or similar rooms or areas.



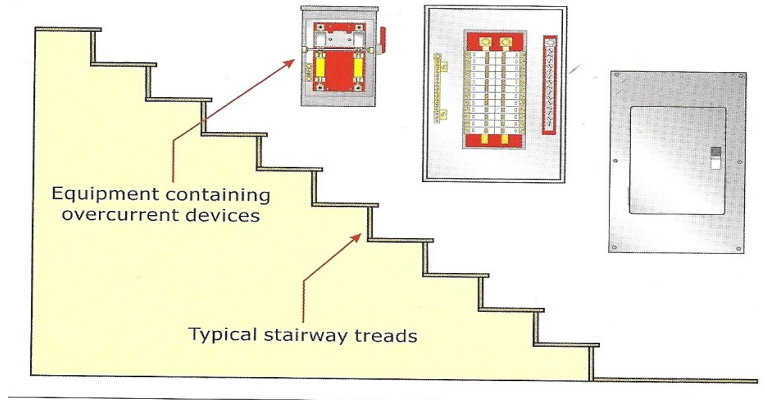
- The intent is to decrease the electrical fire hazard by protecting dwelling unit wiring from the damaging effects of arcing.

- All 125-volt, 15 and 20 amp receptacles in dwelling unit garages, accessory buildings, and basements are now required to have ground-fault circuit-interrupter (GFCI) protection.
- Exceptions for receptacles which were inaccessible, or supplying appliances which were not easily moved, have been deleted.

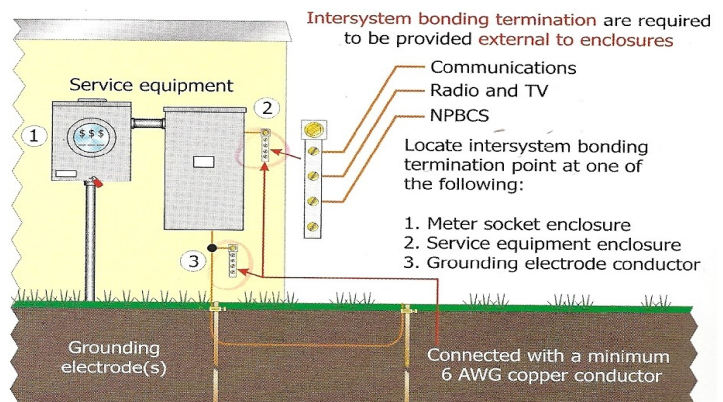


- Receptacles in locations identified in the 2005 NEC as inaccessible, such as for garage doors and central vacuum systems, will be required to be GFCI protected under the 2008 NEC.
- There is no longer an exception from GFCI protection for receptacles serving freezers, washing machines and like appliances in garages and accessory structures.

- 2008 NEC now specifically prohibits locating overcurrent devices over the steps of stairs.
- This is a clarification of the codes intent to prohibit such installations.
- Overcurrent devices can be located at stair landings where the required minimum level working access area is provided.

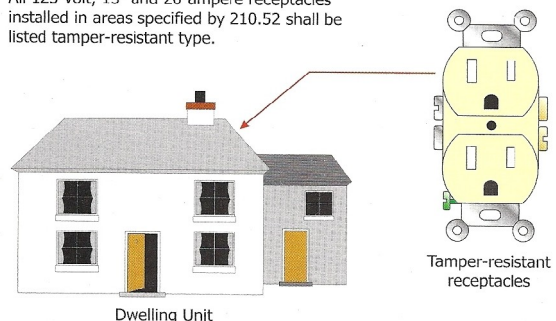


- A bonding terminal providing a minimum of three bonding terminals must be provided at one of three locations and must be installed outside of the electrical enclosures. This allows bonding of TV, telephone and other communication systems without requiring the service personnel to make connections inside energized electrical enclosures.

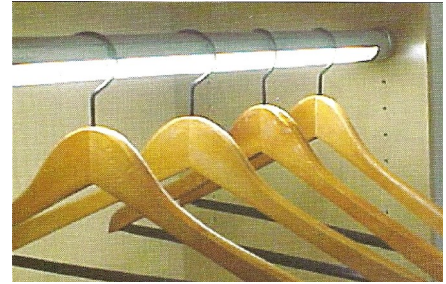


- All 125 volt receptacles installed in dwelling units now required to be tamper-resistant with no exceptions.

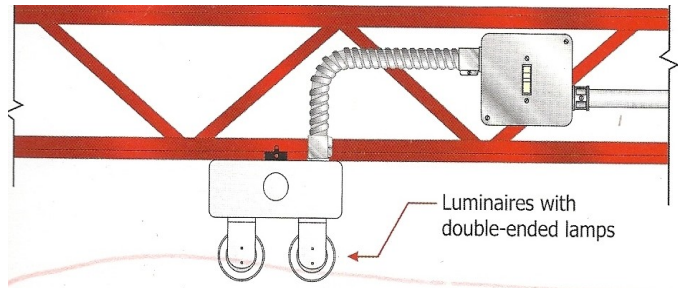
All 125-volt, 15- and 20-ampere receptacles installed in areas specified by 210.52 shall be listed tamper-resistant type.



- Tamper-resistant receptacles prevent insertion of foreign objects into electrical outlets.
- Listed and labeled surface-mounted or clothes-rod type fluorescent luminaries, or LED luminaries are now permitted to be installed within clothes closets, including storage spaces.



- The required disconnecting means for fluorescent luminaires with double ended lamps must open all conductors of the branch when connected to a multiwire branch circuit.



- When installed external to the fixture, the required disconnecting means must be within line of sight of the fixture.
- Receptacle for electric drinking fountains must be GFCI protected.

Council and Staff discussion included: 1) Code changes take effect for new construction and also for new alterations; 2) a report of the discussion during the Committee review and Board review surrounded the required disconnect for fluorescent luminaries with double ended lamps; and 3) how much added cost will the changes in the code effect builders? Estimate of around \$400 to \$500 of additional cost.



Mayor Archibald opened the public hearing and there being no one present and desiring to be heard the public hearing was closed.

Councilman Williams made the motion to approve the Ordinance adopting the 2008 National Electrical Code with Local Amendments. Councilman Spano seconded the motion, motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald.

NAYS: None

The Ordinance is numbered **#10-2009** and captioned as follows:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 8, ARTICLE VI, DIVISION 3, SECTION 8-496 "ELECTRICAL CODE", IN ITS ENTIRETY AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

7.2 Jon James Director of Planning and Development Services briefed the council on the ordinance that temporarily extends the suspension of enforcement of certain provisions of the Airport Zoning Ordinance of the City of Abilene.

Subsequent to the adoption of the Airport Zoning Ordinance, questions and concerns have been raised by residents of the View-Caps area regarding the implementation of the regulations around Dyess Air Force Base related to compatible land uses and noise zones. A group of these residents had requested that the City suspend the enforcement of the rules for a 120 day period so that a committee of area residents, along with representatives of the City staff, Dyess, and Taylor County, can meet to discuss these concerns and pursue appropriate changes to the ordinance.

A temporary suspension was approved on December 18, 2008 for 120 days. During this suspension, city staff met with the resident group to discuss appropriate changes to the ordinance. With the temporary suspension nearing its termination, the resident group has asked to extend the suspension in order to finalize the proposed changes to the ordinance.

This temporary suspension does not apply to the regulations in the ordinance related to height restrictions or other hazards to air navigation, but is limited to compatible land uses and noise zones.

Council and Staff discussion included: 1) About 90% complete in the review, one section left for review; 2) how much longer? One more meeting should do it. The item will then go to Planning & Zoning before coming back to Council; 3) much simplified stand alone version; and 4) Council members can meet with the committee before it is finished.

Mayor Archibald opened the public hearing and the city council heard from:

- Dennis Reiling – Resident of View Caps. Mr. Reiling stated that tremendous progress has taken place on the review of the ordinance. He stated that there had been a couple of ruff spots, but they are about ready to resolve this issue.

There being no one else present and desiring to be heard the public hearing was closed.

Councilwoman Moore made the motion to approve the Ordinance temporarily extending the suspension of enforcement of certain provisions of the Airport Zoning Ordinance. Councilman Chase seconded the motion, motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald.

NAYS: None

The Ordinance is numbered **#11-2009** and captioned as follows:

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS EXTENDING THE TEMPORARY SUSPENSION OF ENFORCEMENT OF CERTAIN PROVISIONS OF THE AIRPORT ZONING ORDINANCE OF THE CITY OF ABILENE, TEXAS.

7.3 Paul Knippel, Director of Public Works briefed the council on the application/permit to drill and/or operate an Oil and/or Gas well by Sojourner Drilling Corporation Permit #678609. They have submitted an application to drill the Hutchinson #1 well on property owned by Garry and Connie Hutchinson. This application has been reviewed and approved by City Staff.

Mayor Archibald opened the public hearing and the city council heard from the following:

- Mary Ann Fergus, Attorney for Sojourner Drilling Corporation. Ms. Fergus reviewed the well site. The proposed site is 262 feet to the street. Noise would be minimal for this location and size of drilling rig. They are proposing to drill the well in the span of 7 days. The proposed depth is 2000 feet. They will be using a small rig that has a low noise level; this rig has been used in the past without any complaints.
- Joe Humphrey with Abilene Independent School District explained that the schools concern is the noise. AISD will be conducting TAKS testing next week. This test is very important to the school children. The last day of school is June 3rd drilling could be done after that date. The School District is in favor of the drilling.

There being no one else present and desiring to be heard the public hearing was closed.

Council and Staff discussion included: 1) sound barrier possibilities; 2) timing possibilities; 3) Have Mr. Sojourner work with the AISD on the timing of the drilling; 4) TAKS testing for the school district; and 5) rig that will be used is very quite.

Councilman Spano made the motion to approve the application/permit to drill and/or operate an oil and/or gas well for Sojourner Drilling Corporation Permit #678609. Councilman Williams seconded the motion, motion carried.

AYES: Councilmen Chase, Spano, Williams, Higgins, Briley, Councilwoman Moore and Mayor Archibald.

NAYS: None

EXECUTIVE SESSION

Mayor Archibald recessed the Council into Executive Session at 9:47 a.m. pursuant to Sections 551.071, 551.074, 551.072 and 551.087 of the Open Meetings Act, to seek the advice of the City Attorney with respect to pending and contemplated litigation, to consider the appointment and evaluation of public officers, to consider the purchase, exchange, lease or value of real property, and to discuss contemplated business prospects and or economic development matters.

The Council reconvened from Executive Session at 11:20 a.m. and reported no votes or action was taken in Executive Session in regards to Section 551.072 Real Property and Section 551.074 Personnel/Boards.

There being no further business the meeting was adjourned at 11:20 a.m.

Danette Dunlap, TRMC
City Secretary

Norm Archibald
Mayor