

ORDINANCE NO. 03-2013

AN ORDINANCE AMENDING CHAPTER 23, "PLANNING AND COMMUNITY DEVELOPMENT," SUBPART B, "LAND DEVELOPMENT CODE," 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 B, "Land Development Code," 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 20th day of December A.D. 2012.

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 16th day of November, 2012, 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 January, 2013, 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 10th day of January, A.D. 2013.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

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EXHIBIT "A"

AMEND: Section 2.4.2.1 The Land Use Matrix

ADD: Add the Conditional Use Permit designation to multiple districts for the "Day Care Operation – Home Based" use to the Land Use Matrix

LEGEND: P-Permitted, Blank-Not Permitted, C-Conditional Use Permit, TP-Requires a Temporary Permit, I-Conditions Apply See Ch 2 Art.5 Div 3

Permitted Uses	Agricultural Open Space	Rural Residential RR-5 & RR1	Residential Single Family	Residential Single-Family Patio Home	Residential Townhouse	Residential Medium Density	Residential Multi-Family	Manufactured/Mobile Home	College & University	Neighborhood Office	Office	Neighborhood Retail	General Retail	Medical Use	Central Business	Mixed Use	General Commercial	Heavy Commercial	Light Industrial	Heavy Industrial	Parking Requirements (also refer to Chapter 4, Article 2, Division 1)
	AO	RR	RS	PH	TH	MD	MF	MH	CU	NO	O	NR	GR	MU	CB	MX	GC	HC	LI	HI	
Accessory & Incidental Uses																					
Day Care Operation – Home-Based	<input checked="" type="checkbox"/>	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C	P/C					

AMEND: Section 2.4.3.3 – All Other Uses With Specific Requirements

REVISE: Revise the language for regulations pertaining to "Day Care Operation – Home Based" uses.

Chapter 2 – Zoning Regulations

Article 4 -- Use Regulations

Division 3 – Requirements Applicable to Specific Land Uses

Section 2.4.3.3 -- All Other Uses With Specific Requirements

~~(13) DAY CARE OPERATION – HOME BASED: Child day care operations for more than six (6) children shall meet all requirements for Day Care Operation – Center Based specified in Subsection 2.4.3.3.a(12) above.~~

(13) DAY CARE OPERATION -- HOME BASED: Child day care operations that are accessory and incidental to a residence shall be allowed as home occupations, so long as care for no more than 6 children (other than the caregiver’s own children) is provided at such residence.

Child day care operations for more than 6 children (other than the caregiver’s own children) may be conducted as an accessory to a residence, but only with approval of a Conditional Use Permit according to procedures outlined in Division 3 of Article 4 (Zoning Procedures) in Chapter 1 (General Provisions) of Abilene’s Land Development Code. In no circumstance, however, shall child day care operations permitted as accessory to a residence exceed limitations of required registration or licensing with the Texas Department of Family and Protective Services or other applicable state agency, including restrictions on the number and age of children for whom care is provided. Such day care operations permitted as accessory to a residence shall furthermore be subject to: (a) all other standards relevant to required registration or licensing by the State of Texas, as well as (b)

all limitations applicable to home occupations and stipulated in Section 2.4.5.2 of Abilene's Land Development Code.

AMEND: Section 5.1.1.3 – Land Use Definitions

REVISE: Revise the definition for home-based operation under the “Child Day-Care Operation” land use.

Chapter 5 – Definitions

Article 1 – Definitions

Division 1 – Definitions

Section 5.1.1.3 – Land Use Definitions

(36) **CHILD DAY-CARE OPERATION:** This is a general definition that means the care, supervision, training or education of an unrelated child or children under fourteen (14) years old for less than twenty-four (24) hours per day that occurs in a place other than the child's own home. This definition includes child day care provided to school-age children before and/or after the customary school day. This definition also encompasses each of the following two separate categories of use, for the purpose of Zoning Regulations:

a. Center Based Operation:

1. Child Care Center. An operation providing care for seven or more children under 14 years of age for less than 24 hours per day at a location other than the permit holder's home.
2. Kindergarten and Nursery School. An operation that provides an educational program that is four hours or less per day and more than two days a week for children two through six years.

a. Day Care Operation – Center Based. An operation providing care for children under 14 years of age, for less than 24 hours per day, and at a location other than the caregivers' or permit holder's home.

b. Home Based Operation:

1. Listed Family Home. A caregiver at least 18 years old that provides care in her own home for compensation, for three or fewer children unrelated to the caregiver, birth through 13 years, for at least 4 hours a day, three or more days a week, and more than nine consecutive weeks. The total number of children in care, including children related to the caregiver, may not exceed 12.
2. Registered or Licensed Child Care Home. The primary caregiver provides care in the caregiver's own residence from birth through 13 years. The total number of children in care at any given time, including the children related to the caregiver, must not exceed 12.

b. Day Care Operation – Home Based. An operation providing care for children under 14 years of age, for less than 24 hours per day, and at the caregiver's home.