

ORDINANCE NO. 61-1998

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART D, "SUBDIVISION REGULATIONS," 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, "Subdivision Regulations," 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.

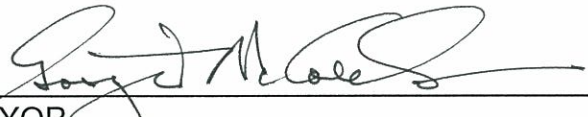
PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2,000.00). Each day such violation shall continue or be permitted to continue shall be deemed a separate offense. 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, Texas.

PASSED ON FIRST READING this 5 day of November, 19 98.

PASSED ON SECOND AND FINAL READING THIS 19 day of November, 19 98.

ATTEST:

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

  
\_\_\_\_\_  
MAYOR

APPROVED:

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

EXHIBIT "A"

ADD Section 23-263, ALTERNATIVE DESIGN STANDARDS

1. Purpose. It is the purpose of this Section 23-263 to provide for the consideration of subdivision improvement designs which differ from conventional design standards as defined within Section 23-262, but which are based upon sound engineering judgement. In this context, "subdivision improvements" shall mean physical improvements such as streets, water and sewer as well as any other infrastructure element of a proposed development. Alternative designs will not be accepted for the layout of lots.
2. Approval of Alternative Design Standards. Decisions regarding design of various physical improvements in a subdivision should be based on engineering studies. Thus, while this code provides standards for design, the regulations are not a substitute for sound engineering judgement. Therefore, a licensed engineer may submit alternative designs to be reviewed and considered by the City Engineer.

If the proposed alternative design is approved by the City Engineer, then the applicable provisions of Section 23-262 shall be deemed to have been met. If the proposed alternative design standards are not approved by the City Engineer, then the Conventional Design Standards contained within Section 23-262 shall apply.

3. Appeals. If a proposed alternative design is rejected by the City Engineer, the subdivider may appeal the decision to the Subdivision Technical Review Committee which is comprised of three regular members and two alternates, all of whom are registered professional engineers.
  - (1) The Subdivision Technical Review Committee shall meet on a called basis for the purpose of hearing appeals herein called for. A quorum shall consist of three (3) members, or two (2) members and an alternate.
  - (2) Appeals to the Subdivision Technical Review Committee within this context must be filed, in writing, with the City Engineer within ten (10) days from the date of the action complained of. The Subdivision Technical Review Committee shall hear the appeal not later than fifteen (15) days from the date for filing the required notice of appeal. At the time of the hearing, the appellant may furnish any additional information.
  - (3) The appeal shall be accompanied by the payment of an appeal application fee. The amount of the fee shall be set by fee resolution by the City Council and placed on file in the office of the City Secretary.

- (4) The decision of the Subdivision Technical Review Committee shall be final.

Amend Section 23-264, STORMWATER MANAGEMENT REQUIREMENTS

11. Appeals Process

DELETE:

(A) Flood Hazard Technical Review Committee Procedure.

- (1) Appeals of decisions of the Floodplain Administrator that are technical in nature shall be considered by the Flood Hazard Technical Review Committee. Such items shall include: determination that a Drainage Plan or Floodway Development Permit is required for a given development; determination that a Drainage Plan or Floodway Development Permit application does not contain sufficient or adequate data or contains invalid data or assumptions; appeal of a disapproval of a Drainage Plan or Floodway Development Permit; a decision relative to the exact location of the boundaries of the areas of special flood hazard; a decision on base flood elevation; and variances from the requirements of the Abilene Drainage Standards.
- (2) The Flood Hazard Technical Review Committee shall consist of three (3) regular members and two (2) alternates. The membership of the Committee shall be appointed by the City Council. Each member and alternate shall be a registered professional engineer.
- (3) The Flood Hazard Technical Review Committee shall meet on a called basis. A quorum shall consist of three (3) members, or two (2) members and an alternate.
- (4) Appeals to the Flood Hazard Technical Review Committee shall be filed, in writing, with the Floodplain Administrator of the City of Abilene within ten (10) days from the date of the action complained of. The Flood Hazard Technical Review Committee shall hear the appeal not later than fifteen (15) days from the date of filing the required notice of appeal. At the time of the hearing, the appellant may furnish any additional information.

- (5) The appeal shall be accompanied by the payment of an appeal application fee. The amount of the fee shall be set by fee resolution by the City Council and placed on file in the office of the City Secretary.
- (6) An appeal to the Flood Hazard Technical Review Committee shall stay the enforcement of any ruling, decision, or requirement of the Floodplain Administrator, unless the Floodplain Administrator 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.

ADD:

(A) Subdivision Technical Review Committee Procedure.

- (1) Appeals of decisions of the Floodplain Administrator that are technical in nature shall be considered by the Subdivision Technical Review Committee. Such items shall include: determination that a Drainage Plan or Floodway Development Permit is required for a given development; determination that a Drainage Plan or Floodway Development Permit application does not contain sufficient or adequate data or contains invalid data or assumptions; appeal of a disapproval of a Drainage Plan or Floodway Development Permit; a decision relative to the exact location of the boundaries of the areas of special flood hazard; a decision on base flood elevation; and variances from the requirements of the Abilene Drainage Standards. The Subdivision Technical Review Committee shall also consider appeals of decisions of the City Engineer regarding alternative designs for subdivision improvements.
- (2) The Subdivision Technical Review Committee shall consist of three (3) regular members and two (2) alternates. The membership of the Committee shall be appointed by the City Council. Each member and alternate shall be a registered professional engineer.
- (3) The Subdivision Technical Review Committee shall meet on a called basis. A quorum shall consist of three (3) individuals whether members or alternates.

- (4) Appeals to the Subdivision Technical Review Committee shall be filed, in writing, with the Floodplain Administrator of the City of Abilene within ten (10) days from the date of the action complained of. The Subdivision Technical Review Committee shall hear the appeal not later than fifteen (15) days from the date of filing the required notice of appeal. At the time of the hearing, the appellant may furnished any additional information.
- (5) The appeal shall be accompanied by the payment of an appeal application fee. The amount of the fee shall be set by fee resolution by the City Council and placed on file in the office of the City Secretary.
- (6) An appeal to the Subdivision Technical Review Committee shall stay the enforcement of any ruling, decision, or requirement of the Floodplain Administrator, unless the Floodplain Administrator 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.