

ORDINANCE NO. 23-2013

AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; CALLING A PUBLIC HEARING; AND DECLARING THE PASSAGE AN EMERGENCY NECESSARY TO IMMEDIATELY PRESERVE THE PUBLIC WELFARE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the "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.


PART 4: That the Council finds that the adoption of this ordinance relates to the immediate preservation of public welfare due to the potential negative consequences on public health and safety of delaying this decision, thus requiring only one reading of this ordinance upon affirmative vote of at least five council members.

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 25th day of May, 2013, 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 13th day of June, 2013, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance passed as an emergency measure, becomes effective immediately after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST AND FINAL READING THIS 13th day of June, 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 'head shop' use to the Land Use Matrix

LEGEND: P-Permitted, Blank-Not Permitted, C-Conditional Use Permit, TP-Requires a Temporary Permit, M-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	Manufacture/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				
Trade - Retail Uses																								
Head Shop	<input checked="" type="checkbox"/>																				P	P	P	1,500 SF

AMEND: Section 2.4.3.3 All Other Uses with Specific Requirements

ADD: Add regulations for head shops to subsection (a) Specific Requirements

(a) Specific Requirements.

(27) HEAD SHOP:

- (a) All structures housing a head shop (as defined in Chapter 5 of this LDC) shall be located as follows:
 - (1) At least six hundred feet (600') from the property boundary line of any lot in a College University zoning district;
 - (2) At least six hundred feet (600') from the property boundary line of any residentially zoned lot or any lot used for church, park, or hospital purposes;
 - (3) At least one thousand feet (1,000') of another structure housing a head shop; and
 - (4) At least two thousand five hundred feet (~~2,000~~2,500') from any lot used for school purposes.

Measurements are to be in a straight line in all directions from the structure housing the head shop to the nearest property line on any lot in the College-University zoning district, any residentially zoned district, any lot used for church, school, or hospital purposes, any park, or any structure housing a head shop.

- (b) The measurements for a structure shall be taken from the furthest point that a structure extends in any direction, including overhanging roofs and all other projections or portions of said structure.
- (c) Should a head shop be located in conjunction with other buildings in a manner where the head shop is clearly separated from other portions of the structure, (for example, a head shop store in a shopping center) the head shop's measurements shall be taken from the

boundaries of the space in which the store is housed or confined (not the entire shopping center, motel, or structure).

- (d) Should a head shop be located in conjunction with other buildings in a manner where the store is situated above the ground level of a multi-story structure and is clearly separate from other activities within the structure (for example, an head shop store on an upper level of an office tower or hotel), the head shop's measurements shall be taken from the entry to that portion of the structure housing the store, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line to the nearest point on any lot in a residential district or a College University district, or any lot or tract used for church, school, hospital or park purposes, and any structure housing a head shop.
- (e) Each applicant for a head shop must submit a Site Plan setting out the dimension and locations for such store. The applicant shall sign a certified and notarized statement attached to the Site Plan that the proposed head shop store complies with the requirements set forth herein above. It shall be the duty of the applicant to prepare the Site Plan and to assure compliance with the distance requirements.
- (f) **Amortization:** A head shop in operation prior to the effective date of this ordinance which does not conform to the regulations pertaining to head shops shall be considered to be a non-conforming use that may continue for four ~~6(4)~~ months from the effective date of this ordinance.

AMEND: Section 5.1.1.3 Land Use Definitions

ADD: Add a definition for head shops to subsection (a) Land Use Definitions & Matrix Correlation

(a) Land Use Definitions & Matrix Correlation.

- (86) **HEAD SHOP:** Any retail establishment open to the public that presents, displays, or offers for sale paraphernalia, items, equipment, or products commonly used, intended to be used, or commonly known to be used, for the ingestion, inhalation, preparation, or injection of illegal substances, to include any device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of marijuana, hashish, cocaine, methamphetamine, any other "controlled substance," "controlled substance analogue," "synthetic controlled substance," or substance or chemical that mimics the effect of THC such as synthetic cannabinoids or other controlled substances, or any other substance that violates local, State, or Federal law, and is adapted to that purpose by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

-END-