

**HAYS AREA PLANNING COMMISSION MEETING AGENDA  
CITY COMMISSION CHAMBERS 1507 MAIN, HAYS, KS  
NOVEMBER 18, 2013  
6:30 P.M.**

- 1. **CALL TO ORDER BY CHAIRMAN:**
  
- 2. **MINUTES: Consider approval of the minutes from the October 21, 2013 meeting:**  
ACTION:\_\_\_\_\_
  
- 3. **CITIZEN COMMENTS:**  
ACTION:\_\_\_\_\_
  
- 4. **CITY/COUNTY COMMISSION ACTION AND PLANNING DEVELOPMENT UPDATES ON PLANNING COMMISSION ISSUES:**  
ACTION:\_\_\_\_\_
  
- 5. **DISCUSS CHANGES TO THE LANDSCAPING AND IRRIGATION REGULATIONS WITHIN THE ZONING REGULATIONS:**  
ACTION:\_\_\_\_\_
  
- 6. **OTHER:**  
ACTION:\_\_\_\_\_

If you will be unable to attend please contact the Planning, Inspection and Enforcement office at 785- 628-7310. Thank you. Any person with a disability and needing special accommodations to attend this meeting should contact the Planning, Inspection and Enforcement office (785-628-7310) 48 hours prior to the scheduled meeting time. Every attempt will be made to accommodate any requests for assistance.

**DRAFT  
HAYS AREA PLANNING COMMISSION  
CITY HALL IN COMMISSION CHAMBERS  
OCTOBER 21, 2013  
MINUTES  
6:30 P.M.**

**1. CALL TO ORDER:** The Hays Area Planning Commission met in regular session Monday, October 21, 2013 at 6:30 p.m. in Commission Chambers at City Hall. Chairman Larry Gould declared that a quorum was present and called the meeting to order.

**Roll Call:**

**Present:** Larry Gould    Matthew Wheeler    Tom Denning    Jim Fouts  
              Jake Glover    Travis Rickford    Pam Rein

**Absent:** Lou Caplan  
              Paul Phillips

City Staff in attendance: I.D. Creech, Director of Public Works, Jesse Rohr, Superintendent of Planning, Inspection and Enforcement, and Administrative Secretary Linda K. Bixenman.

**2. MINUTES:** The minutes from the September 16, 2013 meeting were approved by consensus with one correction by Jim Fouts to strike a statement about “Roberts Rules of Order” under the agenda item on “Consider Planning Commission By-Laws”.

**3. CITIZEN COMMENTS:** - None.

**4. CITY/COUNTY COMMISSION ACTION & PLANNING & DEVELOPMENT ISSUE**

**UPDATES:** Jesse Rohr stated that the following would be going before the City Commission this Thursday October 24, 2013:

**Lots 1 thru 24 - Replat of Lot 2, Block 9, Golden Belt 8<sup>th</sup> Addition:** Request to repeal Resolution 2013-017 which established a benefit district. The developer asks to finance the development with private funds.

**Lots 1 thru 16 adjacent to Jagger Court in Golden Belt Estates 5<sup>th</sup> Addition – Phase II:** Request to approve the creation of a special benefit district for infrastructure improvements for the development.

**Main to Milner along 13<sup>th</sup> Street:** I.D. explained they would be moving on the design of the project soon.

**Proposed Convention Center:** Larry Gould gave a brief update on the status of the efforts of the task force.

**Truck Service Center at 55<sup>th</sup> and Highway 183:** There were no updates.

**5. PUBLIC HEARING TO CONSIDER REVISION TO PARKING REGULATIONS:** Jesse Rohr presented a power point presentation. He explained that the parking regulations are antiquated and need updating as pointed out in the 2012 Comprehensive Plan. The review of the parking regulations were on the list of “low hanging fruit”.

Per current ordinance, the number of parking stalls is figured by square footage and type of occupancy. The recommendation is to provide another option where the number of parking spaces can be based off of actual number of occupants. He read the recommended verbiage. This would provide a solution until the parking regulations are reviewed in their entirety during the possible re-write of the zoning regulations in 2014.

He listed the potential impact of having more parking spaces then needed for your business. Nationally, there are 6 to 7 parking spaces per car.

- Excessive Storm water run-off (storm water fee increases with impervious surface)
- Increased cost to property owner that is passed on to consumer
- Maintenance cost
- Opportunity cost – Best use of the land is not maximized
- Reduced Aesthetics
- Too much available parking discourages people to utilize other modes of transportation, such as biking, walking , or public transportation

In his research of what cities are doing, he noted that Overland Park, Kansas has the same intent.

He provided several examples. By current regulations a chiropractic office required 24 parking stalls; although based on their occupancy, they would have only needed 11 spaces.

The other example used was the Hadley Center at 205 E 7<sup>th</sup> Street. Per current regulation, over 400 parking spaces would be required; although based on the occupancy per the list provided, 110 parking spaces would be needed.

He pointed out a current project of a whole-sale warehouse under construction to be used for overflow stock with no occupancy. Current regulations would require two parking stalls.

Mr. Denning voiced concern that owners may provide only the minimum number of parking stalls in order to save a buck. He pointed out a scenario where a

business starts out small and in six months have a full staff. He asked if they could be grandfathered in.

Jesse Rohr pointed out that they would not be grandfathered in. A change of occupancy or growth could increase the required number of parking spaces. They would have to meet the parking requirements of the zoning regulations.

Jim Fouts asked how they would accommodate the need for more parking spaces. Jesse Rohr explained that they would have to provide the extra parking or relocate. The Hays Area Board of Zoning can grant exception for a special use permit to access shared parking or parking 300 feet from the facility if agreed upon by property owners.

Tom Denning asked if it would create problems between businesses if customers would use adjacent parking at another business. He used the example of customers at south Wendy's using the Dillons Parking lot. Jesse Rohr stated that there are good and bad merits of shared parking; the adjacent business may not always have the same availability of parking as today.

Travis Rickford and Jake Glover asked if there was a limit to the maximum number of parking spaces. Mr. Rickford asked about the storm water fees. Jesse Rohr answered that there was no maximum limit of parking spaces. The storm water fees are based on impervious surface.

Pam Rein noted the large parking lot at Walmart. Jesse Rohr stated that the corporate office determines the number of parking stalls.

Larry Gould asked about the determination of required parking spaces for convention centers. Jesse Rohr answered that because convention centers are unique, it can be difficult. Sometimes arrangements are made with hotels and restaurants for shared parking.

Matthew Kenwright from the Hays Daily News asked if there had been any concerns by business owners. He asked how long this topic has been up for discussion. Jesse Rohr answered that he was not aware of any feedback at city staff level. This was first discussed at the September, 2013 Planning Commission meeting; although it has been a topic up for discussion for a long time.

Jesse Rohr pointed out that the new plan would financially help business owners and consumers.

Larry Gould entertained a motion.

There was a motion by Jake Glover with a second by Travis Rickford to recommend that the governing body adopt the revision to parking regulations, Chapter 71, Section 71-759 by adding the following new verbiage to the parking regulations recommended by staff and the Planning Commission:

Where approved by the Planning Inspection Enforcement Superintendent, the actual number of parking spaces provided may be based on the actual number of occupants for whom each occupied space, floor or building is designed, rather than the number of spaces determined by calculation.

VOTE: AYES: Larry Gould    Matthew Wheeler    Tom Denning    Jim Fouts  
                  Jake Glover    Travis Rickford    Pam Rein

**6. DRAFT REQUEST FOR PROPOSAL FOR REVIEW AND POTENTIAL RE-WRITE OF ZONING/SUBDIVISION REGULATIONS:** Jesse Rohr handed out a draft copy of the request for proposals for the review and potential re-write of the Zoning and Subdivision regulations. The request is for electronic submittals to make it easier to share with the Planning Commission. The amount of \$150,000.00 is budgeted in the 2014 calendar year for this project.

They would like two volunteers from the Planning Commission to join in on the process for the selection of a professional planning consultant. Travis Rickford and Mathew Wheeler volunteered to be on the committee.

Larry Gould asked if the regulations would be based off of the direction in the comprehensive plan. He asked if the list of consultants would be restricted to the State of Kansas. Jesse Rohr stated that the regulations are to be compatible with the comprehensive plan. The request for proposals would be listed on the American Planning Association web site. The consultants would not have to be from the state of Kansas; although they would be required to have the legal staff familiar with the state statutes of zoning and subdivision regulations.

**Adjournment:** Larry Gould adjourned the meeting at 7:35 p.m.

Submitted by: Linda K. Bixenman, Administrative Secretary,  
                  Planning, Inspection and Enforcement

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 71 OF THE CITY OF HAYS, KANSAS, MUNICIPAL CODE, BY MODIFYING ARTICLE VI REGARDING LANDSCAPE AND IRRIGATION PLANS.

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BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF HAYS, KANSAS:

Section 1. Chapter 71, Article VI, Section 71-1172 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

CHAPTER 71

ZONING

ARTICLE VI. LANDSCAPE PLAN

**Sec. 71-1172. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Cool Season Grass means a grass species which possesses a C3 photosynthetic pathway and favors cooler weather of spring and autumn, typically going dormant in hot, dry periods without supplemental irrigation. Most cool season grasses perform better in partial to full shade conditions. Common species of cool season grasses grown in the Hays area include varieties of the Kentucky Bluegrass, fine fescues, tall fescues, sheep fescues, creeping bentgrass and ryegrasses. For the purpose of this chapter, native cool season grasses grown in a turf, such as western wheatgrass, will not be considered cool season grass and can be planted up to the allowable limits of warm season grasses.

*Substantial redevelopment and/or additions to existing development* means a development on improved real estate that is altered or changed in such a manner that one or more of the following is applicable:

(1)The development results in the construction of a building, structure or addition that increases the gross square footage of the existing development by more than 30 percent; provided that separate incremental developments below the 30-percent amount shall not be used to avoid the requirements of this section if, in the aggregate, the developments over a period of 18 months would meet those requirements;

(2) The estimated construction costs of the development exceeds 50 percent of the most recent appraised fair market value of the existing property as determined by the county appraiser; provided that separate incremental developments below the 50-percent amount shall not be used to avoid the requirements of this section if in the aggregate the development over the period of 18 months would meet those requirements.

(3) The development results in the construction of a new, permanent, irrigation system.

(4) The development results in changes to an existing irrigation system that have the effect of connecting an existing irrigation system to the City's water system, or expanding the currently irrigated area of any irrigation system or replacing all or a substantial portion of an existing irrigation system.

(5) Irrigation systems connected to privately owned wells under non-domestic water rights in good standing with the State of Kansas, irrigation systems used to serve public properties, and irrigation systems constructed, altered or repaired in connection with an audit or rebate program are expressly exempted from the irrigation plan requirements of this article.

Warm Season Grass means a grass species which possesses a C4 photosynthetic pathway and favors warmer weather of summer. These grasses typically stay dormant until adequate warmth has reached the soil and air and again go dormant when cold temperatures arrive in autumn. Most warm season grasses perform best in areas with little to no shade. Perennial varieties will typically enter dormancy during drought. Most warm season grasses used for turf in the Hays area require significantly lower amounts of supplemental irrigation to maintain vigor. Common species of warm season grasses grown in the Hays area include varieties of buffalo grass, Bermuda grass and blue grama grass. Zoysia grass varieties are now being grown near Hays and may become more common locally.

Section 2. Chapter 71, Article VI, Section 71-1173 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1173. Submission.**

Concurrent with the submission of and as part of the approval of a site plan, if required, and prior to the issuance of a building permit for any development on unimproved real estate, excluding structures for agricultural uses, and for significant alterations to existing development on improved real estate, a landscape plan and an irrigation plan, if applicable, shall be submitted to and approved by the planning/inspection staff. The proposed landscaping plan or irrigation plan may be forwarded to either the planning commission, or the appropriate governing body, or both, for approval, if in the judgment of planning/inspection staff, it is inconsistent with the comprehensive plan, the landscaping process or the zoning and subdivision regulations.

Section 3. Chapter 71, Article VI, Section 71-1174 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1174. Applicability.**

The requirements ~~of this article~~ shall apply to ~~all zoning districts~~.

**Deleted:** for a landscape plan

**Deleted:** the following zoning districts: R-3A, R-4, M-P, M-S, C-O, C-1, C-2, C-3, B-P, I-1, and I-2

~~In the case of conflict between the regulations in this article and the regulations of the particular zoning district, the stricter application shall apply.~~

**Deleted:** (1) Single-family dwellings and two-family units are expressly exempted from this requirement.

**Deleted:** (2)

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Section 4. Chapter 71, Article VI, Section 71-1175 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1175. Approval criteria.**

In addition to the criteria contained elsewhere in this chapter, the following criteria shall be considered when reviewing a landscape plan or irrigation plan:

- (1)The maintenance of the City's quality, heritage and character by enhancing the visual appearance of the community through the use of landscaping materials and techniques;
- (2)The provision of greenery to visually soften paved areas and buildings;
- (3)The establishment of optimal environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, retardation of stormwater runoff, abatement of noise, glare and heat;
- (4)The replenishment of native trees by utilizing plant materials that are generally native or hearty for the region;
- (5)The screening of certain unsightly equipment or materials from view of persons on public streets or adjoining properties;
- (6)The buffering of uncomplementary uses;
- (7)The prevention of light pollution and intrusion;
- (8)The preservation of and protection of existing quality trees and natural landscape from destruction and removal.

(9) The conservation of the City's water resources.

Deleted: uncomplimentary

Section 5. Chapter 71, Article VI, Section 71-1176 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1176. Requirements and contents.**

Two copies of a landscape plan or irrigation plan shall be submitted. The landscape plan or irrigation plan shall contain the following information:

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- (1) A north arrow and scale;
- (2) The location of all proposed landscape materials, including existing trees proposed to be saved;
- (3) A listing of the proposed plant materials indicating the type, number and size at the time of planting;
- (4) The location of proposed structures and parking areas showing the type of surfacing;
- (5) The location, type and size of all aboveground and underground utilities;
- (6) Topography and final grading adequate to specify plantings for sloping areas;
- (7) Proposed plans for provision of water to plant materials including the location of any irrigation system, the scope of the irrigation system work proposed, the dimensions of any existing or proposed irrigation system and the name and address of the designer and installer performing the work on the irrigation system;
- (8) The types of materials to be used in the irrigation system, including manufacturer submittals;
- (9) Conformance to the requirements for required landscaping for front yards;
- (10) Conformance to the requirements for required buffers;
- (11) Conformance to the requirements for parking lot screening;
- (12) Conformance to additional other landscape standards;

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(13) Any other provisions applicable to the project, including measures to be taken during construction to protect existing trees to be saved or plans requiring excavation or construction within street right-of-way or utility easements.

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(14) Any other information requested by the City.

Section 6. Chapter 71, Article VI, Section 71-1177 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1177. Required landscaping.**

Deleted: for front yards

(a)The minimum amount of landscaped area of covered zoning districts and uses when located adjacent to public streets shall be as follows:

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(1)On a zoning lot with an average depth of 150 feet or less, ten square feet of landscaped yard per lineal foot of street frontage.

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(2)On a zoning lot with an average depth of more than 150 feet but less than 250 feet, 15 square feet of landscaped yard per lineal foot of street frontage.

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(3)On a zoning lot with an average depth of more than 250 feet, 20 square feet of landscaped yard per lineal foot of street frontage.

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(b)The applicant for the building permit shall plant a minimum of one shade tree, two evergreen trees, or three ornamental trees for every 500 square feet of landscaped yard.

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(c)The following design standards shall apply to required landscaping and trees in yards:

Deleted: front

(1)Trees shall be selected from the recommended tree list for the City.

(2)The minimum size at the time of planting of required trees shall be as follows: shade trees, 1½-inch caliper measured six inches above the ground; ornamental trees, one-inch caliper measured six inches above the ground; evergreen trees, five feet in height.

(3)Trees shall be located in planter areas of sufficient size to allow for growth, to prevent damage from vehicles, and to avoid unnecessary maintenance to structures, walks and drives. A minimum of 25 square feet of permeable area around each tree is recommended.

(4)Adequate distance between individual trees shall be provided; minimum spacing should be 15 feet for ornamental trees and 30 feet for shade trees.

(5) Shrubbery may be substituted for up to one-third of required trees at the rate of ten shrubs per one required tree. Substitute shrubbery shall attain a mature height of at least two feet and shall be placed in no less than a two-gallon container size at the time of planting.

(6) The required trees and shrubs may be located in adjacent public rights-of-way, if approved by the zoning administrator, if there are no conflicts with utilities and if the plantings are in accordance with [Section 68-57](#). No tree shall be planted between the curb and the sidewalk if the clear space is less than four feet wide.

(7) No landscaping tree or shrub shall be placed in a way that the zoning administrator determines is an obstruction to visibility or is otherwise a traffic hazard.

**Deleted:** , extends into a sight distance triangle, as set forth in these regulations,

Section 7. Chapter 71, Article VI, Section 71-1181 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1181. Maintenance.**

The maintenance requirements for all landscaped areas shall be as follows:

(1)The landowner is responsible for the maintenance of all landscaped areas and shall keep them in a proper, neat and orderly appearance and free from litter and debris at all times.

(2)Maintenance shall include mowing, trimming, weeding, mulching, restaking, pruning, fertilizing, disease and insect control, irrigating and other necessary operations.

(3) The total area of permanently irrigated cool season turf on residential properties of four units or fewer may not exceed 2,000 square feet. The total area of permanently irrigated turf on residential properties of four units or fewer shall not exceed 5,000 square feet. The total area served by the irrigation system shall not exceed 10,000 square feet.

(4) The total area of permanently irrigated cool season turf on all other properties may not exceed 30% of the property area (less impervious surface area) or 2,000 square feet per zoning lot, whichever is less. The total area of permanently irrigated turf on all other properties may not exceed 5,000 square feet. The total irrigated area served by the irrigation system shall not exceed 10,000 square feet. A minimum of 30% of the landscaped area must be xeriscaped.

(5) Irrigation systems shall be designed and operated to avoid watering impervious surfaces and streets and shall comply with all applicable codes. Overhead irrigation methods shall not be used within five feet of driveways, sidewalks or other hard surfaces. Landscape designers and property owners are encouraged to utilize xeriscaping and take advantage of its watersaving principles and practices. (6)The city shall have the authority to require that all dead trees, shrubs and plants be replaced during the next planting season.

(7)All landscaping shall be subject to periodic inspection by the zoning administrator or an authorized representative, to determine compliance with the

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**Deleted:** All landscaped areas shall be provided with a permanent water supply, except as otherwise shown on the landscape plan as approved.

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approved landscape plan or irrigation plan and the requirements of this section. When the landscaping or irrigation system has not been installed, maintained or replaced to comply with the landscape plan, irrigation plan or other requirements, a written corrective order shall be issued to the alleged violator. The order shall specify the parts of this section that are in violation. Removal of any required landscaping or irrigation is prohibited at any time unless just cause is demonstrated by the owner and approval given by the zoning administrator or authorized representative.

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Section 8. Chapter 71, Article VI, Section 71-1183 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1183. Assurance of performance.**

(a)*Performance Agreement; Bonds.* If a site plan performance agreement is not required, the governing body shall require a landscape plan or irrigation plan performance agreement to guarantee compliance and completion of the landscape plan or irrigation plan requirements for the parcel as provided in the landscape plan or irrigation plan as approved. In addition, the governing body may require alternate forms of performance assurance, such as a performance bond, escrow bond, or some other form of surety acceptable to the governing body if the landscape plan or irrigation plan is to be developed in phases, allowing temporary occupancy of a portion of the site, or if the governing body determines that other aspects of the landscape plan or irrigation plan require alternate performance assurance.

(b)*Certificate of Occupancy.*

(1)Prior to the issuance of a certificate of occupancy, for any structure where landscaping is required or irrigation was installed, except as provided in subsection (b)(2) of this section, all work indicated on the approved landscape plan or irrigation plan shall be completed, inspected and approved by the zoning administrator. Prior to approval, the quantities, locations, types and sizes of plants and other landscape materials shall be checked for compliance.

(2)A landowner may obtain a temporary certificate of occupancy for a structure prior to completion of required landscaping work or irrigation system work if completion is not possible due to seasonal or weather conditions and if acceptable assurances are submitted guaranteeing the completion of such landscaping or irrigation system work. The acceptable assurances, such as an irrevocable letter of credit, performance bond, certified check, or escrow account, shall be equal to 125 percent of the cost to complete the landscaping work or irrigation system work and shall be accompanied by a written agreement assuring that such landscaping or irrigation system work will be completed prior to the expiration date of such assurance. If an inspection reveals that such landscaping work or irrigation system work is not completed prior to the expiration date of such assurance, the governing body shall utilize such assurance to pay for the completion of the landscaping work or irrigation system work.

Section 9. Chapter 71, Article VI, Section 71-1184 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1184. Recording of landscape plans and irrigation plans.**

Following the approval of a landscape plan or irrigation plan, a statement will be recorded with the register of deeds acknowledging that a landscape plan or irrigation plan has been approved for the property. The recorded statement shall contain the following information:

- (1) A legal description of the property;
- (2) A specification of the nature of the plan by identifying the zoning districts which apply to the property;
- (3) A statement that the restrictions on development established by the landscape plan or irrigation plan shall be binding upon all successors and assigns unless amended in conformance with this article.

Section 10. Chapter 71, Article VI, Section 71-1185 of the City of Hays, Kansas Municipal Code is hereby amended as follows:

**CHAPTER 71**

**ZONING**

**ARTICLE VI. LANDSCAPE PLAN**

**Sec. 71-1185. Period of validity for landscape plan or irrigation plan approval.**

Final landscape plan or irrigation plan approval by the City shall not be valid for a period longer than 12 months from the date it is approved, unless within such period a building permit is obtained and all additional building permits necessary to complete the project, as approved in the final landscape plan or irrigation plan completion schedule, are obtained in a timely fashion as determined by the zoning administrator. The City may grant an extension not exceeding 12 months upon written request of the original applicant and resubmission of the application. However, the City has the power in such cases to attach new conditions to its reapproval or to disapprove the reapplication.

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Section 11. The ordinance shall take effect and be in force from and after its passage and publication in the Hays Daily News, the official city newspaper.

PASSED by the Commission on \_\_\_\_\_, 2013.

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KENT L. STEWARD  
Mayor

ATTEST:

\_\_\_\_\_  
BRENDA KITCHEN  
City Clerk  
(SEAL)