

ORDINANCE NO. 21-2020

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING CHAPTER 3, "SUBDIVISION REGULATIONS," ARTICLE 2, "SUBDIVISION STANDARDS," DIVISION 13, "SIDEWALKS," SECTION 3.2.13.6, "EXCEPTIONS, WAIVERS, AND DEFERRALS," OF THE LAND DEVELOPMENT CODE OF THE CITY OF ABILENE BY AMENDING THE SECTION AS SET BELOW; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SAVINGS CLAUSE; DECLARING A PENALTY; AND CALLING A PUBLIC HEARING.

WHEREAS, Chapter 3, Article 2, Division 13, Section 3.2.13.6 of the Abilene Land Development Code provides the process whereby a developer may seek approval of an exception, waiver or deferral of construction of a sidewalk; and

WHEREAS, it is the desire to add another layer of the appeal process by including the City Manager as part of that process, prior to any appeal going to the City Council.

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

- Section 1.** That Chapter 3, Article 2, Division 13, Section 3.2.13.6, "Exceptions, Waivers, and Deferrals" of the Land Development Code, City of Abilene, Texas is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes..
- Section 2.** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgement shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance..
- Section 3.** That any person, firm, or corporation violating the provisions of this Ordinance shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be fined in accordance with Chapter 1 (Section 1-9) of this Code..
- Section 4.** Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. 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 FIRST READING this 23rd day of April, 2020.

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 10th day of May, 2020, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 14th day of May, 2020, to permit the public to be

heard.

PASSED ON SECOND AND FINAL READING this 28th day of May, 2020.

ATTEST:

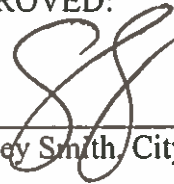


Shawna Atkinson, City Secretary



Anthony Williams, Mayor

APPROVED:



Stanley Smith, City Attorney



ORDINANCE NO. 21-2020

EXHIBIT "A"

AMEND: Section 3.2.13.6 concerning Exceptions, Waivers, and Deferrals

Section 3.2.13.6 Exceptions, Waivers, and Deferrals

- (a) A complete waiver of the requirement for sidewalks should be rare and allowed only where there are unusual factors. The waiver must be approved by both the Planning Director and the City Engineer to be granted and their decision shall be documented with supporting data that states the basis for the decision. Unusual factors include:
- (1) Projects where the cost of establishing sidewalks or walkways would be unreasonably disproportionate to the cost of the associated roadway construction or overall project costs (however a partial waiver may be granted in lieu of a full waiver to reduce the cost of required sidewalks such that the costs will not be unreasonably disproportionate),
 - (2) Areas with severe topography or other natural constraints that will constrain proper implementation of this plan,
 - (3) Situations inherently adverse to pedestrian activity, such as harmful noise, dust creation, and high volume truck traffic, in certain areas, such as agricultural, heavy commercial, and industrial developments, or
 - (4) Situations where an applicant can show other factors or circumstances amounting to reasonably justifiable good cause to support such waiver.
- (b) Deviations from these requirements and the City's Sidewalk Design Standards may be allowed when necessary due to the physical circumstance of the street or when necessary to accomplish adopted development goals of the City or in situations where an applicant can show other factors or circumstances amounting to reasonably justifiable good cause to support such a deviation.
- (1) The specific nature and justification for any deviation must be documented and authorized in writing by both the Planning Director and the City Engineer.
 - (2) Deviations should be minimal and consist primarily of changes to required width of clear path or alignment within the right-of-way.
 - (3) Deviations shall not allow a minimum clear path width of less than 3 feet.
- (c) Sidewalk construction may be deferred through a Sidewalk Deferral Agreement, when approved by the Planning Director and City Engineer. Deferrals should be granted only in situations where an applicant can show factors or circumstances amounting to reasonably justifiable good cause to support such deferral.
- (d) The applicant must submit sufficient documentation supporting the request for a waiver, deviation, or deferral and the determination shall be based on the information provided.
- (e) A denial of a request for a waiver, deviation, or deferral of these requirements may be appealed to the City Manager.
- (1) A written appeal must be filed with the City Manager within 10 days of the denial.
 - (2) The appeal must provide justification for the requested waiver, deviations, or deferral based on the criteria described in (a), (b), and (c) above.
 - (3) The City Manager must make findings based on these criteria in order to approve a waiver, deviation or deferral. If substantial new information, not provided as part of the original request, is provided by the applicant within 14 days of the written appeal, the item shall be referred back to the Planning Director and City Engineer for reconsideration prior to a decision by the City Manager.
 - (4) In the event the City Manager denies the written appeal, the applicant may submit a written appeal within 10 days of the denial to the City Secretary for consideration by the City Council. The City Council must make findings based on these criteria in order to approve a waiver, deviation, or deferral.
- (f) Sidewalks shall not be required when specifically exempted in a neighborhood plan, corridor plan, or other small area plan adopted by the City Council.