

ORDINANCE NO. 22-2007

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 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 10th day of May A.D. 2007.


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 14th day of March, 2007, 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 10th day of May, 2007, 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 21st day of May, A.D. 2007.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:


CITY ATTORNEY

Replace the existing Section 23-320 with the following:

Section 23-320 Landscaping, Screening, and Buffering

1. Purpose

The purpose of this section is to establish minimum requirements for landscaping, screening, buffering, and outdoor storage and display to achieve the following objectives:

- A. Improve the quality of life for those living, working, and visiting the City by enhancing the appearance of properties as viewed by the public.
- B. Enhance and maintain property values by ensuring a minimum level of quality of new development and redevelopment.
- C. Increase pervious ground cover as a means of controlling stormwater runoff and water quality.
- D. Limit water use, while allowing attractive landscaping, through the use of xeriscaping and proper irrigation.
- E. Assist in maintaining adequate air quality in the region and reduce the localized heating caused by large areas of buildings and pavement.
- F. Provide easy to understand, enforceable standards to ensure compliance with these requirements.

2. Applicability

- A. The provisions of this section shall apply to any development or redevelopment within the corporate limits of the City of Abilene resulting in an increase of 20,000 square feet, or 50% or more, of the gross floor area of buildings on a site, whichever is less, including the construction of any buildings on a vacant or cleared site.
- B. No new or amended site plan may be approved for any property unless the applicable provisions of this section are met, per an approved General Landscaping Plan.
- C. No Certificate of Occupancy shall be issued for any property unless the applicable requirements of this section are met, per an approved Final Landscaping Plan.
- D. The provisions of this section shall not apply to single-family or two-family residential development, except for Section 3.C below.
- E. The applicant may define a "development lot", smaller than the entire parcel, for which these requirements will apply. The development lot may exclude any areas on which no development activity will occur as part of the site plan, as determined by the Planning Director.
- F. These standards may be varied through an adopted neighborhood plan, corridor plan, or other small area plan.

3. General Landscape Requirements

- A. Grass or other vegetative cover is generally required for all required landscape areas. A maximum of 15% of the required landscape area may include non-vegetative pervious cover, such as landscaping rocks, pervious pavers, or similar, excluding sidewalks or paths.
- B. Sidewalks or paths within a landscape area shall be included in the landscape area calculation and shall not count against the impervious cover limit.
- C. The parkway must remain landscaped except for authorized improvements, such as driveways, sidewalks, or other public infrastructure, including for single-family and two-family residential development.

- D. A minimum 10-foot wide landscape area shall be provided along all property lines adjacent to a street, except within the Central Business district or other areas where the building setback is less than 10 feet, in which case the building setback area shall be landscaped.
- E. Required trees and shrubs:
 - (1) One tree plus three shrubs are required per 500 square feet of required landscape area, rounded up to the nearest whole tree or shrub.
 - (2) Street trees are required at a rate of 1 per 40 feet of street frontage along Enhancement Corridors, as designated in the City's Comprehensive Plan, and 1 per 60 feet of street frontage along other arterials and collectors. Placement of trees may be varied, but may not result in fewer than the required number of trees for a property.
- F. *Any landscape area within the public right-of-way shall not count toward any landscape area requirements. However, plantings, such as street trees and shrubs, within the parkway shall count toward the general landscaping requirement for a site.*
- G. Landscaping or screening shall not interfere with vision clearance at street or driveway intersections.
- H. Landscape Irrigation:
 - (1) To ensure long-term viability, required landscape areas shall be irrigated by one, or a combination of, the following methods:
 - (a) An automatic underground system
 - (b) A drip irrigation system
 - (c) An accessible water source located within 100 feet of each landscaping area
 - (2) No irrigation shall be required for undisturbed natural areas or undisturbed existing trees or shrubs.
 - (3) Irrigation systems shall be designed and installed per applicable state law.
- I. Installation and Maintenance:
 - (1) All landscape materials shall be installed according to American Association of Nurserymen (AAN) standards.
 - (2) All landscaping shall be maintained and kept in a healthy and growing condition.
 - (3) Trees must be 2" caliper at planting, measured 12 inches above ground level. Shrubs must be minimum of one-gallon container size at planting.
- J. Xeriscaping principles (low water, drought-tolerant) must be used for required landscaping.
- K. Trees and shrubs used to meet the requirements of this section must be listed as recommended on the "Recommended Trees and Shrubs" list maintained by the Planning Director.
- L. For the purpose of landscaping requirements, the part of a property within the floodway shall be excluded from the calculation of both lot area subject to these requirements and landscape area.
- M. Parking is not allowed within required landscape areas.

4. Landscaping Plan

Landscaping plans shall be provided as indicated below.

- A. A **General Landscaping Plan** shall be provided as part of the site plan review process, which shall include the following:
 - (1) Delineation of all required landscape areas with dimensions.
 - (2) Location, size, and species of trees to be preserved for landscaping credit.
 - (3) Calculation of the landscape area as a percentage of the total site, where applicable.
 - (4) Calculation of the landscape area between the building and the right-of-way as a percentage of the total area between the building and the right-of-way, where applicable.

- (5) Statement on the plan noting that any required irrigation system will be provided.
 - (6) Statement on the plan noting the number of required trees and shrubs to be provided.
- B. A **Final Landscaping Plan** shall be provided and approved prior to the issuance of a Certificate of Occupancy, which shall include the following:
- (1) Delineation of all required landscape areas with dimensions.
 - (2) Location, size, and species of trees preserved for landscaping credit.
 - (3) Irrigation plan for any required irrigation system.
 - (4) Calculation of the landscape area as a percentage of the total site, where applicable.
 - (5) Calculation of the landscape area between the building and the right-of-way as a percentage of the total area between the building and the right-of-way, where applicable.
 - (6) Calculation of the landscape area within the parking lots as a percentage of the total parking lot area, where applicable.
 - (7) Location, planting height, container size, and species of shrubs to be provided.
 - (8) Location, planting height, mature height, planting caliper size, and species of trees to be provided.
 - (9) Summary table showing amount of landscaping required and the amount provided.
 - (10) Other details as necessary to ensure conformance with all required standards.
- C. All required landscaping must be installed prior to the issuance of a Certificate of Occupancy. When seasonal conditions warrant, the building official may issue a temporary certificate of occupancy for up to six months pending completion of landscaping.
- D. No landscaping plan shall be required for single-family or two-family residential development.

5. Required Landscape Area

A minimum percentage of the area of a site located between the building façade and the adjacent street right-of-way must be landscape area, which varies by zoning district based on the following:

- (1) 15% of the site for residential multi-family (RM) districts.
- (2) 5% of the site for commercial or office (O, CU, MU, LC, SC, GC, and HC) districts.
- (3) 0% of the site for the central business (CB) district and industrial (LI, PI, and HI) districts.

6. Alternative Landscaping Plan

An Alternative Landscaping Plan may be submitted allowing deviation from the standards of this section based on existing site characteristics such as existing buildings, parking areas, and other site features that make it difficult to comply with these requirements. The Alternative Landscaping Plan must meet the requirements of this section to the extent possible and must use appropriate alternatives to ensure that the objectives of this section are met. The Alternative Landscaping Plan must be approved by the Planning Director. An unfavorable decision by the Planning Director may be appealed to the Board of Adjustment for final determination.

7. Screening & Outdoor Storage/Display

- A. Mechanical equipment, excluding roof-mounted equipment, must be screened from view from streets, parking lots, parks, and residential districts with materials consistent with the principal structure.

- B. Loading docks must be located on the side or rear of the building and screened from streets and residentially-zoned property by a landscape buffer per Section 8 below or by an opaque fence or wall at least 7 feet in height.
- C. Waste containers must meet the following requirements:
 - (1) Must be screened from streets and residentially-zoned property by a landscape buffer per Section 8 below or by an opaque fence or wall at least 7 feet in height.
 - (2) With the exception of those located in alleys, waste containers must be located on private property.
 - (3) Placement and screening of waste containers must be shown on an approved site plan and must be consistent with all applicable City requirements.
- D. Outdoor storage of materials not displayed for sale is subject to the following requirements:
 - (1) Where allowed and required to be screened, outdoor storage must be screened to a minimum height of 6 feet, up to 8 feet where the stored materials are greater than 6 feet in height, through a combination of landscaping, fences/walls, and/or berms.
 - (2) Not allowed within 5 feet of a property line.
 - (3) In Industrial or Agricultural/Open Space districts, outdoor storage is allowed and must be screened from residential districts
 - (4) In Heavy Commercial (HC) districts, outdoor storage:
 - (a) is allowed only as an accessory use,
 - (b) is allowed only in rear yards and side yards not adjacent to a street, and
 - (c) must be screened from adjacent rights-of-way and less-intensive zoning districts
 - (5) Not allowed in Office (O), Limited Commercial (LC), Shopping Center (SC), General Commercial (GC), Central Business (CB), College-University (CU), or Medical Use (MU) districts.
- E. Outdoor display of merchandise for sale is subject to the following requirements:
 - (1) Outdoor display does not include operable vehicles and recreational vehicles displayed for sale.
 - (2) Not allowed within 10 feet of a property line adjacent to a street.
 - (3) In Industrial (HI, LI, PI), Agricultural/Open Space (AO), or Heavy Commercial (HC) districts, outdoor display is allowed.
 - (4) In General Commercial (GC) and Shopping Center (SC) districts, outdoor display is:
 - (a) limited to 5% of the total site area, up to 15% if any excess over 5% is completely screened from view from rights-of-way and adjacent properties;
 - (b) limited to rear or interior side yards or within 20 feet of the front of the principal building;
 - (c) only allowed as accessory use.
 - (5) In Limited Commercial (LC), Office (O), and Central Business (CB) districts, outdoor display is allowed only within 10 feet of the front of a principal building
 - (6) In College-University (CU) and Medical Use (MU) districts, outdoor display is prohibited
- F. Designated areas for outdoor storage and/or display must be shown on the site plan.
- G. All outdoor storage or display must be located on private property.
- H. Outdoor storage or display may not be located within required landscape areas or required parking spaces and may not impede vehicular or pedestrian traffic.

8. Land Use Buffers

- A. Buffer yards consisting of a minimum width landscaping area, landscape plantings, and/or walls or fencing are required between land uses of different intensities for the purpose of mitigating negative impacts such as noise, trash, light, and visual appearance.

- (1) Type A Buffer is required between Residential Multi-family (RM), Office (O), College-University (CU), Medical Use (MU), or Limited Commercial (LC) districts and any lower intensity residential district, which shall consist of a 5 foot wide buffer yard plus at least 15 points based on the points listed in (3) below.
 - (2) Type B Buffer is required between Heavy Commercial (HC), General Commercial (GC), or Shopping Center (SC) districts and a residential district or between any Industrial district and any other non-industrial district, which shall consist of a 5 foot wide buffer yard plus at least 25 points based on the points listed in (3) below.
 - (3) Points.
 - (a) Opaque masonry wall with 6 foot minimum height = 15 points
 - (b) Opaque fence with 6 foot minimum height = 5 points
 - (c) An existing, continuous fence or wall on the adjacent property = ½ the points of a fence or wall on the subject property.
 - (d) Each additional 5 feet of buffer yard = 5 points (maximum of 15 points)
 - (e) One tree with a mature height of at least 20 feet and height of at least 8 feet at time of planting per 25 lineal feet of buffer yard = 10 points
 - (f) Three smaller trees per 25 lineal feet of buffer yard = 10 points
- B. Buffer yards are required between adjacent uses as indicated. For purposes of this section adjacent includes properties separated by an alley, but does not include properties separated by a street.
- C. Open space in buffer yards shall be planted in grass or other vegetative ground cover, except for authorized driveways across the buffer yard or approved pedestrian facilities.
- D. Alternative buffering may be allowed through the site plan review process as long as the buffering and aesthetic intent of these requirements are met.

9. Definitions

- A. **Landscape Area** is an area on a site specifically designated for landscaping.
- B. **Landscaping** is any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees).
- C. **Non-opaque** means a chain-link fence or other fence in which vertical or horizontal members are a minimum of four inches apart.
- D. **Pedestrianway** is a sidewalk or pathway physically separated from traffic, parking areas, and driving aisles.
- E. **Street trees** are trees that are planted within the parkway or on private property within 10 feet of the property line adjacent to a street. Street trees are commonly placed in the parkway between the curb and the sidewalk.
- F. **Street Yard** is an area on a site adjacent to a street that is subject to a building setback.

ADD:

23-321 Tree Preservation Standards

1. Purpose

The purpose of this section is to establish regulations to provide incentives for the preservation and/or replacement of existing trees within the city of Abilene and to provide requirements for the protection of trees during construction, development, or redevelopment.

2. Tree Preservation Credits

This paragraph applies only to nonresidential and multifamily development. For every premium tree preserved, the developer shall be given credit for two trees as required by this ordinance, for trees in applicable locations. Only trees in good condition, having been protected in accordance with the tree protection requirements, shall be considered for credit. A maximum credit of one-third of the required trees shall be allowed per site. Determination of credits shall be made by the Planning Director upon completion of site improvements.

3. Requirements for Tree Protection During Construction

In order to qualify for tree preservation credit, developers shall adhere to the following tree protection measures on all construction sites.

- A. Prior to grading, brush removal, or construction, the developer shall clearly tag or mark all trees to be preserved.
- B. The developer shall erect a plastic mesh fence, or other approved fencing material, a minimum of four feet in height around each tree or group of trees to prevent the placement of debris or fill within the drip line.
- C. During the construction phase of development, the developer shall prohibit cleaning, parking, or storage of equipment or materials under the canopy of any tree or group of trees being preserved. The developer shall not allow the disposal of any waste material such as, but not limited to, paint, oil solvents, asphalt, concrete, mortar, etc. in the canopy area.
- D. No attachments or wires of any kind, other than those of a protective nature shall be attached to any tree.
- E. No fill or excavation may occur within the drip line of a tree to be preserved unless there is a specific approved plan for use of tree wells or retaining walls. Major changes of grade (six inches or greater) will require additional measures to maintain proper oxygen and water exchange with the roots. In addition, the developer should adhere to the following guidelines to protect the trees to be preserved:
 - (1) With grade changes, a reinforced retaining wall or tree well of a design approved by the city should be constructed around the tree no closer than half the distance between the trunk and the drip line. The retaining wall should be constructed so as to maintain the existing grades around a tree or group of trees.
 - (2) At no time should a wall, pavement, or porous pavement be placed closer than five feet or one foot for every two inches in caliper, whichever is greater, to the trunk of the tree.
 - (3) Root pruning may be necessary when the critical root zone is to be disturbed.
 - (4) If a patio, sidewalk, drive, parking lot, or other paved surface must be placed within the drip line of an existing tree, material such as a porous pavement or other approved construction method that will allow the passage of water and oxygen may be required.

4. Definitions

For the purpose of this section, the following terms are defined:

- A. **Drip Line** means a vertical line run through the outermost portion of the crown of a tree and extending to the ground.
- B. **Premium Tree** means any of the trees noted as such on the "Recommended Trees and Shrubs" list maintained by the Planning Director with a trunk diameter of at least 8 caliper inches.
- C. **Caliper** of a tree means the diameter of the tree as measured at four feet above ground level.

ADD the following to Section 23.306.5(B)(4) Fences, Walls and Hedges:

- (e) Gates for vehicular access adjacent to a street, not including alleys, must be set back from the curb or edge of pavement by a minimum of 20 feet.
- (f) Razor wire, barbed wire, and similar fencing materials are:
 - i. Prohibited within residential zoning, except for agricultural or related uses.
 - ii. Prohibited within non-residential zoning within the front yard setback and in side or rear setbacks where adjacent to residential zoning, except for agricultural related uses or in Heavy Commercial or industrial zoning districts.
- (g) Where a fence is adjacent to or visible from the public right-of-way, except an alley, the "finished" side of the fence should face the right-of-way.
- (h) Where screening walls or fences exist or are required, openings to ensure adequate pedestrian connectivity shall be provided where appropriate.
- (i) Fences, walls, and hedges must be maintained in a safe and attractive manner.
- (j) New or replacement fences must be constructed of standard fencing materials and may not be constructed of scrap metal, plywood, or other non-standard fencing materials.
- (k) Existing nonconforming fences, walls, and hedges may continue in good condition, except where noted above.

ADD:

23-322 Urban Design Standards

1. Purpose

The purpose of this section is to establish minimum standards for urban design to ensure high-quality attractive development that meets the community appearance goals of the City's Comprehensive Plan.

2. Applicability

- A. The provisions of this section shall apply to development within the corporate limits of the City of Abilene.
- B. No Building Permit may be issued for a new building unless the applicable provisions of this section are met.
- C. No Site Plan or Utility Plan shall be approved for any property unless the applicable requirements of this section are met.

3. Building Materials:

The following standards apply only within the Central Business District and along Enhancement Corridors, as designated in the City's Comprehensive Plan.

- A. Metal siding and standard concrete block (CMU) are prohibited on exterior facades visible from a street or a parking lot, except in Industrial or Heavy Commercial districts.
- B. Existing nonconforming structures are grandfathered and allowed to continue and, unless completely replaced, to be maintained or repaired with like materials if damaged.
- C. Prohibited materials may be used subject to a waiver granted by the Planning Director based on established guidelines. The use of these otherwise prohibited materials must be part of an overall architectural design that meets the aesthetic objectives of this section and the City's Comprehensive Plan. An unfavorable decision by the Planning Director may be appealed to the Planning and Zoning Commission Design Review Subcommittee, appointed by the Chair, for final determination.

4. Standards for Large Developments

The following provisions apply to any single building with a gross floor area of 50,000 square feet or greater or multiple buildings on a single site with a total gross floor area of 100,000 square feet or greater:

- A. Architectural Style. The architectural style of a development shall be coordinated to create visual cohesiveness and avoid blank, monotonous walls through variations in height, depth, color, or texture of a building. Examples of features used to create visual interest include arcades, display windows, awnings, and other similar design elements.
- B. Façade Articulation.
 - (1) Façade articulation (offsets) of at least five feet in depth shall be required for every fifty feet in surface length.
 - (2) Variations in building height of at least five feet shall be required along the front façade for every fifty feet in surface length.
- C. Roofs shall have parapets of consistent materials and design as the building concealing flat roofs and rooftop equipment, such as HVAC units.
- D. Façade offsets shall be shown on a site plan and approved as part of the site plan review process.

- E. Building elevations with enough detail to ensure compliance with these requirements shall be submitted and approved prior to the issuance of a building permit.
- F. Alternatives to these standards may be approved subject to approval by the Planning Director. Variations to these standards must be part of an overall architectural design that meets the aesthetic objectives of this section and the City's Comprehensive Plan. An unfavorable decision by the Planning Director may be appealed to the Planning and Zoning Commission Design Review Subcommittee for final determination.

5. Utilities

Utility lines providing individual service to a site, such as electric, telephone, and cable, shall be installed underground or in rear alleys or easements for all new non-residential development.

Replace the existing Section 23-316, Subsection 9, with the following:

Section 23-316 Performance Standards

9. Performance Standards Regulating Exterior Illumination

- A. Purpose. The purpose of this subsection is to provide for adequate and safe lighting of private property, while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are intended to prevent the creation of nuisances, promote traffic safety, conserve energy, and preserve the area's dark sky.
- B. Applicability. This subsection shall be applied to the installation of all new private outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of this ordinance shall not be required to comply with these outdoor lighting standards and may be replaced with like fixtures unless all similar lighting is being replaced.
- C. Lighting Plan. A lighting plan is required to be submitted and approved concurrent with site plan approval. Such plan shall provide details to ensure that the standards of this subsection are met.
- D. Exempt Lighting. The following luminaires and lighting systems are exempt from these requirements:
 - (1) Internally illuminated signs.
 - (2) Lighting within public street rights-of-way.
 - (3) Temporary lighting for theatrical, television, and performance areas.
 - (4) Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
 - (5) Code required exit signs.
 - (6) Code required lighting for stairs and ramps.
 - (7) Temporary holiday lighting provided that individual lamps are 10 watts or less.
 - (8) Lighting required and regulated by the Federal Aviation Administration or other federal or state agency.
 - (9) Interior lighting.
- E. Exterior lighting for outdoor recreational uses. Ball diamonds, playing fields, golf driving ranges, tennis courts, parks, and similar outdoor recreational uses may be exempted from one or more of the outdoor lighting standards of this section if approved by the Site Plan Committee. A denial by the Site Plan Committee may be appealed to the Board of Adjustment.
- F. Lighting Standards:
 - (1) Use of fully shielded light fixtures.
 - (a) In order to avoid undue glare and light trespass, all outdoor lighting fixtures shall be fully shielded except incandescent fixtures of one hundred fifty watts or less or other sources of seventy watts or less.
 - (b) Canopy lighting must be fully shielded.
 - (c) In no instance shall a commercial outdoor lighting fixture be mounted or oriented such that the lighting element is visible from a property in a residential district.
 - (2) No flickering or flashing lights shall be permitted
 - (3) The Board of Adjustment may agree to allow variations from these standards by granting a Special Exception, which may contain conditions, based on specific and reasonable written justification provided by the applicant showing that the purposes and intent of these requirements are met through alternative means.

G. Definitions.

- (1) **Glare** means light that causes visual discomfort or disability, or a loss of visual performance.
- (2) **Light fixture, fully shielded** means an outdoor lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal.
- (3) **Luminaire** means the complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket) for a light fixture.
- (4) **Outdoor light fixture** means an outdoor artificial illuminating device, either permanent or portable, used for illumination or advertisement.