

AN ORDINANCE AMENDING THE "CITY OF ABILENE SIDEWALK MASTER PLAN"; 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 the "City of Abilene Sidewalk Master Plan", 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.

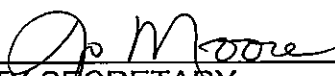
PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 25<sup>th</sup> day of September A.D. 2006.

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 21<sup>st</sup> day of September, 2006, 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 8:30 a.m., on the 12<sup>th</sup> day of October, 2006, 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.

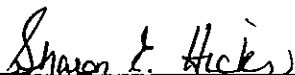
PASSED ON SECOND AND FINAL READING THIS 12<sup>th</sup> day of October, A.D. 2006.

ATTEST:

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

  
\_\_\_\_\_  
MAYOR

APPROVED:

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

## Exhibit "A"

**DELETE: F. In its entirety.**

**ADD:**

### **F Exceptions & Waivers**

- F.1. A complete waiver of the requirement for sidewalks should be rare and allowed only where there are unusual factors. The waiver shall be approved by both the Planning Director and the City Engineer and shall be documented with supporting data that indicates the basis for the decision. Unusual factors include:
- a. projects where the cost of establishing sidewalks or walkways would be unreasonably disproportionate to the cost of the associated roadway construction or overall project costs,
  - b. areas with severe topography or other natural constraints that will constrain proper implementation of this plan,
  - c. situations inherently adverse to pedestrian activity, such as harmful noise, dust creation, and high volume truck traffic, in certain areas, such as agricultural, heavy commercial, and industrial developments, or
  - d. situations where an applicant can show other factors or circumstances amounting to reasonably justifiable good cause to support such waiver.
- F.2. Deviations from these requirements and the city's Sidewalk Design Standards may be allowed when necessary due to the physical circumstance of the street or when necessary to accomplish adopted development goals of the City or in situations where an applicant can show other factors or circumstances amounting to reasonably justifiable good cause to support such a deviation.
- a. The specific nature and justification for any deviation must be documented and authorized in writing by both the Planning Director and the City Engineer.
  - b. Deviations should be minimal and consist primarily of changes to required width of clear path or alignment within the right-of-way.
  - c. Deviations shall not allow a minimum clear path width of less than 3 feet.
- F.3. A denial of a request for a waiver or deviation of these requirements may be appealed to the City Council.
- a. A written appeal must be filed with the Planning Director within 10 days of the denial of the waiver or deviation.
  - b. The appeal must provide justification for the requested waiver or deviations based on the criteria described in F.1. and F.2. above.
  - c. The Council must make findings based on these criteria in order to approve a waiver or deviation.
- F.4. Sidewalks shall not be required when specifically exempted in a neighborhood plan, corridor plan, or other small area plan adopted by the City Council.

**DELETE: G.9 in its entirety and renumber in alphabetical order.**

**ADD:**

- G.23. "Unreasonably Disproportionate" means exceeding twenty percent of the cost of the larger project. For transportation projects, right-of-way acquisition costs shall not be included in the calculation.