

CITY ORDINANCE NO. 557

AN ORDINANCE OF THE CITY OF ABERNATHY AMENDING ORDINANCE 310 (ZONING CODE) OF THE CITY OF ABERNATHY AND REPEALING ALL LAWS OR ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT THEREWITH; ESTABLISHING STANDARD RULES AND GUIDELINES FOR THE INSTALLATION, USE, PLACEMENT, AND LOCATION OF MOBILE HOMES, HUD CODE MANUFACTURED HOMES, MODULAR HOMES, AND PROVIDING FOR MANUFACTURED HOME PARKS, PROVIDING A PENALTY FOR VIOLATIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the City of Abernathy, Texas, has authority to regulate, limit, prohibit, and direct the installation, placement, and planning of housing within the municipality through zoning, land use, and its powers to protect the public health, safety, and general welfare; and

WHEREAS, the City of Abernathy, Texas, has adopted various ordinances causing confusion and conflicts regulating mobile homes, HUD-Code manufactured homes and modular homes; and

WHEREAS, portions of the City's current zoning ordinances: Ordinance No. 310, Ordinance No. 333, Ordinance 393, Ordinance 412, Ordinance 417, and Ordinance 425; and are found to be disorganized and confusing and the City desires to amend certain provisions and re-codify and establish a more uniform Code in order to update its Ordinances with the State of Texas Manufactured Housing Standards Act (MHSA) as codified in the Texas Occupations Code; and

WHEREAS, the City Council for the City of Abernathy desires to amend and clarify its rules, procedures, and guidelines related to Mobile Homes, HUD-Code Manufactured Homes, and Modular Homes as they are defined under the MHSA; and

WHEREAS, the City Council of the City of Abernathy, Texas, finds that it is in the best interest of the public safety, health and general welfare, as well as to proper planning and management of zoning and land use, to amend its ordinances regulating Mobile Homes, HUD-Code Manufactured Homes, and Modular Homes as they are defined under the MHSA;

WHEREAS, a public hearing on this matter was held by the City Council as required by law;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF ABERNATHY, TEXAS:

SECTION 1 - OTHER ORDINANCES AND LAWS.

THAT Ordinance 310 (Zoning Code) is amended as stated herein and only those parts of said Ordinance or other ordinances that conflict herein are hereby replaced and repealed and declared no further in force or effect.

SECTION 2 - CONTROLLING ORDINANCE

This ordinance shall control over any conflicting terms of Zoning Ordinance 310 and any other ordinances amending ordinances thereunder, except as may be otherwise stated herein.

SECTION 3 - DEFINITIONS

- a. **“BUILDING OFFICIAL”** – The City Manager or the person or department to whom the city manager may delegate the BUILDING OFFICIAL duties including the physical inspection of property to ensure each major component meets zoning and building codes; foundation, plumbing, electrical wiring, roofing, and fire egress.
- b. **“CERTIFICATE OF OCCUPANCY”** – a document issued by the BUILDING OFFICIAL that authorizes a building or structure to be used or occupied by the proposed use upon being inspected and found to be in compliance with the requirements of all City ordinances.
- c. **“MOBILE HOME”** - a structure constructed before June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. Tex. Occ. Code § 1201.003 (20).
- d. **“HUD CODE MANUFACTURED HOME”** - a structure constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, built on a permanent chassis, designed for use as a dwelling with or without a permanent foundation when the structure is connected to the required utilities, transportable in one or more sections, and in the traveling mode, at least eight body feet in width or at least 40 body feet in length or, when erected on site, at least 320 square feet. Tex. Occ. Code § 1201.003 (12). *(A HUD CODE MANUFACTURED HOME displays a red certification label on the exterior of each section. This label serves as the manufacturer’s certification that the section is built in accordance with Federal Housing and Urban Development standards.)*
- e. **“MANUFACTURED HOME” or “MANUFACTURED HOUSING”** – is a HUD CODE MANUFACTURED HOME or a MOBILE HOME. Tex. Occ. Code § 1201.003 (18).

- f. **“MODULAR HOME”** – a structure designed for the occupancy of one or more families, that is constructed in one or more modules or constructed using one or more modular components built at a location other than the permanent site; and designed to be used as a permanent residential structure when the module or the modular component is transported to the permanent site and erected or installed on a permanent foundation system. Tex. Occ. Code § 1202.002. *(A MODULAR HOME will have a blue decal issued by the Texas Department of Licensing and Regulation signifying that the home has been built to comply with the International Residential Code.)*
- g. **“HUD CODE MANUFACTURED HOME PARK”** - A unified development of ten or more MANUFACTURED HOME SPACES for rent or lease, and including common areas and facilities for management, recreation, laundry and utility services, storage, and similar services for the convenience of residents of the HUD CODE MANUFACTURED HOME PARK.
- h. **“MANUFACTURED HOME SPACE”** - An area within a HUD CODE MANUFACTURED HOME PARK which is designed for and designated as the location for a single MANUFACTURED HOME and the exclusive use of its occupants.
- i. **“MANUFACTURED HOME STAND”** - That portion of a MANUFACTURED HOME SPACE upon which the MANUFACTURED HOME is placed.
- j. **“PIT SET FOUNDATION”** A foundation system designed to give a low profile appearance resembling a "site" built home on slab foundation which incorporates a full perimeter support wall constructed of poured concrete or concrete block resting on an excavated footing which has been installed so that it forms a barrier to the entry of water underneath the home and acts as a short retaining wall.
- k. **“STREET LINE”** - the line of the tract or lot which adjoins a street or roadway upon which there is situated either street numbered houses or businesses or a combination of both. Where curbing is present, the farthest edge of the curbing from the center of the street shall be considered the STREET LINE. Where a curb is not present, the STREET LINE shall be considered to be 9½ feet from the actual property line nearest the street or roadway.
- l. **“PERSON, FIRM OR CORPORATION”** - includes a natural person, entity, firm, partnership, association, limited liability company, joint venturer, or corporation.

Other terms herein shall have the meanings defined in other ordinances of the City, except where the context clearly requires otherwise.

SECTION 4 - MOBILE HOMES PROHIBITED

No MOBILE HOME shall be permitted within the City limits of the City of Abernathy, Texas. Any MOBILE HOME located in the City legally, prior to the enactment of this ordinance and

used and occupied as a residential dwelling shall be allowed to remain, but shall not be replaced with another MOBILE HOME under any circumstance.

SECTION 5 - UNLAWFUL PARKING, USE OR LOCATION OF MANUFACTURED HOMES

It shall be unlawful for any person, firm or corporation to park, locate or permit the parking or location of any HUD-CODE MANUFACTURED HOME upon any lot, street or tract of land unless the lot or tract of land is entirely within an approved HUD CODE MANUFACTURED HOME PARK.

SECTION 6 - EXISTING MANUFACTURED HOMES

This ordinance does not make unlawful any MANUFACTURED HOME already in place and complying with all laws when this ordinance becomes effective. However, after the effective date of this ordinance, if any nonconforming MANUFACTURED HOME is removed from its location, the following shall apply:

- a. If it is a MOBILE HOME, it shall not be allowed to relocate within the city limits of the City of Abernathy, Texas; and
- b. If it is a HUD CODE MANUFACTURED HOME all provisions of this ordinance shall apply.

SECTION 7 – MANUFACTURED HOME USE

A MANUFACTURED HOME shall not be used as an office or business building in any zoning district, except as an office on the site in connection with:

- a. a MANUFACTURED HOME PARK, or
- b. a bona fide retail MANUFACTURED HOME sales lot or park.

SECTION 8 - VIOLATIONS AND PENALTIES

Any person, firm or corporation who commits any of the following shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than FIVE HUNDRED DOLLARS (\$500.00) for:

- a. Any violation of this ordinance; or
- b. Providing false information to a City official concerning licensing or permitting under this ordinance this ordinance or compliance with this ordinance.

Each day or portion of a day during which any violation occurs or continues shall be a separate offense.

SECTION 9 - PERMISSIBLE PARKING OR LOCATION OF MANUFACTURED HOUSING.

A HUD CODE MANUFACTURED HOME may be parked or located or permitted to be parked or located upon any lot or tract of land not prohibited above as long as such HUD CODE MANUFACTURED HOME complies with the terms and provisions of this ordinance and the

provisions of state law. Any person, firm or corporation who desires to park or locate a HUD CODE MANUFACTURED HOME as permitted in this ordinance, shall make application for a housing installation permit with the BUILDING OFFICIAL of the City of Abernathy, Texas. The fee for the housing installation permit shall be \$0.05 PER SQUARE FEET of enclosure. Before granting a CERTIFICATE OF OCCUPANCY, the BUILDING OFFICIAL shall insure that the following requirements are met:

- a. **Setbacks.** No HUD CODE MANUFACTURED HOME may be placed on any lot or tract within the City of Abernathy, Texas, in such manner that any part of the HUD MANUFACTURED HOME or any extension thereto is situated within 5 feet of any side lot or tract line whenever the lot or tract is bordered by a lot or tract of land on either side of such lot or tract land so occupied, and is set back less than 25 feet from the front STREET LINE. Whenever the lot or tract of land is situated at an intersection of two different streets, or roadways, the HUD MANUFACTURED HOME or any extension thereof shall not be parked nearer than 5 feet from the inside lot or tract line and not nearer than 15 feet from the side STREET LINE adjacent to the street intersecting the street upon which are situated homes or businesses which have street addresses and not nearer than 25 feet to the front STREET LINE.
- b. **Anchoring.** A HUD MANUFACTURED HOME must be anchored in accordance with the manufacturer's installation instructions and anchored, as well as supported and blocked, in accordance with the standards for HUD MANUFACTURED HOUSING established or maintained by the Texas Department of Housing and Community Affairs.
- c. **Porches.** A porch is required at each point of entry to the home. Each porch must be of sturdy construction. The minimum size requirement for any front porch shall be four foot by six foot (4' X 6') and all other porches shall have a minimum size requirement of four foot by four foot (4'X4'). Any porch with a finished tread surface higher than twelve (12) inches above the existing ground level must have handrails attached.
- d. **Driveway.** Any HUD CODE MANUFACTURED HOME is required to have a concrete, gravel, or asphalt driveway and parking area for off-street parking of vehicles. Where the driveway and parking area adjoin a curb along any paved street, a concrete apron extending five feet (5') from the curb shall be required. Driveways shall not be located within twenty feet (20') of any street intersection.
- e. **Skirting.** In addition to the requirements specified above, any HUD CODE MANUFACTURED HOME shall be properly skirted. Skirting shall be required around the complete perimeter of said HUD MANUFACTURED HOME in accordance with the following minimum specifications:
 1. Skirting shall be installed and maintained in such a manner that prevents animals from entering into the crawl space.
 2. The following material (or its equivalent as approved by the BUILDING OFFICIAL) is approved to be used for skirting:
 - a. manufactured vinyl skirting with vent panels;
 - b. factory painted steel sheets, with appropriate "J-Trim" installed where the skirting meets the home;
 - c. reinforced and painted Masonite, HardiPlank or other similar commercially produced hard board siding products;

- d. reinforced and painted grooved plywood sheets commonly used as home siding, with a 3/8 inch minimum thickness, rated for exterior use by the manufacturer;
 - e. reinforced vinyl siding, rated for exterior use by the manufacturer;
 - f. mortared brick, stone, or concrete blocks installed on a permanent footing.
3. Screened vents are required to be used with all skirting to allow for air circulation under the HUD MANUFACTURED HOME.
 4. Used materials for skirting are strictly prohibited.

SECTION 10 - MODULAR HOME

A MODULAR HOME may be parked or located or permitted to be parked or located upon any lot or tract of land which has 6,000 square feet of land or more, whenever such lot or tract is unoccupied other dwelling within the City limits of the City of Abernathy, Texas, as long as such MODULAR HOME complies with the terms and provisions of this ordinance and the provisions of state law. Any person, firm or corporation who desires to park or locate a MODULAR HOME as permitted in this ordinance, shall make application for a housing installation permit with the BUILDING OFFICIAL of the City of Abernathy, Texas. The fee for the housing installation permit shall be \$0.05 PER SQUARE FEET of enclosure.

A MODULAR HOME may be placed in a single-family zoned area consistent with this Ordinance and, must:

1. have a value equal to or greater than the median taxable value for each single-family dwelling located within 500 feet of the lot on which the industrialized housing is proposed to be located, as determined by the most recent certified tax appraisal roll in the county in which the properties are located;
2. have exterior siding, roofing, roof pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the modular housing is proposed to be located;
3. have exterior siding, roofing, roofing pitch, foundation fascia, and fenestration compatible with the single-family dwellings located within 500 feet of the lot on which the modular housing is proposed to be located, as well as required herein;
4. comply with municipal aesthetic standards, building setbacks, side and rear yard offsets, subdivision control, architectural landscaping, square footage, and other site requirements applicable to single-family dwellings;
5. be securely fixed to a permanent foundation.

For purposes of Section, "value" means the taxable value of the modular housing and the lot after installation of the housing. TEXA OCC. CODE 1202.253.

Before granting a CERTIFICATE OF OCCUPANCY, the BUILDING OFFICIAL shall insure that the following requirements are met:

- a. **Setbacks.** No MODULAR HOME may be placed on any lot or tract within the City of Abernathy, Texas, in such manner that any part of the HUD MANUFACTURED HOME or any extension thereto is situated within 5 feet of any side lot or tract line whenever the lot or tract is bordered by a lot or tract of land on either side of such lot or tract land so occupied, and is set back less than 25 feet from the front STREET LINE. Whenever the lot or tract of land is situated at an intersection of two different streets, or roadways, the MODULAR HOME or any extension thereof shall not be parked nearer than 5 feet from the inside lot or tract line and not nearer than 15 feet from the side STREET LINE adjacent to the street intersecting the street upon which are situated homes or businesses which have street addresses and not nearer than 25 feet to the front STREET LINE.
- b. **Foundation.** In accordance with the Building Code of the City, each MODULAR HOME shall be anchored to a permanent foundation. A PIT SET FOUNDATION is required if the MODULAR HOME is placed on any lot or tract of land within the city limits of the City of Abernathy, Texas, which is not located entirely within an approved HUD CODE MANUFACTURED HOME PARK.
- c. **Anchoring.** A MODULAR HOME shall be anchored in accordance with the manufacturer's installation instructions and anchored, as well as supported and blocked, in accordance with the standards for MODULAR HOUSING established and/or maintained by the Texas Department of Housing and Community Affairs.
- d. **Floor Level.** Any MODULAR HOME placed on any lot or tract of land within the city limits of the City of Abernathy, Texas, not located entirely within an approved HUD CODE MANUFACTURED HOME PARK must be installed so that finished floor at any entrance does not extend to a height greater than twelve (12) inches above the existing ground level.
- e. **Porches.** A porch is required at each point of entry to the home. Each porch must be of sturdy construction. The minimum size requirement for any front porch shall be four foot by six foot (4' X 6') and all other porches shall have a minimum size requirement of four foot by four foot (4' X 4'). Any porch with a finished tread surface higher than twelve (12) inches above the existing ground level must have handrails attached.
- f. **Driveway.** Any MODULAR HOME is required to have installed, a concrete, gravel, or asphalt driveway and parking area for off-street parking of vehicles. Where the driveway and parking area adjoin a curb along any paved street, a concrete apron extending five feet (5') from the curb shall be required. Driveways shall not be located within twenty feet (20') of any street intersection.
- g. **Skirting.** In addition to the requirements specified above, any MODULAR HOME shall be properly skirted. Skirting shall be required around the complete perimeter of said MODULAR HOME in accordance with the following minimum specifications:
 1. Skirting shall be installed and maintained in such a manner that prevents animals from entering into the crawl space.
 2. For any MODULAR HOME the following material (or its equivalent as approved by the appropriate city officials) is approved to be used for skirting:
 - a. manufactured vinyl skirting with vent panels;
 - b. reinforced and painted Masonite, HardiPlank or other similar commercially produced hard board siding products;

- c. Poured Concrete
- d. Mortared brick, stone, or concrete blocks installed on a permanent footing.
- 3. For any MODULAR HOME required to utilize a PIT SET FOUNDATION, the only material approved to be used for skirting is:
 - a. Poured Concrete;
 - b. Mortared brick, stone, or concrete blocks installed on a permanent footing.
- 4. Screened vents are required to be used with all skirting to allow for air circulation under the MODULAR HOME.
- 5. Used materials for skirting is strictly prohibited

SECTION 11 - INSPECTIONS AND CERTIFICATE OF OCCUPANCY

Before a newly installed HUD MANUFACTURED HOME or MODULAR HOME may be occupied, it must first be inspected by the City BUILDING OFFICIAL. Once the premises has been inspected and found to be in compliance with all City ordinances, the BUILDING OFFICIAL shall issue a CERTIFICATE OF OCCUPANCY.

SECTION 12 – CONNECTION TO CITY UTILITY SERVICES

A CERTIFICATE OF OCCUPANCY is required prior to connecting any newly installed HUD MANUFACTURED HOME or MODULAR HOME to the water and/or sewer service of the City of Abernathy, Texas, in accordance with the Plumbing Code of the City.

SECTION 13 - HUD CODE MANUFACTURED HOME PARKS

HUD CODE MANUFACTURED HOME PARKS shall be subject to the following site development regulations unless unique and unusual design restraints are shown. HUD CODE MANUFACTURED HOMES and/or HUD CODE MANUFACTURED HOME PARKS are only allowed in designated zones established by the City Zoning areas MF-2, C-1, I-1, and PD. Unique shall be defined as not common to other typical properties in the community.

- a. The minimum number of HUD CODE MANUFACTURED HOME SPACES contained in any HUD CODE MANUFACTURED HOME PARK shall be 10 spaces, and the minimum site area shall be 45,000 square feet.
- b. The minimum HUD CODE MANUFACTURED HOME PARK site area per dwelling unit shall be 4,500 square feet.
- c. Each HUD CODE MANUFACTURED HOME PARK shall have a minimum street yard of 25 feet, and a minimum interior yard of 15 feet. No HUD CODE MANUFACTURED HOME SPACE shall be permitted in any street yard.
- d. The HUD CODE MANUFACTURED HOME PARK shall have direct access to a street having a dedicated and accepted right of way of not less than 60 feet.
- e. Interior vehicular circulation shall be provided by private internal streets paved to a width of not less than 30 feet. Internal streets shall be continuous and connect with other internal streets or with public streets, or shall be provided with a paved cul-de-sac not to exceed 400 feet in length.

- f. Each HUD CODE MANUFACTURED HOME SPACE shall contain a minimum area of 4,500 square feet, adjacent to an internal street designed to permit movement of HUD CODE MANUFACTURED HOMES to and from each space.
- g. Each HUD CODE MANUFACTURED HOME SPACE shall contain a minimum of 2.1 off-street parking spaces per dwelling unit, at least one of which shall be provided on each HUD CODE MANUFACTURED HOME SPACE. The balance of the required parking may be located in common parking area distributed throughout the HUD CODE MANUFACTURED HOME PARK in a manner that provides reasonable and convenient access to all MANUFACTURED HOME SPACES.
- h. Each HUD CODE MANUFACTURED HOME and any attached accessory structures shall be separated from every other HUD CODE MANUFACTURED HOME, building, or structure by at least 10 feet.
- i. The minimum distance between a HUD CODE MANUFACTURED HOME STAND and the pavement of an internal street, common parking area, or other common area shall be 10 feet.
- j. A solid wall or fence at least six feet high shall be erected and thereafter properly maintained along all boundaries of the HUD CODE MANUFACTURED HOME PARK; except,
 - 1. Where the solid wall or fence would impede drainage;
 - 2. Where the boundary of the HUD CODE MANUFACTURED HOME PARK abuts another HUD CODE MANUFACTURED HOME development.
- k. The height of the HUD CODE MANUFACTURED HOME chassis above the ground elevation, measured at 90 degrees to the frame, shall not exceed three feet at the low end.
- l. Required street yards shall be landscaped, excluding necessary driveways and walkways providing access to the HUD CODE MANUFACTURED HOME PARK.
- m. Each HUD CODE MANUFACTURED HOME PARK shall provide for reasonable and safe pedestrian access to and among each MANUFACTURED HOME SPACE and all common facilities. Walks not designed in common with internal streets or parking areas shall have a minimum paved width of two feet.
- n. Each HUD CODE MANUFACTURED HOME PARK shall have a minimum of 300 square feet of usable open space per dwelling unit, with at least 150 square feet being located on each HUD CODE MANUFACTURED HOME SPACE. The balance of the required usable open space may be located in common open space areas distributed throughout the HUD CODE MANUFACTURED HOME PARK in a manner that provides reasonable and convenient access to all HUD CODE MANUFACTURED HOME SPACES.
- o. Maximum height shall be 35 feet.
- p. Each HUD CODE MANUFACTURED HOME PARK shall be subject to site plan review by the BUILDING OFFICIAL and subject to Zoning approval by the City.

SECTION 14- EXISTING HUD CODE MANUFACTURED HOME PARKS

This ordinance does not make an existing or prior approved HUD CODE MANUFACTURED HOME PARK or any MOBILE HOME park which is already in place and conforming to all laws at the date this ordinance becomes effective. It is further provided that in the situation where the HUD CODE MANUFACTURED HOME PARK or MOBILE HOME park in

existence at the time of the passage of this ordinance does not conform to the minimum spacing requirements of this ordinance, such space may not again be occupied unless and until such vacant space conforms to the minimum spacing requirements of this ordinance. It is the intent of this ordinance to cause existing HUD CODE MANUFACTURED HOME PARKS and/or MOBILE HOME parks to be brought up to the minimum spacing standards of this Ordinance as an existing space becomes vacant.

SECTION 15 - NONLIABILITY

The City and its officers, agents and employees shall have no liability of any nature for any actions, omissions, or other matters in any way concerning the subject matter of this ordinance.

SECTION 16 - CONSTITUTIONALITY

If any section, sub-section, sentence, clause, phrase or portion of this ordinance shall held to be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be a deemed separate, distinct, and independent provision and such invalidity shall not affect the validity of the remaining portions of this ordinance.

SECTION 17 – PUBLICAITON

The City Secretary is hereby authorized and directed to cause publication of this ordinance in accordance with law.

SECTION 18 - EFFECTIVE DATE

This ordinance shall be in full force and effect from the date of its passage and adoption by the City Council of the City of Abernathy.

Public Hearing was held on the 9th day of June, 2014.

PASSED AND ADOPTED THIS THE 9TH DAY OF JUNE, 2014.