

ORDINANCE NO. 28-2024

AN ORDINANCE OF THE CITY OF ABILENE, TEXAS, AMENDING THE, "LAND DEVELOPMENT CODE" OF THE ABILENE CITY CODE, CHAPTER 3, SUBDIVISION REGULATIONS, ARTICLE 1, SUBDIVISION PROCEDURES, DIVISION 4, FINAL PLAT, SECTIONS 3.1.4.2 AND 3.1.4.3, CALLING A PUBLIC HEARING; PROVIDING A PENALTY AND AN EFFECTIVE DATE.

WHEREAS, Section 212.0065 of the Local Government Code allows the governing body of a municipality to delegate one or more officers or employees to approve, approve with conditions, or disapprove a plat; and,

WHEREAS, it is in the best interest of the citizens of the City of Abilene to streamline the subdivision development process to the extent allowed by state law.

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

PART 1: That Chapter 3, Subdivision Regulations, Article I, Subdivision Procedures, Division 4, Final Plat, Sections 3.1.4.2 and 3.2.4.3 of the City of Abilene Land Development Code is hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.

PART 2: 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 the 23rd day of May, 2024.

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 9th day of June, 2024, the same being more than twenty four (24) hours prior to a public hearing held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m. on the 13th day of June, 2024, 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 FINAL READING THIS 13th day of June, 2024.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

Exhibit A

Section 3.1.4.2 - Application and Procedures

(a) *Responsible Official.* The Planning Director shall be the responsible official for a Final Plat, and the Development Review Committee shall be the initial reviewing body for a Final Plat.

(b) *Pre-Application Conference.* Refer to Section 1.2.1.5 of Chapter 1.

(c) *Prior Approved Preliminary Plat.* The Final Plat and all accompanying data shall conform to the approved Preliminary Plat as approved by the Planning and Zoning Commission, incorporating all modifications and conditions imposed or required by the Planning Director.

(d) *Consent of Lienholders.* The applicant shall furnish with the application to the City a current title commitment issued by a title insurance company authorized to do business in Texas, or a title opinion letter from an attorney licensed to practice in Texas, identifying all persons having an interest in the property subject to the plat, including lienholders. The Final Plat shall be signed (on the face of the plat in plain view) by each lienholder, effectively denoting that they are consenting to the platting of the property and to the dedications and covenants that may be contained in the plat. Such lienholder consent shall be subject to review and approval by the City Attorney.

(e) *Application Contents.* All applications shall be submitted on a form supplied by the Planning Department with the required information as stated on the application form.

(f) *Placement on the Agenda.* If the Planning Director determines that the application should be acted upon by the Planning and Zoning Commission, the Planning Director shall place it on the agenda of the next meeting of the Planning and Zoning Commission. If the Director does not place the application on the agenda, then the Director shall approve, conditionally approve or deny the plat, within the time prescribed by law.

(g) *Development Review Committee (DRC).*

(1) The DRC shall, at each meeting, review each Final Plat application. The Committee shall recommend either:

a. Approval of the Final Plat;

b. Denial of the Final Plat; or

c. Approval of the Final Plat subject to corrections or alterations required prior to consideration by the Planning Director or the Planning and Zoning Commission.

(2) In case of a recommendation of approval, the DRC must make only a finding that the Final Plat meets all standards set forth in this LDC, although the DRC may make such additional findings as it deems appropriate. In case of a recommendation for denial or approval with conditions, the DRC shall make specific findings of the reasons for denial or the imposition of conditions and shall cite the standards in this LDC which would be violated if the Final Plat were approved unconditionally.

(h) *Resubmittal Following DRC Review.*

(1) The applicant shall retain in his/her possession the original Final Plat that was submitted for review by the DRC.

(2) At least four (4) days prior to the meeting of the Planning and Zoning Commission during which the Final Plat is scheduled for review, or alternatively, one week after the Planning Director has communicated in writing that the plat will be approved or approved with conditions, the applicant shall provide to the Director of Planning a mylar of the Final Plat, with revisions made based on DRC comments and recommendations. The Planning Director shall then review the Final Plat for compliance with DRC recommendations.

(i) *DRC Review Timing.* In any case in which a Final Plat is submitted and is deemed complete, but is not reviewed by DRC because it must be approved, approved with conditions or denied in accordance with the State law mandated 30-day timeframe for action on plats, and no Waiver of Right for 30-Day Action is submitted by the applicant, the Final Plat shall be subject to denial by the Planning Director.

Section 3.1.4.3 - Decision

(a) *Review and Determination.* The Planning Director shall review all Final Plat applications, and findings of the DRC, regarding compliance with DRC recommendations, and any other information available. From all such information, the Planning Director shall determine whether the Final Plat as shown on the application meets the standards of this LDC. Alternatively, if the Planning Director places the application on the agenda of the Planning and Zoning Commission, the Commission shall review Final Plat applications.

(b) *Approval or Denial.* The Planning Director or the Planning and Zoning Commission shall decide whether to approve, approve with conditions, or deny the Final Plat application. The action shall be noted on two (2) copies of the Final Plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the applicant and one (1) copy shall be retained in the City's files. Upon approval of the Final Plat, the applicant shall submit Final Plat copies to the Planning Director so that required signatures can be obtained and recording completed. If any conditions are attached to the approval, both Final Plat copies shall be so corrected prior to signature by any City official. Official action of the Planning Director shall be in writing. If the decision is made by the Commission, the reasons for any action taken by the Commission, whether a Final Plat is approved, denied, or approved with conditions, shall be entered in the minutes of the Commission.

(c) *Appeal of Denial by Planning Director.* If the Planning Director denies a plat application, the applicant may appeal the decision to the City Manager. For purposes of this appeal only, the City Manager is delegated the ability to approve, approve with conditions, or deny a plat. The City Manager's decision shall follow the criteria of Section 3.1.4.4. If the City Manager denies the plat application, the applicant may appeal the decision to the Planning and Zoning Commission, and the plat application will be included on the agenda of the next scheduled

Planning and Zoning Commission meeting. The Commission shall approve, conditionally approve, or deny the plat within the time prescribed by law. Any appeal request by the applicant to the City Manager or to the Planning and Zoning Commission shall be made in writing and submitted to the Planning Director within 10 days of the denial by the Planning Director or the City Manager.