

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART D, "SUBDIVISIONS" AND 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 D "Subdivisions" and Subpart E, "Zoning," of the Abilene Municipal Code be amended as set out in Exhibit "A," and Exhibit "B," 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 the 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 Hundred Dollars (\$200.00). Each day such violation shall continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 24th day of March,
A.D. 19 83.

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 23rd day of March 19 83, 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 14th day of April, 19 83, 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
April, A.D. 83.

ATTEST:

Wally Board, Asst
CITY SECRETARY

Wally Board
MAYOR

APPROVED:

John T. Patterson
CITY ATTORNEY

EXHIBIT A

PART 1: That Chapter 23, Subpart D, Subdivision Regulations, of the Municipal Code of the City of Abilene, Texas, is hereby amended by repealing Ordinance Number 48-1979 as adopted on August 9, 1979, deleting the existing provisions for flood hazard reduction, drainage plan review, and required development permits and substituting Section 1 through 19, Attached as Exhibit B, as a new Section of Chapter 23, Subpart D, said new Section to be renumbered in accordance with established practices for codification of the Municipal Code; and

PART 2: That Chapter 23, Subpart E, Zoning Ordinance, of the Municipal Code of the City of Abilene, Texas, is hereby amended by repealing Ordinance Number 47-1979 as adopted on August 9, 1979, deleting the existing provisions for flood hazard reduction, drainage plan review, and required development permits and substituting a new Section 32-14 as set forth in Part 3; and

PART 3: That Section 32-14 of Chapter 23, Subpart E, Zoning Ordinance is amended to read: "The Stormwater Management Section of Chapter 23, Subpart D, Subdivision Regulations, is hereby incorporated into the Zoning Ordinance by reference and is declared to be a part thereof and shall have the same effect as if published herein."

EXHIBIT B

SECTION 1. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

APEAL. Means a request for a review of the Director of Public Works' interpretation of any provisions of this ordinance or a request for a variance.

AREA OF SHALLOW FLOODING. Means a designated AO, AH, or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FIRM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AL-99, VO, or VI-30.

BASE FLOOD. Means the flood having a one percent chance of being equalled or exceeded in any given year.

CITY. The City of Abilene and all lands located within the extraterritorial jurisdiction.

CITY DRAINAGE STANDARDS. The criteria, standards and specifications for storm drainage, streets, and earth change adopted by the City of Abilene.

DETENTION. The temporary storage and controlled release of storm water runoff.

DETENTION FACILITY. A facility that provides temporary storage of storm water runoff and controlled release of this runoff.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

DIRECTOR OF PUBLIC WORKS. The Director of Public Works for the City of Abilene or his authorized representative.

DRAINAGE FACILITIES. Includes all elements necessary to convey storm water runoff from its initial contact with earth to its disposition in an existing drainageway, and said drainageway facilities shall consist of both public and private storm sewers (closed conduits), improved channels constructed in conformity with adopted City Drainage Standards, unimproved drainageways left in their natural condition, areas covered by restricted drainageways, easements for the purpose of providing overland flow and all appurtenances to the foregoing, including inlets, manholes, junction boxes, headwalls, dissipators, culverts, etc.

EARTH CHANGE. Excavating, grading, regrading, landfilling, berming or filling of land.

EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. Means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of this ordinance.

EXPANSION TO AN EXISTING MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. Means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or the pouring of concrete pads or the construction of streets) after effective date of this ordinance.

FLOOD OR FLOODING. Means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters.
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD HAZARD BOUNDARY MAP (FHBM). Means an official map of a community, issued by the Federal Insurance Administration, where the areas within the boundaries of special flood hazards have been designated as Zone A.

FLOOD INSURANCE RATE MAP (FIRM). Means an official map of a community, on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. Is the official report provided by the Federal Insurance Administration. The report contains flood profiles, the water surface elevation of the base flood, as well as the Flood Hazard Boundary Map.

FLOODWAY. Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

HABITABLE FLOOR. Means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

HIGHEST ADJACENT GRADE. Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

MAJOR DRAINAGE SYSTEM. The 100-year frequency flood shall be contained within the right-of-way or dedicated easement of all major drainage systems. These facilities include floodways, improved channels, detention reservoirs, and overland swales. Major drainage systems that are an integral, usable part of a development may be retained at the owner's option.

MEAN SEA LEVEL. Means the average height of the sea for all stages of the tide.

MOBILE HOME. Means a structure, transportable in one or more sections, which is built on a permanent chassis designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

NATURAL. The cover and topography of land before many man-made changes, or in areas where there have already been man-made modifications, the state of the area and topography of land at the date of the adoption of this Chapter.

NEW MOBILE HOME PARK OR MOBILE HOME SUBDIVISION. Means a parcel (or contiguous parcels) of land divided into two or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after the effective date of this ordinance.

REGULATORY FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year based upon the existing conditions, adopted Flood-water Management Policies, and the Floodwater Management Plan where adopted.

SEDIMENTATION FACILITIES. Including but not limited to land terraces, hay bales, and vegetation ground covers used to reduce transport of suspended solids.

START OF CONSTRUCTION. Means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STRUCTURE. Means a walled and roofed building that is principally above ground, as well as a mobile home.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

VARIANCE. Is a grant of relief to a person from the requirements of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance.

SECTION 2. PURPOSE

It is the purpose of this ordinance to promote the public health, safety and welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- 2.1 To protect human life and health;
- 2.2 To minimize expenditure of public money for costly flood control projects;
- 2.3 To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 2.4 To minimize prolonged business interruptions;
- 2.5 To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in flood plains;
- 2.6 To help maintain a stable tax base by providing for the sound use and development of all areas in such a manner as to minimize future flood blight areas; and,
- 2.7 To insure the potential buyers are notified that property is in a flood area.
- 2.8 To secure review and approval of the method for handling and disposing of storm water runoff in the City of Abilene and its extra-territorial jurisdiction, and securing review, analysis, and approval by the appropriate authority of the design, construction, and maintenance of drainageway facilities in conformance with the Abilene Storm-water Management Plan and City Drainage Standards.
- 2.9 To impose standards and conditions upon the excavating, grading, re-grading, landfilling, berming, and diking of the land within the City of Abilene in conformance with the Abilene Stream Management Plan and City Drainage Standards.

SECTION 3. METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purpose, this ordinance uses the following methods:

- 3.1 Limiting runoff from development to a level not to exceed that runoff that would exist under natural, undeveloped conditions;
- 3.2 Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause increases in flood heights or velocities;
- 3.3 Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- 3.4 Control the alteration of natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- 3.5 Control filling, grading, dredging and other development which may increase flood damage;
- 3.6 Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands

SECTION 4. GENERAL PROVISIONS

- 4.1 LANDS TO WHICH THIS ORDINANCE APPLIES. This ordinance shall apply to all areas within the City of Abilene and its extraterritorial jurisdiction.
- 4.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard identified by the Federal Insurance Administration in a specific and engineering report entitled "The Flood Insurance Study for the City of Abilene," dated 8-23-79, with accompanying Flood Insurance Rate Maps and Flood Hazard Boundary-Floodway Maps and any revision thereto are hereby adopted by reference and declared to be a part of this ordinance.
- 4.3 ESTABLISHMENT OF DEVELOPMENT PERMIT. A Development Permit shall be required to ensure conformance with the provisions of this ordinance.
- 4.4 COMPLIANCE. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this ordinance and other applicable regulations.

The provisions of this Ordinance shall apply to and be binding upon every person, firm, or corporation who seeks to develop, redevelop, grade, regrade, excavate, landfill, berm, or dike land within the City of Abilene.

- 4.4.1 EXCEPTION. Any development in an approval process prior to adoption of this Ordinance shall be exempted from the provisions of this Ordinance, but, said development will be required to comply with the flood hazard requirements of the Zoning Ordinance and Subdivision Regulations in effect prior to adoption of this Ordinance. Developments will be considered in an approval process if building meets the start of construction criteria defined in Section 1, an application for final plat approval has been filed prior to adoption of this ordinance, an application for building permit has been made prior to adoption of this ordinance or any final plat approved within six (6) months for which a pre-plat was submitted prior to the effective date of this ordinance.

- 4.5 ABRIGATION AND GREATER RESTRICTIONS. This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- 4.6 INTERPRETATION. In the interpretation and application of this ordinance, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and (3) deemed neither to limit nor repeal any other powers granted under State statutes.
- 4.7 WARNING AND DISCLAIMER OF LIABILITY. The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Abilene or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION 5. DRAINAGE STANDARDS

The Abilene Director of Public Works shall apply standards, where applicable, for drainageway facilities and storm water detention facilities which shall become adopted "City Drainage Standards" after the same are approved by resolution of the Abilene City Council; said City Drainage Standards shall be followed by every person, firm, corporation in the construction, installation, and maintenance of drainageway facilities and storm water detention facilities. The City Drainage Standards as adopted may be amended by City Council resolution.

SECTION 6. DRAINAGE PLANS AND PERMITS REQUIRED

6.1 DRAINAGE PLANS. A drainage plan, as defined and regulated by the provisions of this ordinance and the Subdivision Ordinance, shall be submitted to and received by the Director of Public Works prior to approval of any plat of any subdivision of land. Prior to the Director of Public Works' approval of any development permit, and prior to the issuance of a building permit when a drainage plan has not been previously required under the terms of this ordinance, the Director of Public Works 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 ordinance. 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 approved by the Director of Public Works.

6.2 DEVELOPMENT PERMITS. Unless specifically exempted, a Development Permit, as defined and regulated by this ordinance within the City limits and the extraterritorial jurisdiction shall be obtained from the Director of Public Works prior to the commencement of any excavating, grading, regrading, landfilling, berming, or diking of any property within the City of Abilene; a separate permit shall be required for each separate, noncontiguous site or lot, and no permit shall be transferable without the prior written consent of the Director of Public Works.

SECTION 7. CONDITIONS FOR APPROVAL OF SUBDIVISION PLATS AND ISSUANCE OF DEVELOPMENT PERMITS.

7.1 SUBDIVISION PLATS. Prior to final approval of any subdivision plat, and subsequent to the acceptance of a drainage plan for the subdivision, the developer shall provide either:

7.1.1 Actual construction of all drainage and detention facilities required by the City of Abilene; or

7.1.2 Sufficient surety bond, cash, escrow, or letter of credit approved by the Director of Public Works and City Attorney guaranteeing the developer's pro-rata share of construction of all required drainage-way and detention facilities in accordance with an approved drainage plan and duly adopted City Drainage Standards; or,

7.1.3 An alternative form of assurance proposed by the developer to guarantee the developer's pro-rata share of construction of all required drainage-way and detention facilities in accordance with an approved drainage plan and the adopted City Drainage Standards, said alternative form of assurance having been accepted by the Abilene City Council.

7.2 DEVELOPMENT PERMITS. Prior to granting any development permit, the Director of Public Works shall attach such conditions thereto as he may deem reasonable and necessary to prevent hazard to public or private property resulting from the blockage, obstruction, alteration, or impairment of any storm sewer drain or surface watercourse and to prevent the work thereby authorized from being conducted in a manner hazardous to lives or property, or otherwise likely to create a public nuisance.

SECTION 8. DRAINAGE PLAN CONTENTS

8.1 GENERAL REQUIREMENTS. All drainage plans shall be formulated and implemented under the direct supervision of a registered professional engineer, licensed by the State of Texas; plans submitted for final approval shall bear the signature of the submitting engineer and the following certification:

"I hereby certify that I am familiar with the adopted ordinances and regulations of the City of Abilene governing detention and drainage facilities; that these plans have been prepared under my direct engineering supervision; and that the above and foregoing drainage plan complies with all governing ordinances and the adopted drainage standards of the City of Abilene pertaining to detention and drainage facilities to the best of my knowledge, information and belief."

Upon completion of the proposed improvements, a registered professional engineer shall provide the following certification:

"I hereby certify that the project was constructed and completed in accordance with the approved drainage plans."

8.2 PLAN ELEMENTS. A drainage plan shall consist of engineering drawings, contour maps, and all supporting engineering calculations, as applicable to the land area covered by the plan, which are required to demonstrate full compliance with the requirements of this Ordinance and Abilene's adopted Drainage Standards. A plan must include the Drainage Plan elements specified in the City Drainage Standards.

8.3 REQUIREMENTS IN AREAS OF SPECIAL FLOOD HAZARD. Drainage Plans for Developments in areas of special flood hazard shall also contain the following:

- a. Elevation in relation to mean sea level, of the lowest habitable floor (including basement) of all proposed structures;
- b. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
- c. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 11.
- d. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

SECTION 9. APPLICATION FOR DEVELOPMENT PERMIT

9.1 GENERAL REQUIREMENTS. Unless excepted by the provisions of Section 12 of this ordinance, any person, firm or corporation desiring to affect an earth change shall file a written application for a Development Permit with the Director of Public Works.

Applications shall be in such form and content as the Director of Public Works shall establish, and shall be accompanied by the payment of a permit fee, the amount of which shall be in accordance with the fee schedule as adopted by the City of Abilene. The site plan and design standards established by the applicant and approved by the Director of Public Works shall become conditions upon the issuance of the development permit; no changes in an approved plan or design standard shall be made without prior written approval of the Director of Public Works.

9.2 CONTENTS OF PERMIT APPLICATION. Each development permit application shall contain the following information:

9.2.1 The name and address of the legal owner of the property for which the permit is requested .

9.2.2 A vicinity sketch and boundary line survey of the site for which a permit is requested, including a legal description of such property.

9.2.3 Site drawings indicating each separate land area to be excavated, filled, graded, or leveled, the finished depth of each separate land cut or fill, the present and future (as completed) points of entry and discharge for surface water on the subject property and identification of all temporary or permanent structures or other devices to be erected or established for the purpose of controlling or regulating surface water and erosion on such property.

9.2.4 The applicant's plans for controlling erosion and sedimentation for the purpose of preventing the deposit of sediment from the lot or tract under application upon any other public or private property or watercourse during all phases of project construction.

9.2.5 The applicant's plans for receipt of surface water on his property and discharge of surface water from his property during periods of construction, and a statement specifying the anticipated time period for the completion of all drainage improvements.

9.2.6 For developments in areas of special flood hazard, the requirements of Section 8.3 must be provided with the development permit application.

Provided, however, that if the Director of Public Works is unable to determine from the application submitted that it meets the policies and standards governing the issuance of the requested permit, the Director of Public Works shall request the applicant in writing to furnish such additional information which may be essential to such determination.

9.3 DUPLICATION OF INFORMATION. The contents of this section governing the contents of permit applications shall not require the resubmission of any documents, drawings, or other information which was previously submitted by the applicant in conjunction with the processing of any drainage plan or floodplain development previously approved by the Director of Public Works.

SECTION 10. DEVELOPMENT PERMIT POLICIES AND STANDARDS

10.1 POLICIES ESTABLISHED. The issuance of Development Permits shall be governed by the following policies of the City of Abilene:

10.1.1 No earth change shall be permitted which creates a public hazard upon any property within the City of Abilene through the obstruction, impairment, sedimentation, blockage or alteration of any storm sewer drain or any existing surface watercourse.

10.1.2 No earth change shall be permitted which will channelize, obstruct, or impede any watercourse in a manner which is inconsistent with accepted engineering practices and/or the adopted Drainage Standards of the City of Abilene.

10.1.3 No earth change shall be permitted which will increase surface runoff to a level, amount or rate greater than that existing under natural conditions except the area bounded on the west by Hayter Road and I-20, on the south by the Railroad tracks and on the east by the water shed, and except when runoff from that development has been provided for through use of a regional detention facility.

10.1.4 All earth changes shall be designed, constructed and completed in a manner which minimizes the exposure of bare earth to precipitation.

10.1.5 Construction activity on residential tracts of four (4) or more acres or commercial and industrial tracts of two (2) or more acres shall be conducted only if appropriate sedimentation facilities are installed and maintained throughout the construction period in accordance with the adopted City Drainage Standards.

10.1.6 As may be applicable to any lot, parcel, or tract of land for which an approved drainage plan exists, the requirements and conditions of the drainage plan shall be incorporated as a condition upon the issuance of any development permit.

10.1.7 In the regulatory floodway, development permits may not be issued until the standards of this section have been satisfied and until evidence has been presented demonstrating that the proposed encroachment:

- i. Will not result in any increase in floodway levels within the community during the occurrence of the base flood discharge; and
- ii. Is consistent with the Abilene Stream Management Plan and Drainage Standards; and
- iii. Meets the standards of this Ordinance including, specifically Section 11, Special Provisions for Flood Hazard Reduction in Areas of Special Flood Hazard.

10.2 STANDARDS ESTABLISHED. The policies governing earth changes shall be implemented by the adopted City Drainage Standards which shall specifically regulate the following considerations:

10.2.1 The adopted City Drainage Standards shall regulate the design, installation and utilization of all detention and drainage facilities and structures.

10.2.2 The adopted City Drainage Standards shall regulate the design, installation and maintenance of sedimentation and erosion control procedures, facilities and structures and shall establish acceptable methods and practices for controlling soil sedimentation and erosion.

10.2.3 Approval or denial of a development permit in areas of special flood hazard shall be based on all of the provisions of Sections 10.1, 10.2, and 11, and:

- a. The danger of life and property due to flooding or erosion damage;

- b. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
- c. The danger that materials may be swept onto other lands to the injury of others;
- d. The compatibility of the proposed use with existing and anticipated development;
- e. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- f. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical, and water systems.
- g. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- h. The necessity to the facility of a waterfront location, where applicable;
- i. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- j. The relationship of the proposed use to the comprehensive plan for that area.

10.2.4 Where an approved development permit has been issued and the proposed improvements will result in changes in the floodway boundary, the Director of Public Works shall immediately take the appropriate steps necessary to secure a map amendment.

SECTION 11. SPECIAL PROVISIONS FOR FLOOD HAZARD REDUCTION IN AREAS OF SPECIAL FLOOD HAZARD

- 11.1.1 All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- 11.1.2 All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- 11.1.3 All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- 11.1.4 All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- 11.1.5 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters; and,
- 11.1.6 On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- 11.2 SPECIFIC STANDARDS. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 4.2, Section 18.3-g, or Section 15, the following provisions are required:
 - 11.2.1 Residential Construction - New Construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot above the base flood elevation. A registered professional engineer or surveyor shall submit a certification to the Director of Public Works that the standard of this subsection is satisfied.
 - 11.2.2 Non-residential Construction - New construction or substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated one foot above the level of the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or surveyor shall submit a certification to the Director or Public Works that the Standards of this subsection are satisfied.
- 11.2.3 Mobile Homes
 - a. No mobile home shall be placed in a floodway except in an existing mobile home subdivision.
 - b. All mobile homes shall be anchored to resist flotation, collapse, or lateral movement. Specific requirements shall be:
 - i. over-the-top ties at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side;
 - ii. frame ties at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side;
 - iii. all components of the anchoring system be capable of carrying a force of 4,800 pounds;
 - iv. any additions to the mobile home be similarly anchored.
 - c. For new mobile home parks and subdivisions; for expansions to existing mobile home parks and subdivisions; for existing mobile home parks and subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds 50 percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile

homes not placed in a mobile home park or subdivision require:

i. stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be one foot above the base flood level. A registered professional engineer or surveyor shall submit a certification to the Director of Public Works that the standard of this paragraph complies with Section 11.2.1.

ii. adequate surface drainage and access for a hauler are provided; and

iii. in the instance of elevation on pilings; (1) lots are large enough to permit steps, (2) pilings foundation are placed in stable soil no more than ten (10) feet apart, and (3) reinforcement is provided for pilings more than six (6) feet above the ground level.

11.2.4 Floodways - located within areas of special flood hazard established in Section 4.2 are areas designated as floodways. Since the area chosen for the regulatory floodway must be designated to carry the waters of the base flood, without increasing the water surface elevation of that flood more than one foot at any point; and since the floodway is an extremely hazardous area due to the velocity of flood water which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

a. Encroachments, including fill, new construction, substantial improvements, earth changes and other developments will not be permitted except when an approved development permit has been secured demonstrating that the proposed encroachment:

i. will not result in any increase in floodway levels within the community during the occurrence of the base flood discharge; and

ii. is consistent with the Abilene Stream Management Plan and Drainage Standards; and

iii. meets the standards of this Ordinance and, specifically Section 10, Development Permit Policies and Standards and Section 11, Special Provisions for Flood Hazard Reduction in Areas of Special Flood Hazard.

b. Mobile homes are prohibited within the regulatory floodway except in an existing mobile home park or mobile home subdivision.

c. The following are exempt from the prohibitions in Sections 11.2.4, a. and b.:

i. Bona Fide agricultural and farming operations which constitute the principal use of any lot or tract of ground in the City of Abilene and which meet the requirements of the Zoning Code of the City of Abilene.

ii. Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require a zoning permit, a zoning variance or a building permit, and which does not affect storm water drainage through the site.

iii. Certain parks and recreation uses which do not affect storm water drainage through the site.

iv. Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health, or property and which are under such circumstances where it would be impossible or impracticable to obtain a Development Permit.

v. Excavation for the purpose of constructing, installing, maintaining or repairing any public street, public utility facility or any service lines related thereto.

vi. Improvements consistent with the Abilene Stream Management Plan and Drainage Standards.

11.3 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO ZONES)

Located within the areas of special flood hazard established in Section 4.2 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate; therefore, the following provisions apply:

- 11.3.1 All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).
- 11.3.2 All new construction and substantial improvements of nonresidential structures:
- i. have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth specified in feet on the community's FIRM (at least two feet if no depth number is specified), or;
 - ii. together with attendant utility and sanitary facilities be designated so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects on buoyancy.
- 11.3.3 A registered professional engineer or surveyor shall submit a certification to the Director of Public Works that the standards of this section are satisfied.
- 11.3.4 Require within Zones AH and AO, adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

SECTION 12. EXEMPTION

- 12.1 DEVELOPMENT PERMIT EXEMPTIONS. A development permit shall not be required for the following activities.
- 12.1.1 Bona Fide agricultural and farming operations which constitute the principal use of any lot or tract of ground in the City of Abilene and which meets the requirements of the Zoning Code and the City of Abilene.
- 12.1.1.1 Customary and incidental routine grounds maintenance, landscaping, and home gardening which does not require a zoning permit, a zoning variance or a building permit, and which does not affect storm water drainage through the site.
- 12.1.1.2 Excavating and/or grading, and/or leveling, and/or landfilling of any residential lot or tract of record whose size does not exceed 174,240 square feet (4 acres); or any non-residential lot or tract of record whose size does not exceed 87,120 square feet (2 acres); provided, however, this exemption is NOT applicable to:
- a. Such activities when occurring upon any lot or tract of record, regardless of size or depth of fill, located within an area of Special Flood Hazard, or
- b. Such activities when occurring upon any lot or tract of record, regardless of size or depth of fill, when such lot or tract contains any major drainage system.
- 12.1.1.4 Emergency repairs of a temporary nature made on public or private property which are necessary for the preservation of life, health or property, and which are made under such circumstances where it would be impossible or impracticable to obtain a Development Permit.
- 12.1.1.5 Excavation for the purpose of constructing, installing, maintaining, or repairing any public street, public utility facility, or any service lines related thereto.

SECTION 13. DETENTION AND DRAINAGE FACILITIES: REQUIREMENTS AND STANDARDS
FOR DETENTION AND DRAINAGE FACILITIES.

13.1 REQUIREMENT AND STANDARDS: Requirements and design standards for all storm water detention and drainage facilities shall be established by adopted City Drainage Standards.

13.2. TITLE OWNERSHIP AND MAINTENANCE. Detention and drainage facilities herein provided for shall be dedicated to the public and maintained by the public unless such facilities are an integral, usable part of the development, in which case the ownership and maintenance of said facilities may remain with the private sector. The dedication of a detention facility shall provide that, in the event that the City Council determines that the detention facility is unneeded or unnecessary as a result of drainageway improvements, the same may revert to the party making such dedication, or the abutting owners, or their respective heirs, successors, or assigns.

SECTION 14. DRAINAGEWAY DEDICATION

14.1 DEDICATION. Major drainage systems that are an integral, usable part of a development may be retained at the owner's option. These systems, when retained by the owner shall be maintained by the owner in a manner that will allow them to function as designed.

Major drainage systems not retained by the owner shall be conveyed by title or easement to the City of Abilene as required by the Director of Public Works and City Attorney.

14.2 PRIVATE DRAINAGE FACILITIES. Roof drains, building drains, and parking lot drainageways may be located outside dedicated drainage-ways.

14.3 OWNERSHIP AND MAINTENANCE. All drainage structures and facilities located within a dedicated drainageway shall be owned and maintained by the City of Abilene.

14.4 REQUIREMENTS AND STANDARDS. Requirements and design standards for all dedicated drainageways shall be established by adopted City Drainage Standards.

SECTION 15. STANDARDS FOR SUBDIVISION PROPOSALS

- 15.1 All subdivision proposals shall be consistent with all provisions of this ordinance.
- 15.2 All proposals for the development of subdivisions shall meet Development Permit requirements of Section 4, Section 6 and the provisions of Section 7 of this ordinance and the Drainage Plan requirements of Sections 6 and 8.
- 15.3 Base flood elevation data shall be provided for all subdivision proposals and other proposed development.
- 15.4 All subdivision proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- 15.5 All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage

SECTION 16. DEVIATION AND APPEALS PROCEDURES

- 16.1.1.1 The City Council of the City of Abilene may approve amendments and deviations from the Stream Management Plan after conducting a properly advertised public hearing. Variances and appeals are subject to the provisions of 16.1.1.2 and 16.1.1.3.
- 16.1.1.2 There shall be established a Flood Hazard Technical Advisory Committee consisting of three (3) regular members and two (2) alternates whose responsibility shall be to review development permit applications and Drainage Plans. The membership of the Committee shall be appointed by the City Council. Each member and alternate shall be a registered professional engineer.
- The Flood Hazard Technical Advisory Committee shall meet on a called basis. Three (3) members, or two (2) members and an alternate, shall be present at each meeting. Decisions of the Committee shall be forwarded to the City Council (in the case of an appeal).
- 16.1.1.3 This Ordinance is incorporated into the Zoning Ordinance of the City of Abilene and will be subject to the variance procedures provided therein. Variances may only be granted pursuant to the provisions of Section 18.7.
- 16.1.1.4 The Director of Public Works shall maintain a record of all actions involving an appeal and shall report variances to the Federal Insurance Administration upon request.

SECTION 17. ADMINISTRATION OF DRAINAGE PLANS

- 17.1 PROCESSING OF DRAINAGE PLANS. All drainage plans as required by this ordinance shall be submitted to and received by the Director of Public Works. A drainage plan may be submitted any time after a preliminary conference is held with the Director of Public Works. Within twenty (20) working days after receipt of a properly completed drainage plan the Director of Public Works shall either approve or disapprove the submitted plan. Approval of a submitted drainage plan shall only constitute acceptance by the Director of Public Works of the certification of the submitting engineer and such acceptance shall not operate to remove any requirement of Abilene's adopted Drainage Standards which are not specifically considered in the approved plan. Drainage plans which meet the requirements of this ordinance and which conform to all requirements of the adopted City Drainage Standards shall be approved. If a submitted drainage plan is disapproved, the certifying engineer or applicant, as applicable, shall be advised in writing of the disapproval. If the required findings cannot be made based upon the information contained in the submitted plan such additional information as is required by the Director of Public Works to make such determination will be identified; in the event that the information deficiency is of a technical nature, the Director of Public Works may request an engineering conference with the submitting engineer.

Within twenty (20) working days after receipt of such additional information as may have been required, or as may have been determined necessary during an engineering conference, a final decision shall be made by the Director of Public Works to either approve or disapprove the submitted plan; if disapproved, the submitting engineer or applicant shall be advised in writing.

- 17.2 ADMINISTRATIVE APPEALS OF DRAINAGE PLAN REQUIREMENTS. All rulings, requirements, decisions, or interpretations of the Director of Public Works shall be final and binding upon all parties thereto unless appealed to the Flood Hazard Technical Review Committee. Such appeals shall be filed, in writing, with the Director of Public Works of the City of Abilene within ten (10) days from the date of the action complained of. A hearing on the appeal shall be heard by the Flood Hazard Technical Review Committee not later than fifteen (15) days from the date of filing the required note of appeal. At the time of the hearing, the appellant may furnish any additional information.

- 17.3 APPEAL TO COUNCIL. Appeals of decisions of the Flood Hazard Technical Review Committee shall be filed in the office of the City Secretary of the City of Abilene within ten (10) days from the date of the action complained of. A hearing on the appeal shall be heard by the City Council not later than thirty (30) days from the date of filing and requested note of appeal. At the time of the hearing, the appellant may furnish any additional information.

- 17.4 STAY OF PROCEEDINGS. An appeal to the Flood Hazard Technical Review Committee or the City Council shall stay the enforcement of any ruling, decision, or requirement of the Director of Public Works, unless the Director of Public Works certifies to the City Council that by reason of the facts stated in the certificate of the engineer, a stay would in his opinion cause an immediate public hazard or impair life or property; in such case, enforcement shall not be stayed other than by a restraining order issued by a court of competent jurisdiction upon due and sufficient cause shown.

SECTION 18. GENERAL ADMINISTRATION

18.1 GENERAL. All provisions of this ordinance except as provided for by Section 17, Administration of Drainage Plans, and Section 19, Enforcement of Penalties, shall be subject to the provisions of this section.

18.2 DESIGNATION OF ADMINISTRATOR. The Director of Public Works is hereby appointed to administer and coordinate the provisions of this ordinance. The Director of Public Works is hereby appointed to implement its provisions.

18.3 DUTIES AND RESPONSIBILITIES OF THE ADMINISTRATOR. Duties of the Administrator shall include but not be limited to:

- a. The Director of Public Works shall maintain all files and records pertaining to Sections 4, 6, 7.2, 9, 10, 11, 12 and 18 and shall hold open for public inspection all records pertaining to the provisions of this ordinance;
- b. After submission on the appropriate forms, the Director of Public Works shall review, and approve or deny all applications for development permits required by this ordinance.
- c. After submission on the appropriate forms, the Director of Public Works shall review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- d. When interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example where there appears to be a conflict between a mapped boundary and actual field conditions) the Director of Public Works shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation to the Zoning Board of Adjustment on forms provided by the Director of Planning and Community Development as provided in Section 18.7 of this ordinance within 10 days.

- e. The Director of Public Works shall notify adjacent communities and the Texas Department of Water Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration;

- f. The Director of Public Works shall ensure that maintenance is provided in accordance to the Stream Management Plan within the altered or relocated portion of said water course so that the flood carrying capacity is not diminished;

- g. When base flood elevation data has not been provided in accordance with this ordinance, the Director of Public Works shall obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, in order to enforce the provisions of this ordinance.

- h. The Director of Public Works shall be responsible for notifying the Director of Planning and Community Development and Building Official of all approvals or denials of development permits and drainage plans. Where drainage plans are being considered in association with a subdivision proposal, the Director of Public Works shall advise the Planning and Zoning Commission of the status of such plans prior to consideration of a final plat.

18.4 PERMIT PROCEDURES.

- a. Application for a Development Permit shall be presented to the Director of Public Works on forms furnished by him and may include, but not be limited to, plans in sufficient number, and drawn to scale showing the locations, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of Special Flood Hazard and including all information required in Sections 8.3 and 9.

18.5 PROCESSING PERMITS. Within ten (10) working days after receipt of a properly completed Development application, the Director of Public Works shall either approve or disapprove the permit application. Development Permit applications which are consistent with the policies and which meet the standards established by this ordinance shall be approved.

If a development permit is disapproved, the certifying engineer or applicant shall be advised in writing of the disapproval. If the required findings cannot be made based upon the information contained in the submitted permit application, the general nature of such additional information as is required by the Director of Public Works to make such determination will be identified. In the event that the information deficiency is of a technical nature, the Director of Public Works may additionally request an engineering conference with the submitting engineer.

Within twenty (20) working days after receipt of such additional information as may have been required by the Director of Public Works, or as may have been determined to be necessary during an engineering conference, a final decision shall be made by the Director of Public Works to either approve or disapprove the permit application; if disapproved, the submitting engineer or permit applicant shall be advised in writing.

18.6 ADMINISTRATIVE APPEALS OF DEVELOPMENT PERMIT DENIAL. Appeals from a decision of the Director of Public Works to disapprove a development permit application shall be heard by City Council in accordance with Section 17.3 of this ordinance.

18.7 ZONING ORDINANCE VARIANCE PROCEDURES.

18.7.1 In the same manner and under the same circumstances as generally provided by the Comprehensive Zoning Ordinance of the City, except as otherwise specified in this section, the Zoning Board of Adjustment shall;

- a. hear and decide requests for variances from the requirements of this ordinance concerning special flood hazard area regulations;
- b. hear and determine an appeal when it is alleged there is an error in any requirement, decision, or determination made by any City of Abilene administrative official in the enforcement of this ordinance relating to flood hazard area regulations.

18.7.2 The Director of Planning and Community Development shall maintain a record of all actions involving an appeal and shall report variances from the Flood Hazard Regulations to the Federal Insurance Administration upon request.

18.7.3 Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, without regard to the procedures set forth in the remainder of this section.

18.7.4 Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 10.2.3 of this ordinance have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

18.7.5 Upon consideration of the factors noted above and the intent of this ordinance, the Board of Adjustment may attach such conditions as it deems necessary to further the purpose and objectives of this ordinance.

18.7.6 Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

18.7.7 Prerequisites for granting variances:

- a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- b. Variances shall only be issued upon (1) a showing of good and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or ordinances.
- c. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation no more than two (2) feet below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

SECTION 19. ENFORCEMENT AND PENALTIES

19.1 NOTIFICATION OF NONCOMPLIANCE. If at any time an earth change is performed which is not in accordance with this ordinance of a Development Permit, including conditions and approved modifications thereof, a written notice to comply shall be given by the Director of Public Works stating the nature and location of the alleged non-compliance, and specifying what remedial steps are necessary to bring the project into compliance. The responsible parties shall have such time as may be allowed in writing by the Director of Public Works to correct all noted deficiencies; the time allowed shall be reasonable, and shall be determined by the nature of the deficiency and whether or not it creates a nuisance or hazard.

19.2 REVOCATION OR SUSPENSION OF DEVELOPMENT PERMIT. A Development Permit may be revoked or suspended by the City Council after a public hearing; ten (10) calendar days advance written notice to the permit holder specifying the grounds for such contemplated revocation or suspension, and advising the property owner of the date, place and time of the hearing before the City Council. A development permit may be revoked or suspended upon the occurrence of any one of the following events:

- a. Violation of any conditions of the permit, or
- b. Violation of any provision of this Ordinance or any other applicable law, ordinance, rule or regulation pertaining to the Development Permit; or
- c. Existence of any condition or the doing of any act constituting or creating a nuisance, hazard, or endangering human life or property of others.

Upon the revocation of a Development Permit by the City Council, or as may be specifically directed by the City Council in cases where a Development Permit is suspended, the Director of Public Works shall issue a stop work order on all construction activity on the permit holder's property which may be directly or indirectly related to site drainage and which is being performed pursuant to any permits, licenses, franchises or contracts issued or approved by the City of Abilene; such order may order a work stoppage on all construction activity on buildings or structures and all appurtenances thereto, including building, electrical, plumbing, mechanical and street work storm sewers, sanitary sewers, gas lines, and all utilities including gas, electric, telephone, and cable TV. Notices and orders required by this subsection shall be served upon the parties concerned either personally or by certified mail, addressed to the individual contracting party(ies) or permit holder at the address given on the contract document or permit application filed with the City.

19.3 FINE IMPOSED. A person, firm, corporation or other legal entity violating the requirements of this Ordinance or conditions made pursuant thereto, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than Two Hundred Dollars (\$200.00) for each and every violation, and each day's violation thereof shall constitute a separate offense.

19.4 FINE NOT EXCLUSIVE PENALTY. In addition to a fine, the City may institute appropriate actions or proceedings at law or equity for the enforcement of the provisions of this Ordinance or adopted City Drainage Standards or to correct violations thereof, and if applicable, appropriate actions or proceedings at law or equity against any surety company, escrow holder, or any third party who has affirmatively acted as surety or guarantor for the faithful performance of the permit holder's work.