

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.

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

PART 1: That Chapter 23, Subpart E, "Zoning," 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 Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 11 day of February A.D. 1993.

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 day of January, 1993, 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 9:00 a.m., on the 25 day of February, 1993, 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 25 day of February, A.D. 1993.

ATTEST:

  
CITY SECRETARY

  
MAYOR

APPROVED:

  
CITY ATTORNEY 00019

ORDINANCE NO. 10-1993

Exhibit "A"

February 1993

THE FOLLOWING INCLUDES VARIOUS  
EXCERPTS FROM THE ZONING ORDINANCE  
PERTAINING TO THE HISTORIC OVERLAY  
ZONE, ETC.

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Section

23-303.2.

D. Historic (H) Overlay Zone

Purpose. The City of Abilene, Texas, recognizes the importance of historically, architecturally, and culturally significant sites and structures to the community. Regulations of the Historic overlay zone are intended for the enhancement, perpetuation and use of districts, areas, sites, structures, buildings, and objects which typify the community's past through recognizable characteristics. The City of Abilene further declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the City of Abilene represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. It is further recognized that the unapproved demolition of historic resources could constitute a public nuisance. Regulations applicable to the Historic overlay zone are designed to:

- (1) Safeguard the city's heritage as reflected in such districts, areas, sites, structures, buildings, and objects.
- (2) Encourage neighborhood conservation.
- (3) Foster civic pride in the beauty and accomplishments of the past.
- (4) Promote the use of individual landmarks and districts for the education, enjoyment, and welfare of residents of the region.
- (5) Prevent the deterioration of districts, areas, sites, structures, buildings, and objects found to be

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of historical, architectural, or cultural value and, where appropriate, encourage the reuse of such structures and buildings.

- (6) Protect and enhance Abilene's attractiveness to visitors and the support and stimulus to the economy thereby provided.
- (7) Ensure the harmonious, orderly, and efficient growth and development of the City.
- (8) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City.
- (9) Encourage stabilization, restoration, and improvements of such properties and their values.

Section

23-344

HISTORIC OVERLAY ZONE

Historic overlay zones may be established to preserve and encompass districts, areas, sites, structures, buildings, or objects of historical, architectural or cultural significance. Historic overlay zones shall be applicable in all zoning districts, or portions thereof. Provisions of the overlay zone apply specifically to exterior alterations, demolition, constructions, moving in or removal of buildings, structures or objects within the boundaries of said overlay zone. Such activity proposed to be undertaken within a Historic overlay zone shall be subject to approval of a Certificate of Appropriateness and all conditions set forth therein, except as otherwise specified in Section 23-356.5 (H) of this ordinance. Procedures for review and approval of Certificates of Appropriateness, in addition to procedures for establishment of Historic overlay zones, shall be as set forth within Section 23-356.5 concerning the Landmarks Commission. Boundaries of the overlay zone for individual sites shall be aligned with recorded property lines, where feasible. Boundaries for districts shall be aligned with right-of-way lines, property lines, or other identifiable natural or man-made divisions. Permitted use of all property included in the Historic overlay zone or districts shall continue to be governed by the base zoning district and all regulations pertaining thereto, except as otherwise noted in this section, 23-344, and 23-356.

23-344

1. CRITERIA FOR DESIGNATION

Historic overlay zones shall be established only if principal districts, areas, sites, structures, buildings, or objects within the boundaries of a proposed zone exhibit any one or more of the following characteristics:

- A. Significance or value to the development, heritage, or cultural characteristics of the city, state, or country. This significance can be in history, archeology, or culture.

- B. Association with events or persons that have made a significant contribution to our past.
- C. Embodiment of characteristics distinctive of a type, period, or method of construction or architecture, or representing a significant and distinguishable entity whose components may lack individual distinction.
- D. Yielding, or may be likely to yield, historical information.
- E. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood or the community.
- F. Represents the works of a master designer, architect, builder, or craftsman.

A district shall constitute a distinct section of the City, united historically or aesthetically by plan or physical development whose properties and environmental setting meet one or more of the above criteria.

**2. APPOINTMENT OF HISTORIC PRESERVATION OFFICER**

The Planning Director or a qualified designee shall serve as historic preservation officer. This officer shall administer this ordinance and advise the Commission on matters submitted to it.

In addition to serving as representative of the Commission, the officer is responsible for coordinating the City's preservation activities with those of state and federal agencies and with local, state, and national non-profit preservation organizations.

Section

23-356.

5. LANDMARKS COMMISSION

A Landmarks Commission shall be established to administer the provisions of this ordinance appropriate for the protection and preservation of structures and lands deemed by the community to be of unique historical, architectural, and cultural value. The Landmarks Commission shall have all the powers and duties specifically provided for herein.

23-356.5.

A. Organization and Membership

The thirteen (13) voting members of the Landmarks Commission shall be appointed by the Mayor with the approval of City Council for a term of three (3) years, except for the eleven (11) members first appointed, three (3) shall be appointed for a term of one (1) year, four (4) for a term of two (2) years and four (4) for a term of three (3) years. Said term shall be deemed extended until a successor is appointed to serve on the Landmarks Commission. Appointees shall serve without compensation. The Landmarks Commission shall elect a chairman and a vice chairman from among its official members, who shall consist of the following:

- (1) The Chairman of the Planning and Zoning Commission or his duly authorized representative
- (2) A member of the Abilene Preservation League
- (3) A member of the Taylor County Historical Commission
- (4) One licensed attorney
- (5) One licensed architect
- (6) A representative of the Abilene Board of Realtors
- (7) A representative of the construction industry

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12-1-88

- (8) Six (6) residents and property owners of Abilene with interest, background, or expertise in the area of preservation of significant structures or lands.

The Mayor, with the approval of City Council, shall also have the power to appoint three (3) alternate members at large to the Landmarks Commission who shall serve in the absence of one or more regular members when requested to do so by the Planning Director. The composition of this alternate membership shall be similar to the composition of the regular Commission membership. These alternate members shall serve for the same period as the regular members except for the first appointments, one (1) of which alternate shall serve for one (1) year, one shall serve for two (2) years and one shall serve for a term of three (3) years. Any vacancies shall be filled in the same manner and shall be subject to removal as the regular members. The purpose of alternates is to ensure a quorum of Landmarks Commission membership at official meetings.

In addition to the members appointed above, the following persons or their designates shall sit on the Landmarks Commission as ex officio members:

- (1) The City Manager
- (2) The City Attorney
- (3) Planning Director
- (4) The Building Official
- (5) Director of Economic Development

None of the ex officio members shall have voting power, but shall assist the Landmarks Commission in its various functions.

23-356.5.

B. Powers and Duties

- (1) The Landmarks Commission shall review all completed applications for designation of a



Historic overlay zone and Planned Development Historic District and forward its recommendations to the Planning and Zoning Commission concerning all applications for designation of a Historic overlay zone.

- (2) The Landmarks Commission shall review and approve or disapprove all completed applications for Certificates of Appropriateness and district design guideline reports, as provided for in this subsection and Section 23-344 concerning the Historic overlay zone and Section 23-332 Planned Development District.
- (3) It shall further be the responsibility of the Commission to:
  - (a) At least every three (3) years, review and periodically update the comprehensive survey of structures and lands felt by the community to be of historical, cultural, or architectural significance.
  - (b) Maintain current and accurate records of all Historic overlay zone designations and other landmark properties.
  - (c) Provide information to owners of landmark properties.
  - (d) Actively pursue and formulate a program for private and public action to promote and encourage the preservation of historic landmarks.
  - (e) Appoint a Design Review Committee for each historic overlay district of planned development historic district.

23-356.5. C. Removal from Office and Vacancies

Members of the Landmarks Commission serve at the pleasure of City Council. The term of each member and alternate member shall be deemed extended until a successor is appointed to the Landmarks Commission.

23-356.5. D. Rules of Procedure and Quorum

The Landmarks Commission shall adopt its own rules of order and procedure to regulate

meetings and activities directly related thereto. The rules shall deal only with procedural matters and shall be available to the public and kept on file with the Planning Director. A quorum shall consist of no less than seven (7) members. Affirmative vote of six (6) members shall be necessary for approval of motions before the Commission, except as specifically set forth within Section 23-356.5(G)(5) concerning designation of a Historic overlay zone. Members must be present to vote at the meeting.

23-356.5. E. Public Meeting

All meetings of the Landmarks Commission shall be open to the public. Regular meetings shall be scheduled at least once a month, and the Planning Director shall call together the Landmarks Commission to consider official business. Additional meetings may be held upon the call of the chairman or the vice-chairman, in the absence of the chairman, or upon petition of a simple majority of Landmarks Commission members.

23-356.5. F. Records

The Landmarks Commission shall keep minutes of its proceedings, showing the vote upon each question. Such minutes shall be a public record, filed with the Planning Director.

23-356.5. G. Procedure for Designation of Historic Overlay Zone

(1) Application: An application for Historic overlay designation or district zoning shall be initiated by the owner(s) of the subject property or properties, his or her agent, or a Landmarks Commission member. In a district, any one owner may initiate the application. Landmarks Commission member(s) shall not initiate application for historic overlay zoning or district zoning on a property, unless there is pending an application for a building or sign permit, including permits for building demolition or removal, potentially

resulting in irreparable damage, alteration or imminent demolition of the property in question. Application shall be made on forms provided by the Planning Director or his representative. All information prescribed by the form shall be furnished and the form delivered to the Planning Director or his representative. Said application shall be received by the Planning Director or his representative at least twenty (20) days prior to a public hearing by the Landmarks Commission.

An applicant for district zoning must attach a map and designate whether the application is for historic district overlay zoning or planned development historic district (PDH). Contributing and noncontributing properties, as defined in Section 23-363, and district boundaries must be shown on the map.

23-356.5(G)

(2) **Fees:** Upon filing of an application for Historic overlay zone designation by the owner(s) of the land, the applicant shall pay the same filing fee required for a routine zone change, as prescribed by Section 23-356.1(H) (1) of this Ordinance and the City Council Schedule of Fees. No additional fees shall be required upon recommendation of approval or disapproval by the Landmarks Commission. Application fees shall only be returned if the applicant withdraws the request before public notice has been made.

23-356.5(G)

(3) **Report:** The Planning Director or his representatives shall prepare a report for the Landmarks Commission members delineating the contents of the application and other materials deemed useful by the Commission in performing its duties.

23-356.5(G)

(4) **Notice and Hearing:** The Landmarks Commission shall hold a public hearing on all proposed Historic overlay or district designations. Notice of said hearing to consider this additional zoning classification shall be in conformance with Section 23-356.1(H)(1) (2). Said hearing shall not be scheduled until the completed application form is submitted and all fees have been paid.

The Planning Director of the City shall be responsible for seeing that the notice requirements are fully complied with. When the Planning Director has provided such notice as required on a proposed Historic overlay zone change, the interest of the public will be deemed to have been attached to the proposal and the proponent may not then withdraw the proposal prior to the hearing. Prior to public notice being given, the applicant may withdraw.

After hearing the proposal that has been advertised, the Landmarks Commission may allow the withdrawal of the proposal upon the affirmative vote of six (6) of its members or alternates.

23-356.5(G)

- (5) Action by the Landmarks Commission: At the public hearing, the Commission shall make findings and conclusions regarding the designation of the Historic overlay zone. Such findings, conclusions, and dedications shall be based on the criteria for designation contained in Section 23-344. If a property owner(s) objects to his property being included within a Historic overlay zone or district, the affirmative vote of eight (8) members of the Landmarks Commission shall be required in order for the property to be included in that zone. If the property owner agrees to have his property included within the zone or district, the affirmative vote of only six (6) members shall be required to include the property within the zone. ~~Members must be present to vote at the meeting.~~

Upon recommendation for approval or disapproval, said recommendation shall be forwarded by the Planning Director to the Planning and Zoning Commission for consideration at its next regularly scheduled meeting or a special meeting called for such purpose. Where application for Historic overlay designation is made by the Landmarks Commission, the chairman of such Commission shall appoint a member thereof to, or shall himself, present that body's findings and recommendations to the Planning and Zoning Commission.

23-356.5(G)

- (6) Action by the Planning and Zoning Commission: An application for a Historic

overlay zone designation is a zone change request. Therefore, complete provisions of Section 23-356.1(H) and (J) regarding public hearing, notice, consideration of requests, decisions, and appeals to the Planning and Zoning Commission apply to a proposed Historic overlay zone or district designation.

(7) Action by the Design Review Committee (Section 23-356.5, 3, e.):

Design Review Committee (Districts Only)

(a) The purpose of this subcommittee of the Landmarks Commission is to review all district design guideline reports and to preview all Certificates of Appropriateness in a historic district before they are reviewed and voted upon by the Landmarks Commission.

(b) The Landmarks Commission chairperson shall appoint a member of the Landmarks Commission to serve as chairperson of the Design Review Committee. Committee membership shall be as follows:

(1) one architect or design-related professional (may be the chairperson assigned by the Landmarks Commission chairperson)

(2) one (1) member of the Abilene Preservation League

(3) the Historic Preservation Officer for the City of Abilene or a staff person assigned that duty

(4) one (1) member of the Tax Increment Financing District (TIF) Board, if the historic district is in the (TIF) reinvestment zone

(5) at least three (3), if there are three (3) property owners, but not more than five (5), property owners who own property within the district.

(c) Each Design Review Committee shall adopt its own rules of order and procedure to regulate meetings and activities directly related to their business. The rules shall deal only with procedural matters and shall be available to the public and kept on file with the Planning Director.

(d) A quorum shall consist of five (5) voting members. Members must be present to vote.

(e) The district design guideline report is to be considered and approved (simple majority) by the Design Review Committee and forwarded on to the Landmarks Commission for their approval after overlay zoning or planned development zoning has been approved by the Landmarks Commission, the Planning and Zoning Commission, and the City Council. A design guidelines report for historic districts shall include, but not be limited to, the following:

(1) a history of the district and, if possible, copies of historical photographs;

(2) a map of the district showing boundaries and all existing land uses along with contributing and noncontributing properties;

(3) an inventory, including recent photographs, of all buildings and their architectural style, descriptions of vacant lots or open space; and,

(4) a conceptual master plan commenting on:

- o street traffic
- o pedestrian and street paving (if applicable)
- o street graphics, including signage
- o parking
- o lighting
- o sidewalks
- o parks or open space (if applicable)
- o conceptual or suggested uses for vacant buildings and land
- o (optional) sketches of what restored buildings might look like

(f) Any action taken by this subcommittee shall be reviewed and approved by the Landmarks Commission at a public hearing. All decisions are subject to the same regulations as pertain to any Certificate of Appropriateness - Section 23-356.5 (H).

23-356.5.

H. Procedure for Certificate of Appropriateness

No person or entity shall construct, reconstruct, alter, change, restore, remove, or demolish any exterior architectural feature of a site, structure, building, or object included within a Historic overlay zone unless an application for Certificate of Appropriateness is approved in accordance with requirements included herein this subsection. Furthermore, a Certificate of Appropriateness shall not be issued until a decision regarding an application is final as stated in Section 23-356.1(J).

23-356.5(H)

- (1) Certificate Required: A Certificate of Appropriateness shall be required, prior to any of the following actions being undertaken:
- (a) Issuance of a building permit for enlargement or moving in of any building within a Historic overlay zone or district.
  - (b) Issuance of a building permit for demolition or moving out of any building within a Historic overlay zone or district.
  - (c) Issuance of a building permit for exterior alteration or repair of any building within a Historic overlay zone or district.
  - (d) Issuance of a permit for installation of a sign in accordance with Subpart C (Signs and Billboards) of Chapter 23, within a Historic overlay zone or district.
  - (e) Issuance of a building permit for any new construction in a historic district.
  - (f) Miscellaneous exterior alteration and changes to buildings within a Historic overlay zone or district not requiring a permit from the Building Official and including, but not limited to the following:

- o Change of exterior color by painting or other similar finish work.
- o Installation of siding.
- o Window treatment, including but not limited to window replacements and awnings supported by an exterior wall.
- o Installation of permanent business or identification signs.
- o Change in any exterior light fixtures, signs, sidewalks, fences, parkways, steps, paving, or other exterior elements visible from a public right-of-way which affects the appearance and cohesiveness of the property.

(g) For historic districts only, in addition to meeting the above requirements under paragraph (f), no person or entity shall carry out any construction, new construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district without first having the approval of the Design Review Committee as referenced in Section 23-356.5, paragraph B 3(e). After approval (simple majority) of the Design Review Committee, the application shall be forwarded to the Landmarks Commission.

(h) In an emergency situation the Planning Director or Historic Preservation Officer may determine the appropriateness of roofing materials for a building using the same criteria the Landmarks Commission uses in Section 23-356.5, H, for a Certificate of Appropriateness.

23-356.5(H)

(2) Certificate Not Required: The Certificate of Appropriateness is not required in the following instances:

- (a) Ordinary repair or maintenance of a building, structure, or site within a Historic overlay zone where no building permit is required under the City of Abilene Building Code; In-kind replacement or repair is included in this definition of ordinary maintenance, or,
- (b) Does not involve work described in Section 23-356.5(H) (1) (f) above.



23-356.5(H)

(3) Application: The owner(s) of the structure and/or Application site for which a Certificate of Appropriateness is requested, or his agent, shall complete the certificate application form provided by the Planning Director or his representative. The applicant shall submit this form and twelve (12) copies of all plans, elevations, specifications, and documents pertinent to changes proposed to the structure(s) or site(s) or districts within a Historic overlay zone. Historical photographs or copies are requested if available. If the proposal includes signs or lettering, a scale drawing is required showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property. Any other information which the Commission or the Planning Director may deem necessary in order to visualize the proposed work should also be submitted upon request. Said forms and pertinent attachments shall be submitted to the Planning Director or his designee no less than twenty (20) calendar days prior to public hearing by the Landmarks Commission. The Planning Director or his representative shall determine when an application and all pertinent forms having been properly completed, at which time the Planning Director or his representative shall forward all completed forms and attachments to the Landmarks Commission. Accompanying plans and drawings shall be clearly defined, dimensioned, and drawn to scale.

23-356.5(H)

(4) Public Hearing: The Landmarks Commission shall hold a public hearing on all pending applications for a Certificate of Appropriateness. The Landmarks Commission may postpone or table the public hearing on an application, if the Commission finds that additional information relative to the pending application is necessary for its review, until such information is provided. The Planning Director shall be responsible for seeing that the notice requirements are fully complied with. When the Planning Director has provided such notice as required for a proposed Historic overlay zone or district, the interest of the

public will be deemed to have been attached to the proposal, and the proponent may not then withdraw the proposal prior to the hearing.

After hearing the proposal that was advertised, the Landmarks Commission may allow the withdrawal of the proposal upon the affirmative vote of six (6) of its members or alternates.

23-356.5(H)

(5) Failure of the Landmarks Commission to Take Any Action on a Completed Certificate of Appropriateness: If no action is taken by the Landmarks Commission within sixty (60) days of a public hearing at which a complete application is considered, a Certificate of Appropriateness shall be deemed issued by the Landmarks Commission, and the Planning Director shall so notify the applicant in writing.

23-356.5(H)

(6) Action by the Landmarks Commission on a Certificate of Appropriateness: The Landmarks Commission shall determine, from the data submitted and other pertinent information made available at the public hearing, the appropriateness of all undertakings for which a Certificate of Appropriateness is required. The Landmarks Commission shall have the power to approve or disapprove an application for Certificate of Appropriateness, or to approve a request with such conditions as the Landmarks Commission deems necessary to carry out the purposes of the Historic Overlay zone or district. Such conditions attached to an approval may include, yet are not limited to, the following:

- o Repair or replacement, in the course of proposed work, of deteriorated material with new material that duplicates the original as closely as possible.
- o Replacement of missing architectural features such as cornices, brackets, railings, and shutters.
- o Retention of the original or early color or texture of surface.
- o Preservation of the essential building form and integrity as alterations or new additions are made.
- o Placement of television antennae and mechanical equipment, such as air

conditioners, in an inconspicuous location.

- o Correction of legal description.
- o Compliance with established building code and zoning ordinance regulations, including application form and content.

In considering an application for a Certificate of Appropriateness, the Landmarks Commission shall be guided by any adopted design guidelines, and where applicable, the following from The Secretary of the Interior's "Standards for the Rehabilitation of Historic Buildings." Any adopted design guidelines and Secretary of the Interior's Standards shall be made available to the property owner(s) of historic landmarks or within historic districts upon request.

- o Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.
- o The distinguishing original qualities or character of a building, structure, object, or site and its environment, shall not be destroyed where possible. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- o All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged, and all buildings, structures, objects and sites must go through the design review process of the district or site before any alteration is made to the building, structure, object, or site.
- o Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- o Distinctive stylistic features or examples of skilled craftsmanship which

characterize building, structure, object, or site shall be kept where possible.

- o Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
  - o The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
  - o Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
  - o Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, color, material, and character or the property, neighborhood, or environment.
  - o Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.
  - o New construction permitted in a historic district shall be compatible with the size, color, material, and character of the existing historic buildings in the district.
- (a) Sign Installation; Building Construction, Alteration, Repair, etc.

Approval of applications regarding sign installation, as well as for any building construction, moving in, enlargement, or alteration shall be based on the finding that the proposed work will not adversely affect any significant architectural or historical feature of the landmark and is consistent with the spirit and intent of the Historic overlay zoneing or district zoning. The Landmarks Commission shall have the power to approve applications with such conditions deemed necessary to carry out the purposes of the Historic overlay zone.

If the Landmarks Commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated landmark or is inconsistent with the purposes of the Historic overlay zone or district, it shall direct the Planning Director to notify the applicant in writing within thirty (30) days of public hearing that the application has been disapproved.

(b) Building Demolition or Removal

In reviewing an application regarding building demolition or removal, the Landmarks Commission shall consider the state of repair of the building, the cost of restoration or repair, the existing or potential usefulness, the purpose behind preserving the landmark, the character of the neighborhood, and all other factors it finds appropriate. If the Landmarks Commission determines that the interest of preserving historical, architectural or cultural values will not be adversely affected by demolition or removal, it shall approve the Certificate of Appropriateness.

If the Landmarks Commission determines that the interest of preserving historical, architectural or cultural values will be adversely affected by such demolition or removal, it shall disapprove the Certificate of

Appropriateness. During the twelve (12) months after the date the Landmarks Commission disapproves an application for a Certificate of Appropriateness, reasonable alternatives to demolition or removal may be sought by all concerned.

If those twelve (12) months have expired and no reasonable alternatives to demolition or removal exist, then the building may be demolished or removed within a second twelve (12) month period without a Certificate of Appropriateness. At the end of the second twelve (12) month period, if the building has not been demolished or removed, then a Certificate of Appropriateness shall again be required for demolition or removal of a structure within a Historic overlay zone.

23-356.5(H)

- (7) Issuance of Certificate of Appropriateness:  
The Planning Director shall issue a Certificate of Appropriateness upon approval of the Landmarks Commission. The Landmarks Commission shall return the application and all pertinent documents, together with a written list of conditions for approval, to the Planning Director. The applicant shall record with the Planning Director one (1) copy of all required documents with all conditions and modifications shown thereon. Before the certificate is issued, the Planning Director shall review these documents to ensure compliance with all conditions and modifications approved by the Landmarks Commission. One (1) copy of the application and all accompanying documents shall then be dated and approved for recording by both the Planning Director and the Building Official.

23-356.5.

I. No Building or Sign Permit Shall Be Issued Pending Consideration of Historic Overlay Zone or District Designation

- (1) No sign or building permit, including permits for demolition or removal, shall be issued where:

- (a) An area, district, site, structure, building, or object has been placed on an agenda of the Landmarks Commission, Planning and Zoning Commission, or City Council to consider whether same should be included within a Historic overlay zone or district, or
- (b) An area, district, site, structure, building, or object is listed in an official survey of historical sites, as indicated by a resolution of the City Council, until a final decision regarding inclusion within a Historic overlay zone has been made as provided in Section 23-356.5(K). Initiation of the procedure for designation of a Historic overlay zone or district, as provided in Section 23-356.5(H), shall be made by the Landmarks Commission when application is made for a building or sign permit, including permits for demolition or removal, for any area, district, site, structure, building, or object listed within said official survey of historical sites. Continued inclusion of the area, district, site, structure, building, or object within the official survey of historical sites, following the final decision concerning inclusion within a Historic overlay zone or district, shall not prohibit issuance of a sign or building permit.

- (2) It shall be the duty of the Planning Director to furnish the Building Official with a copy of each meeting agenda, as well as a copy of the official survey of historic areas, districts, sites, structures, buildings and other objects and amendments thereto, as promptly after preparation thereof as possible.

23-356.5.

J. Compliance

It shall be incumbent upon the Planning Director, Building Official and/or their respective representatives to make all

inspections and certifications necessary to ensure that all construction, additions, exterior alterations, and changes to a designated area, district, site, structure, building, or object are made in accordance with the Certificate of Appropriateness as approved by the Landmarks Commission. Construction, additions, exterior alterations, and changes completed in a manner not authorized by an approved Certificate of Appropriateness shall be considered a public nuisance and a violation of this ordinance and be subject to penalties specified in Section 23-362, Penalties and Violations.

23-356.5.

K. Appeals: Final Decision

Appeals from any decision of the Landmarks Commission on an application for Certificate of Appropriateness shall be made to the Board of Adjustment upon a written request for a public hearing before said Board. Such request shall be filed with the Planning Director or his duly authorized representative within fifteen (15) days of the decision of said Commission from which appeal is taken. The fee for such a request will be waived. Appeals shall be heard and decided by the Board of Adjustment in accordance with its powers of administrative review, following procedures set forth within Section 23-356.2(I). If such an appeal is not filed within fifteen (15) days, the denial by the Landmarks Commission shall be final.

All applications for Historic overlay or PDH designation shall automatically be forwarded to the Planning and Zoning Commission in accordance with Section 23-356.1. If the Planning and Zoning Commission approves the designation, the application shall automatically be forwarded to the City Council. If the Planning and Zoning Commission denies the designation, the application may be appealed to the City Council in accordance with Section 23-356.1(J).



L. Reapplication by Proponent

When an application for Certificate of Appropriateness has been denied by the Landmarks Commission and such denial has become final, a similar application shall not be considered by the Landmarks Commission for a period of twelve (12) months from the date of decision by the Landmarks Commission denying said application. The decision as to similarity of applications shall be made by the Landmarks Commission at the time of the proposed public hearing for consideration of said application.

SECTION

February 1993

23-332 PLANNED DEVELOPMENT DISTRICT (PDD)

23-332. 1. PURPOSE

The Planned Development District (PDD) is designed to promote, through unified planning and development, more efficient land use, more sensitive treatment of natural features, harmonious integration of diverse activities, creative urban design, and the protection of the existing historic environment.

23-332. 2. GENERAL REQUIREMENTS

Development of Planned Development Districts shall be in accordance with the following general requirements. Some exceptions to the following requirements may be necessary in order to implement possible details of a Planned Development Historic District (PDH). These exceptions shall be reviewed as a part of the approval process as set out in Section 23-332.4.C. Conditions for Approval.

- A. Land shall be under unified control, planned and developed as a whole. Development of all land and structures shall occur in a single operation or definitely programmed series of operations.
- B. Principal and accessory structures and uses shall be substantially related to the character of the district.
- C. Development shall occur according to comprehensive and detailed plans which indicate such features as street and utility layout, lots or building sites, site design, floor plans, building elevations, and other improvements to the land.
- D. A program shall be devised for provision, operation, and maintenance of common areas and facilities that will not be financed at general public expense.
- E. Planned Development Districts shall be located in regard to public utility systems such that neither extension nor enlargement of such systems will be

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required in a manner which results in a higher net public cost or earlier incursion of public cost than would result from development permitted by more conventional zoning for the area.

- F. Planned Development Districts shall be located in relation to public facilities so as to have similar access as would development permitted under more conventional zoning. Furthermore, development shall occur such that access and net cost of public service provision is not greater than that which would be incurred for development permitted under more conventional zoning.
- G. Planned Development Districts shall be located in relation to arterial and collector streets so as to provide direct access without increasing traffic along minor streets in residential areas outside the district.

23-332. 3. USES PERMITTED

A Planned Development District may be approved to include any use or combination of uses generally permitted within PDD's as indicated by Section 23-306. Uses permitted within any specific PDD shall be enumerated in the Ordinance establishing the district.

23-332. 4. PROCEDURES AND REQUIREMENTS

A. Application Requirements

Any person, firm or corporation may file an application for a Planned Development District. Application for zone change to all types of PDD's, except PDR, shall be submitted to the Planning Director, or his designee, at least forty-five (45) days prior to public hearing by the Planning and Zoning Commission, as set forth in Section 23-356.1 concerning zoning amendment procedure. Application for zone change to PDR shall be submitted at least twenty (20) days prior to public hearing. Application for all types of PD districts, except PDR and PDH, shall contain each of the following eleven (11) items described by this subsection. Application for PDR districts shall

include only the following items number one (1), four (4), five (5), six (6) and nine (9). Application for Planned Development Historic District (PDH) districts shall include only the following items: numbers one (1), three (3), five (5), six (6), seven (7), and nine (9):

- (1) A legal description of the property under consideration, which also shows that such property includes the minimum acreage required for that type of PDD. There is no minimum acreage for a Planned Development Historic District (PDH).
- (2) A fully dimensioned map of the land including topographic information at a contour interval of two (2) feet.
- (3) Designation of areas proposed to be conveyed, dedicated, or reserved for parks, parkways, playgrounds, school sites, public buildings, and similar public and semi-public uses.
- (4) Indication of residential dwelling intensity.
- (5) A copy of all agreements, provisions or covenants which govern the use, maintenance, and continued protection of the PDD and any of its common areas.
- (6) A site plan, clearly drawn and dimensioned, showing the location and arrangement of the following features:
  - (a) Existing and proposed principal and accessory structures (except for single-family and duplex residences.) In a Planned Development Historic District (PDH) all buildings must be shown.
  - (b) Existing and proposed streets and alleys.
  - (c) Existing and proposed driveways, parking and maneuvering areas, and sidewalks.
  - (d) Lots proposed to be platted.

- (e) Landscaping, including screening walls and fences.
  - (f) Open areas.
  - (g) Existing and proposed drainage facilities.
  - (h) Existing and planned public utilities.
  - (i) Existing and proposed uses.
- (7) A vicinity map showing the location of the site in relation to the surrounding neighborhood.
- (8) Appropriately dimensioned and labeled preliminary architectural drawings, including general floor plans and building elevations. Lots intended for single-family or low-density multi-family uses are not subject to this requirement. Low-density multi-family uses are defined as those residential uses that would require RM-3 zoning with respect to density.
- (9) A statement listing and fully explaining the specific modifications of the provisions of this chapter which are desired, as well as the purposes for which the modifications are intended.
- (10) A tentative development schedule outlining a timetable for completion of the entire project.

23-332.4

B. Site Plan Required

A comprehensive site plan, as specified within this subsection, shall be required by City Council for development of a PDD. The site plan shall be approved and filed with the Zoning Administrator as part of the district ordinance prior to issuance of any building permit in the PDD. Such plan and ordinances shall set forth all development and protective requirements considered necessary, as determined by the Site Plan Review Committee. A district design guideline report shall be required of the Planned Development Historic District. The contents of the master plan and the design guidelines may vary from district to district, but must

be approved by the Landmarks Commission as outlined in Section 23-332.6 (I) PDH district and Section 23-356.5 (B).

23-332.4

C. Conditions for Approval

Each PDD shall constitute an amendment to the Zoning Ordinance. In approving the PDD, the Planning and Zoning Commission may recommend conditional approval, and the City Council may impose certain conditions relative to standards regulated by this chapter. Such conditions shall be complied with before a Certificate of Occupancy is issued for the use of any structure within the PDD. In approving the Planned Development Historic District (PDH), the Landmarks Commission shall first approve the request prior to submission to the Planning and Zoning Commission.

23-332.4

D. Public Facilities and Improvements

- (1) All facilities or improvements within public rights-of-way shall be provided in accordance with design standards set forth within City of Abilene Subdivision Regulations.
- (2) All facilities or improvements within private rights-of-way or easements must meet City material standards and construction specifications.
- (3) Rights-of-way or easements for private streets shall comply with classification standards as set forth within the City of Abilene Subdivision Regulations. Paving and curb and gutter shall be provided according to the standards as set forth within the Subdivision Regulations.

23-332.4

E. Identification and Recording

- (1) Each PDD shall be indicated on the Zoning Map. The boundaries of a PDD may be altered or adjusted only in

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accordance with the amendment provisions set forth herein.

- (2) The first PDD shall be shown on the Zoning Map as PDD-1. Each subsequent PDD shall be assigned the next numeral. The Planning Director shall maintain a register and file of all PDD's, including the site plan, a copy of the district ordinance, and all other pertinent information to the district.

23-332 5. FAILURE TO BEGIN DEVELOPMENT

At the time a PDD is created, the Planning and Zoning Commission shall establish a date by which development must begin. If development does not proceed within this time limit, the Commission shall examine the circumstances and recommend to City Council that:

- A. Time limits for all or part of the PDD be extended, indicating suggested length of extensions; or,
- B. All or part of the development be rezoned to its former status as appears appropriate under the circumstances; and,
- C. In the case of a Planned Development Historic District (PDH), this paragraph (5.) does not apply.

6. TYPES OF PLANNED DEVELOPMENT DISTRICTS

SECTIONS A THROUGH H INTENTIONALLY OMITTED AND WOULD NOT BE AFFECTED BY THESE REVISIONS

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I. PLANNED DEVELOPMENT HISTORIC DISTRICT (PDH)

(1) PURPOSE

The Planned Development Historic District is intended to provide a historic district where land usage, building height, area, placement, parking, landscaping, screening, building bulk, and any regulation can be flexible and/or controlled in the best interest of property owners and the historic (contributing) and non-historic (noncontributing) properties within the district.

(2) PLAN REVIEW

(a) The Landmarks Commission as established in Section 23-356 of the Zoning Ordinance shall administer the provisions of this ordinance appropriate for the protection and preservation of structures and lands deemed by the community to be of unique historical, architectural, and cultural value. The Landmarks Commission and the Design Review Committee for Historic Districts shall have all the powers and duties specifically provided for herein. All rules and regulations that apply to the existing Landmarks Commission shall apply when this Commission administers the provisions of the Planned Development Historic District.

(b) All other provisions as set forth in Sections 23-303.2, 23-344, 23-356, and 23-356.5, and Historic Zone Tax Reduction Chapter 30, Article IV, of the Abilene City Code shall apply to this Planned Development Historic District.



DEFINITIONS SECTION OF THE ZONING ORDINANCE

SECTION 23-363

Historic Overlay

This is overlay zoning that promotes historic preservation in business districts and neighborhoods. It can be for individual sites, buildings, structures, objects, and districts (Section 23-344). Property that has this zoning may be eligible for a City property tax reduction (Chapter 30, Article IV, Abilene City Code). Like in any overlay district, the base zoning remains the same.

Planned Development Historic District

This is a planned development zoning that is available for historic districts. It is only for historic districts and an applicant may choose between an overlay district (see definition of Historic Overlay) and a planned development district. An applicant would choose planned development historic district zoning when issues like land use, height of buildings, and other development questions are a problem for historic overlay district zoning. This zoning district contains the same benefits and regulations that Historic Overlay zoning does (Section 23-344, Chapter 30, Article IV, Abilene City Code).

Contributing Property

A contributing property is a historic property that is considered to be historically significant by local, State, or Federal governments that rank historic properties and generally follow the guidelines of the National Park Service,

Department of the Interior, for listing on the National Register of Historic Places. Also, if one or more of the criteria in Section 23-344, Paragraph 1, is exhibited, then, a property can be considered significant.

Noncontributing Property

A noncontributing property is a property that is considered not to be historically significant by local, State, or Federal governments that rank historic properties and generally follow the guidelines of the National Park Service, Department of the Interior, for listing on the National Register of Historic Places. A noncontributing property would not meet one or more to the criteria in Section 23-344, Paragraph 1, of this ordinance.