

To the Mayor and Members of the City Council

June 4, 2024

Page 1 of 5

**SUBJECT: THE PROLIFERATION OF CERTAIN USES AND APPLICABLE ZONING REGULATIONS**

The purpose of this Informal Report is to provide information on current zoning regulations applicable to commercial land uses – including car washes, convenience stores, vape/smoke retail shops, liquor stores, pawn shops, etc. – that tend to proliferate in certain areas or commercial corridors, potentially posing a blight upon or are cause of concern to the neighboring communities as to the affect on their character due to any negative spillover associated with these land uses. The uses described below are those that have historically located within commercial zoning districts that are in close proximity to residential neighborhoods. It is important to note that while these uses may only be allowed by right in certain zoning districts, City Council approval of Conditional Use Permits could allow them in any nonresidential (commercial and industrial) districts or form-based districts.

Car Washes – Self-Service, Automated-Service, and Full-Service

In May 2022, the City Council adopted Ordinance No. [22514](#) to specify in which zoning districts the different classes of car washes are allowed by right or by conditional use permit.

Districts Allowed:

- Full-service car washes are allowed in “F” General Commercial and “G” Intensive Commercial by right when the distance greater from a residential district or use is less than 200 feet. A conditional use permit is required if the distance to a residential use or district will be less than 200 feet.
- Automated-service car washes are allowed in “G” Intensive Commercial when the distance from a residential district is greater than 200 feet. A conditional use permit is required if the distance will be less than 200 feet.
- All three types of car washes are allowed in industrial districts.
- All types are allowed in the following form-based districts: “NS/T5”; “PI” Panther Island; all “CB” Camp Bowie except “CB/T” Camp Bowie Transition; all “TL” Trinity Lakes except “TL-HM” Trinity Lakes Highway Mixed Use, “TL-VM” Trinity Lakes Village Mixed Use, and “TL-NB” Trinity Lakes Neighborhood

Other Notable Restrictions: 6-foot screening fence when adjoining a residential district or use. All drying and vacuuming facilities shall not be located in the front of the property nor closer than 25 feet from any residential district.

Convenience Stores

Districts Allowed: All commercial districts with the exception of “ER” Neighborhood Commercial Restricted. All form-based districts with the exception of the “TL-NB” Trinity Lakes Neighborhood and “BU-RA” Berry University Residential Attached-3 districts.

Distance Restrictions: Alcoholic beverages cannot be sold within 300 feet of any church, public or private school or public hospital. (see section [4-4, City Code](#).)

To the Mayor and Members of the City Council

June 4, 2024

Page 2 of 5

**SUBJECT: THE PROLIFERATION OF CERTAIN USES AND APPLICABLE ZONING REGULATIONS****Game Rooms**

In October 2014 the City Council adopted Ordinance Nos. [21499](#) and [21500](#) to put into place business operation and zoning regulations on game rooms. Upon the adoption of the ordinances the City was sued and the litigation is still ongoing. As part of the litigation certain zoning and business regulations were voided by the district court and the City is not able to enforce those provisions. If the City is successful in the litigation, the City Council will be able to consider prohibiting game rooms and amusement redemption machines (eight-liners).

Districts Allowed: Due to the voiding of the zoning ordinance, game rooms default to an “indoor amusement” use and are allowed in all nonresidential/commercial districts. State law was amended to allow Tarrant County some authority to regulate game rooms. As a result, the County Game Room Regulations were approved last November and became effective on April 1, 2020. Subsequently, Tarrant County and the City entered into an interlocal agreement to establish responsibilities for permitting and enforcement of the Tarrant County Game Room Regulations. Under the agreement, the City processes and approves or denies County game-room permits. The City also has enforcement authority and the ability to inspect through Fort Worth Police and Code Compliance.

Distance Restrictions:

- No game room (6 or more machines) within 1,000 feet of a residential use or residential district, church, school, or hospital.
- No game room (6 or more machines) within 1,000 feet of any other game room.

Options:

- Wait until litigation ends and, if successful, amend the Zoning Ordinance to prohibit game rooms and amusement redemption machines in all zoning districts.
- Amend the Zoning Ordinance to disallow indoor amusement in the “E” neighborhood commercial.

Liquor or Package Stores

Districts Allowed: All commercial and industrial districts with the exception of “ER” Neighborhood Commercial Restricted and “FR” General Commercial Restricted. All form-based districts except “CB/T” Camp Bowie Transition, “TL” Trinity Lakes, and “BU” Berry University.

Distance Restrictions: Cannot be within 300 feet of any church, public school or public hospital.

Options:

Amend Zoning Ordinance to limit use to more intensive commercial and industrial districts.
Amend Zoning Ordinance to add distance requirement from other liquor/package stores.

To the Mayor and Members of the City Council

June 4, 2024

Page 3 of 5

**SUBJECT: THE PROLIFERATION OF CERTAIN USES AND APPLICABLE ZONING REGULATIONS****Pawnshops**

Districts Allowed: All commercial and industrial districts with the exception of “ER” Neighborhood Commercial Restricted, and “E” Neighborhood Commercial. The following form-based districts: “MU-2” High Intensity Mixed-Use; “NS/T5”; “PI” Panther Island; all “TL” Trinity Lakes except “TL-NB” Trinity Lakes Neighborhood; “BU-CX” Berry University Commercial Mixed Use and “BU-SH” Berry University Shopfront.

Distance Restrictions: Cannot be located within 500 feet of a one- or two-family district or within 500 feet of any other pawnshop.

Credit Access Businesses (Pay Day Lending)

Districts Allowed: Credit access businesses, inclusive of payday and auto title lenders are allowed as a “bank, financial institution” in the Zoning Ordinance. Banks are allowed in all commercial and industrial districts and all form-based districts with the exception of “TL-NB” Trinity Lakes Neighborhood, “BU-RA” Berry University Residential Attached, “BU-RX” Berry University Residential Mixed Use, and “BU-CIV” Berry University Civic.

Options:

Amend the Zoning Ordinance to add credit access business as a defined use and limit zoning districts allowed to “G” Intensive Commercial and industrial districts.

Small Box Retail Stores (i.e. Dollar Stores)

In December 2019 the City Council adopted Ordinance No. 23971 amending the Zoning Ordinance to promote access to healthy food options in underserved neighborhoods by regulating small box retail stores as a distinct retail use and set out supplemental development standards.

Districts Allowed: None. A conditional use permit is required in nonresidential, mixed-use and form-based districts.

Distance Restrictions: Cannot be located within 2 miles from an existing small box retail store.

Other Notable Restrictions: Minimum of 10% of the floor area dedicated to fresh produce, meat and dairy products.

Retail Smoke Shops

In 2017, the Council adopted Ordinance No. [23047](#) amending the Smoking Ordinance to add a definition for a retail smoke shop and prohibiting the location of the use within 300 feet of schools, universities and hospitals. In 2022, the Council adopted Ordinance No. [25955](#) amending the Zoning Ordinance to add retail smoke shop to the land use chart in which zoning districts the use would be allowed and adding the supplemental development standard mirroring the distance requirement in the Smoking Ordinance.

To the Mayor and Members of the City Council

June 4, 2024

Page 4 of 5

**SUBJECT: THE PROLIFERATION OF CERTAIN USES AND APPLICABLE ZONING REGULATIONS**

A retail smoke shop is a store that derives 90% or more of its gross annual sales from the sale of tobacco cigarettes, smoking and electronic smoking devices (vapes), or related products and accessories and does not sell alcoholic beverages for onsite consumption. Retail smoke shops are allowed in all commercial districts with the exception of "ER" Neighborhood Commercial Restricted, "E" Neighborhood Commercial and "FR" General Commercial Restricted. All form-based districts except "TL-TR" Trinity Lakes Transition, "TL-NB" Trinity Lakes Neighborhood, and "BU-RA" Berry University Berry University Residential Attached.

Regulation of Retail Smoke/Tobacco Shops by other Municipalities:

A survey was conducted of eight other municipalities including Austin, Arlington, Dallas, Denton, El Paso, Houston, Plano and San Antonio. All the municipalities surveyed contain a similar definition of a retail smoke/tobacco shop to the City's; however, most municipalities do not include a percentage threshold of tobacco, tobacco products or electronic smoking devices to determine the use as a retail smoke/tobacco shop. Similar to the City, Arlington's Unified Development Code's development regulations requires new stores to have a separation distance of 1.5 miles from any existing store and requires new stores to be 1,500 feet from schools, churches, daycares, healthcare facilities, and parks or playgrounds, measured from lot line to lot line.

Options:

Amend the Smoking Ordinance and Zoning Ordinance to remove the percentage threshold for tobacco and tobacco related sales which would allow for the inclusion of retail stores that are just below the 90% threshold currently included in both ordinances, expand the list of sensitive uses where a separation distance is applicable to include daycares and parks and playgrounds and include a requirement for a separation distance for a new retail smoke shop to an existing retail smoke shop.

Regulation of Hemp and Medical Marijuana

In 2019 the Legislature legalized some forms of the cannabis plant but not others. Marijuana is classified as a cannabis plant or its derivatives that have a tetrahydrocannabinol (THC) concentration of more than 0.3%. If the substance has less THC, it is considered to be hemp.

Currently, the State allows the use of medical marijuana to treat certain illnesses and condition such as cancer and autism through the Compassionate Use Program (see section [169.003](#), Texas Occupations Code). If the Texas Legislature more expands the Compassionate Use Program and use of medical marijuana, medical marijuana dispensaries would not fall within the definition of a retail smoke shop. A medical marijuana dispensary is akin to a pharmacy and as such could be allowed in neighborhood commercial and more commercially intensive districts. Alternatively, the Council could amend the Zoning Ordinance to define the use and determine what zoning district where the use would be allowed either by right or by a conditional use permit.

To the Mayor and Members of the City Council

June 4, 2024

Page 5 of 5



SUBJECT: THE PROLIFERATION OF CERTAIN USES AND APPLICABLE ZONING REGULATIONS

The manufacture of medical marijuana could also be added as a use to the Zoning Ordinance and be limited to industrial districts.

In a review of the recent Interim Legislative Charges to the Texas Senate by the Lieutenant Governor to explore the sale of hemp products and make recommendations to further regulate the sale of Delta 8 and 9, it is likely that the Legislature will further restrict the use of hemp products and would continue to disallow the recreational use of marijuana.

For additional information, please contact D.J. Harrell, Development Services Director at 817-392-8032, LaShondra Stringfellow, Assistant Director at 817-392-6214 or Melinda Ramos, Deputy City Attorney at 817-392-7631.

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