

ORDINANCE NO. 12-2005

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 Two Thousand Dollars (\$2,000.00). 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 March A.D. 2005.


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 23rd day of March, 2005, 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 14th day of April, 2005, 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 14th day of April, A.D. 2005.

ATTEST:



CITY SECRETARY



MAYOR
APPROVED:


CITY ATTORNEY

ORDINANCE NO. 12-2005

EXHIBIT "A"

ADD: Section 23-306.5.B. Accessory and Incidental Use

23-306.5.B(26)

Itinerant Businesses

Itinerant businesses must meet all of the following conditions:

- a) The itinerant business must be located on property that is zoned to allow the activity as identified in Section 23-306.4 of this ordinance.
- b) The itinerant business must have the written permission of the property owner.
- c) A permit must be obtained, with exceptions listed in (d) below. No more than one itinerant business may be on a property at one time. No parcel may have an itinerant business on site for more than 36 days in a calendar year. The 36 days may be used at one time or may be divided in any way. A permit for an itinerant business does not take the place of other approvals or permits that may be required by other City departments or governmental agencies, e.g. Fire Department, Health Department, etc. The permit must include all of the following information:
 - Written proof of the property owner's permission
 - Address of the property where the activity will take place
 - Dates and hours of operation
 - Complete description of the business activity
 - Responsible party's name, address and telephone number.
 - Parkway width
 - Health Department approval if applicable
 - Applicable fee: The fees and charges for services furnished by the City shall be determined from time to time and placed on file in the Office of the City Secretary.
- d) A permit is not required for non-profit entities that possess a current City of Abilene Solicitation Permit.
- e) The approved permit must be available for inspection at the business premises at all times that the business is operating.
- f) Any tent, trailer or other structure housing the itinerant business must be set back a minimum of 10 feet from all property lines.
- g) Nothing related to the itinerant business (including but not limited to signs, inventory, parking, storage, tents) may occur in or be placed in any of the following areas:
 - The vision clearance triangle
 - Fire lane
 - Drainage Easement
 - Any area deemed a hazard to the general public health, safety, or welfare by any official of the City of Abilene or any other Governmental agency.

- h) The following businesses shall be prohibited from obtaining an itinerant business permit:
- Sales of knives, firearms or other weapons
 - Sales of live animals
 - Sales of alcoholic beverages
 - Adult Entertainment as defined by this ordinance
- i) Businesses with food items must have written approval of the Health Department. This approval shall appear on the Itinerant Business permit.
- j) Enforcement: A violation of this ordinance may result in any of the following:
- Penalties in accordance with any applicable penal provision
 - Immediate termination of business activity and removal of all itinerant business related items from the property

ADD: Section 23-363 Definitions

Itinerant Business

Establishment of any business on a temporary basis where the business does not occur in a permanent structure, in a structure for which a temporary permit has been obtained or in association with another temporary use such as a carnival, fair, parade or festival. The term further does not apply to garage sales in residential zoning districts as allowed in Section 23-306.5.B(6) of this ordinance, businesses that are operated or owned by the same person or entity that owns the property, or businesses that hold a lease term on the property of at least one year.

DELETE: Section 23-306.5.H.(25) Fruits and Vegetables (temporary) in its entirety.