

ORDINANCE NO. 45-1998

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.

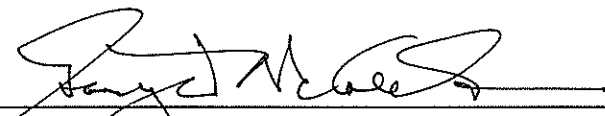
PASSED ON FIRST READING this 13 day of August A.D. 19 98.

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 19 day of July, 1998, 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 27 day of August, 1998, 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.

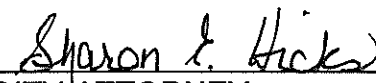
PASSED ON SECOND AND FINAL READING THIS 27 day of August, A.D. 19 98.

ATTEST:

  
\_\_\_\_\_  
CITY SECRETARY

  
\_\_\_\_\_  
MAYOR

APPROVED:

  
\_\_\_\_\_  
CITY ATTORNEY

ORDINANCE NO. 45-1998

EXHIBIT "A"

**Amend Section 23-306.4**      PERMITTED USES  
Residential

ADD: Bed and Breakfast category allowed as a conditional use (C) in CU, CB, GC, HC, and PDD; and with special Exception (SE) in RS and RM.

**Amend Section 23-306.4**      PERMITTED USES  
Government, Health, Safety & Welfare Uses

ADD: Assisted Living Facility category allowed with special exception (SE) in RM, and by right of use (X) in CU, O, LC, SC, GC, CB, HC, MU, and PDD.

**Amend Section 23-306.4**      PERMITTED USES  
Services (Other than Office-Type)

Delete:      Credit Unions category from being permitted in O (Office) district.

**Amend Section 23-306.4**      PERMITTED USES  
Retail Trade

Delete:      Fruits and Vegetables category.

**Amend Section 23-306.4**      PERMITTED USES  
Retail Trade

ADD: Fruits and Vegetables (permanent) category allowed with a Special Exception (SE) in AO and with conditions (C) in SC, GC, HC, LI, HI, PDD.

ADD: Section 23-306.5.H.      CONDITIONAL USE PROVISIONS  
Retail Trade

(25) Fruit and Vegetables (permanent)

If sales are open-air, refer to either 23-306.5.H.(8a) Farmers Market (open-air) or 23-306.5.H.(26) Fruits and Vegetables (temporary).

**Amend Section 23-306.4**      **PERMITTED USES**  
Trade-Retail

ADD: Fruits and Vegetables (temporary) category allowed with conditions (C) in AO, SC, GC, HC, LI, HI, PDD.

**Amend Section 23-306.5.H.**      **CONDITIONAL USE PROVISIONS**  
Retail Trade

ADD: (26) Fruit and Vegetables (temporary)

- (a) May exist for a maximum of five months in any twelve month period.
- (b) Requires permission of the property owner.
- (c) Nothing related to the business may be located in any public right-of-way.
- (d) If a structure is to be used, a temporary permit must be obtained and the structure must meet all applicable regulations.

**Amend Section 23-306.5.A.**      **CONDITIONAL USE PROVISIONS**  
Residential

ADD: (10) Bed and Breakfast

Allowable signage shall be limited to non-illuminated signs with a maximum area of 12 square feet in RS and RM districts. Parking requirement is 1/guest room plus 1.

**Amend Section 23-306.5.B.**      **CONDITIONAL USE PROVISIONS**  
Accessory and Incidental Uses

Delete:      (4) Fences, Walls, and Hedges

- (a) Fences, walls and hedges are permitted in the required front yard of any lot in all RS and RM-3 districts, only if the height of such fence, wall or hedge does not exceed a line connecting a height not to exceed seven feet at the building line with a two and one-half feet height at the front property line. No such fence, wall or hedge may exceed two and one-half feet along the front property line.

Fences, walls and hedges are permitted in rear yards, interior yards, and exterior yards, and shall not exceed seven feet in height between the property line and the building setback line.

Reverse frontage lots and lots having a street on more than two sides shall meet the same requirements on each yard adjoining a street as those lots facing said street.

- (c) All fences, walls or hedges shall be located at least ten feet from the curb or edge of pavement, whichever is closer, of all streets.

Note to Reader: Traffic and Transportation Department felt that enforcement of item (c) should provide motorists with sufficient clear vision. Provisions included within item (c) would always be difficult both to understand and to enforce. The amount of vision provided by item (c) may furthermore, not always be necessary or desirable.

ADD: Section 23-306.5.B

CONDITIONAL USE PROVISIONS  
Accessory and Incidental Uses

(4) Fences, Walls, and Hedges

- (a) Opaque fences, walls and hedges are permitted in the required front yard of any lot in all RS and RM-3 districts, only if the height of such fence, wall or hedge does not exceed a line connecting a height not to exceed seven feet at the building line with a two and one-half feet height at the front property line. No such fence, wall or hedge may exceed two and one-half feet along the front property line. Non-opaque fences should not exceed a line connecting a height not to exceed seven feet at the building line with a height of four feet at a setback of seven feet from the front property line. The four feet non-opaque fence may extend to the front property line. Non-opaque shall be defined as a chain-link fence or other fence in which vertical or horizontal members are a minimum of four inches apart.

Fences, walls and hedges are permitted in rear yards, interior yards, and exterior yards, and shall not exceed seven feet in height between the property line and the building setback line.



(15) Satellite Dish Antenna (accessory to residential use)

ADD: (as first sentence) The following conditions must be met for the placement of satellite dishes which have a diameter greater than two feet and are free standing:

**Amend Section 23-306.5.G.      CONDITIONAL USE PROVISIONS**  
**Services**

Delete: (4) Building Construction (general contractor service)

- (b) Storage shall be enclosed within a structure, or placed within a designated outdoor storage area. Outdoor storage space shall not exceed twenty five percent (25%) of the total lot area.
- (c) Outdoor storage areas shall be screened by an opaque barrier at least six (6) feet in height.

ADD: (4) Building Construction (general contractor service)

- (b) Outdoor storage shall be in a designated area and screened by an opaque barrier at least six (6) feet in height. Screening accomplished by fencing and/or walls must consist of wood or masonry material.

**Amend Section 23-306.5.G.      CONDITIONAL USE PROVISIONS**  
**Services**

Delete: (11) Landscaping Services

- (b) Storage shall be enclosed within a structure, or placed within a designated outdoor storage area. Outdoor storage space shall not exceed twenty five percent (25%) of the total lot area.
- (c) Outdoor storage areas shall be screened by an opaque barrier at least six (6) feet in height.

ADD: (11) Landscaping Services

- (b) Outdoor storage shall be in a designated area and screened by an opaque barrier at least six (6) feet in height. Screening accomplished by fencing and/or walls must consist of wood or masonry material.

[Change lettering from (d) to (c)]

**Amend Section 23-306.5.H.      CONDITIONAL USE PROVISIONS**  
**Retail Trade**

(8a) Farm Products (open air)

Delete: (b) Operations shall be limited to 3 days per week.  
[change lettering from (c)-(h) to (b)-(g)]

**Amend Section 23-313.2.C.      AREA, HEIGHT AND PLACEMENT**  
**BUILDING LINES**

2. BUILDING LINES

C. Exceptions

Delete: (3) In RS-6 and RS-8 districts, the minimum building setback from lot boundaries adjacent to minor streets and subcollectors shall be twenty (20) feet.

2. BUILDING LINES

C. Exceptions

ADD: (3) In RS-6 and RS-8 districts, the minimum setback from lot boundaries adjacent to minor streets and subcollectors shall be twenty (20) feet in front and fifteen (15) feet on exterior sides.

**Amend Section 23-317.2.B**      ACCESSORY BUILDINGS  
Setback Requirements

ADD:            (as last paragraph)  
The rear setback for accessory buildings and/or structures located on double frontage lots shall be the same as the front setback requirements in effect for adjacent primary structures. This shall not apply to lots backing up to an arterial street or a freeway.

**Amend Section 23-328**            SHOPPING CENTER (SC) DISTRICT

Delete:        1.      Minimum Tract Size  
  
Any Shopping Center district established shall be a minimum of ten (10) acres in size.

Add:            1.      Minimum Tract Size  
  
Any Shopping Center district established shall be a minimum of two and one-half (2-1/2) acres in size.

**Amend Sections 23-303.2.B and 23-341**

Delete: Sections 23-303.2.B and 23-341, Modular Home (MRH) Overlay Zone

**Amend Section 23-345.2.A.**      CORRIDOR (COR) OVERLAY ZONE  
Landscaping and Screening Requirements

Delete:            A.      Landscaping of the Site  
  
(1)      The required landscaping shall be determined on a point basis. The total number of points shall be determined by the total square footage of the site. The applicant shall be required to install landscaping based on the total number of points. To determine the minimum number of points needed for the site, multiply ten (10) percent of the total site area by .25. The minimum number of points for a site is 400.



ADD: A. Landscaping of the Site

- (1) The required landscaping shall be determined on a point basis. The total number of points shall be determined by the total square footage of the site. The applicant shall be required to install landscaping based on the total number of points. To determine points, multiply the total square feet of the site by .025. The minimum number of points for a site is 400. In no case shall more than 5000 points be required.

**Amend Section 23-345.3.B. CORRIDOR (COR) OVERLAY ZONE**  
**Signage Requirements**

Delete: B. On-Site Signage

- (2) One wall sign per building side shall be permitted with the following restrictions:
  - (a) The wall sign shall have a maximum area of twenty (20) percent of the area of the wall, and:

ADD: B. On-Site Signage

- (2) A maximum of six (6) wall signs per building shall be permitted with the following restrictions:
  - (a) Wall signs shall have a maximum cumulative area of twenty (20) percent of the area of the wall, and:

**Amend Section 23-345.4. CORRIDOR (COR) OVERLAY ZONE**  
**Driveway Access**

Delete: 4. Driveway Access

Driveway access requirements shall pertain to all sites requiring a Site Plan.

A. Driveway Separation

- (1) Access drives must be separated by a minimum of 50 feet.

- (2) Access drives must be located a minimum of 25 feet from all interior side and rear property lines unless shared access is provided. In which case the shared drive shall have no minimum separation from the adjacent property lines.
- (3) Access drives must be separated from street intersections as follows:
  - (a) 100 feet from the intersection of two or more streets classified as arterial or expressway.
  - (b) 50 feet from all other street intersections.

B. Measurements

- (1) All measurements from access drives shall be from the point of departure of the curb return.
- (2) All measurements from intersections shall be from the nearest parallel curb of any adjacent street.

ADD: 4. Driveway Access

Driveway access requirements shall pertain to all land uses except for single family and two family residential.

- A. Driveways shall be located as set forth below. Measurements shall be made from the edge of the driveway and from the edge of the pavement or curb of public or private streets.
- (1) Driveways shall be separated from adjacent driveways by a minimum of 50 feet for driveways on different parcels and by a minimum of 100 feet for driveways on the same parcel.
  - (2) Driveways shall be located from interior side and rear property lines by a minimum of 25 feet. The minimum separation requirement from the adjacent property lines does not apply to a shared drive.
  - (3) Driveways shall be separated from adjacent street intersections as follows:

- (a) For driveways onto an arterial street:
  - (1) 100 feet from intersecting streets classified as arterial, freeway, frontage road, or collector.
  - (2) 50 feet from all other intersecting streets.
- (b) The Traffic Engineer may grant exceptions to these location requirements if existing driveways and site development preclude compliance.

**Amend Section 23-363 DEFINITIONS**

Delete: Dwelling, Group Home

A dwelling which houses a group of at least four (4) but not more than six (6) persons not related by blood, marriage, adoption or guardianship, living together as a single house keeping unit in a residential single family zoning district.

Add: Assisted Living Facility

Facility that provides rooms, meals, personal care, and administers medication to persons who are incapable of living alone and need limited assistance in their daily routine. They may provide other services, such as recreational activities, financial services, and transportation.

Bed and Breakfast

A single building in which there are no more than five (5) guest rooms for living or sleeping accommodations which are (a) for transient occupancy; (b) must be rented on a daily basis; (c) do not have kitchen facilities in guest rooms; and, (d) may have a maximum of one meal per 24 hour period provided for guests and staff only.

Foster Family Home

A home occupation where foster parents care for not more than six (6) unrelated children 24 hours a day. Foster Family Homes shall be allowed in all zoning districts where home occupations are allowed.

Foster Group Home

Child care facility providing for seven (7) to twelve (12) unrelated children for 24 hours a day.

Group Home

A dwelling which houses a group of at least four (4) but not more than twelve (12) persons not related by blood, marriage, adoption or guardianship, living together as a single housekeeping unit.

Recreational Vehicle

A vehicular portable structure designed for temporary or short term occupancy for travel; recreational or vacation use. Such a vehicle shall include vacation travel trailer, pick-up campers, motor homes, converted bus, tent trailer, or small device used for temporary portable housing. The term shall be used interchangeably with the term vacation travel trailer as defined in this section.

Screening

Fencing, walls, planted berms, or densely planted vegetation which acts as a buffer between incompatible land uses.