



Zoning Staff Report

Date: January 10, 2023

Case Number: ZC-21-225

Council District: ALL

Text Amendment

Case Manager: [Stephen Murray](#)

Owner / Applicant: The City of Fort Worth

Request

Request: Adopt an ordinance amending the Zoning Ordinance of the City of Fort Worth, Article 8, of Ordinance No. 21653, to add “Retail Smoke Shop” to the definitions list of uses in the category “Retail Sales and Service” with a “P” in E through K zoning districts cells to indicate that the use is allowed and amend the Supplemental Standards column for “Retail Sales and Service” to add a reference to Section 5.152

Recommendation

Staff Recommendation: **Approval**

Zoning Commission Recommendation: **Approval by a vote of 7-0**

Table of Contents

1. [Project Description and Background](#)
2. Text Amendment

Project Description and Background

Staff is proposing Zoning Ordinance text amendments for retail smoke shops. The purpose of the amendments, is to define the use, add it to the nonresidential and form-based tables, and provide development standards. Specifically, the amendments are as follows:

SECTION 1.

Chapter 9 "Definitions", Section 9.101 "Defined Terms" of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to add the definition "retail smoke shop" to read as follows:

Sec. 9. 101 DEFINED TERMS.

RETAIL SMOKE SHOP. A store that derives 90% or more of its gross annual sales from the sale of tobacco, cigarettes, smoking and electronic smoking devices, or related products and accessories and does not sell alcoholic beverages for onsite consumption.

SECTION 2.

Article 8, "Non-Residential Use Table", Section 4.803 "Non-Residential District Use Table", of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to add "Retail Smoke Shop" to the list of uses in the category "Retail Sales and Service" with a "P" in E through K zoning districts cells to indicate that the use is allowed and amend the Supplemental Standards column for "Retail Sales and Service" to add a reference to Section 5.152.

SECTION 3.

Section 4.1203, of Article 12, "Form Based Code District Use Table" of Chapter 4, "District Regulations" of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to add "Retail Smoke Shop" to the list of uses in the category "Retail Sales and Service" with a "P" in all of the zoning districts cells with the exception of the BU-RA, TL-TR and TL-NB zoning districts which should have empty cells to indicate the use is not allowed; and amend the Supplemental Standards column for "Retail Sales and Service" to add a reference to Section 5.152

SECTION 4.

Chapter 5, "Supplemental Use Standards", Article 1, "Standards for Selected Use", of Ordinance No. 21653, the Zoning Ordinance of the City of Fort Worth, is hereby amended to revise Article 1 to add section 5.152 to provide development standards for retail smoke shop to read as follows:

Sec. 5.152 RETAIL SMOKE SHOP.

Retail Smoke Shop may be permitted in accordance with the use tables in Chapter 4, Articles 6, 8 and 12, provided however, retail smoke shops are prohibited within 300 feet of schools, universities and hospitals. The measurement shall be in a direct line from the property line of the proposed retail smoke shop to the property line of the existing schools, universities or hospitals.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX “A” OF THE CODE OF THE CITY OF FORT WORTH (2015), TO AMEND ARTICLES 8 AND 12 RESPECTIVELY OF CHAPTER 4, “DISTRICT REGULATIONS,” SPECIFICALLY SECTION 4.803, “NONRESIDENTIAL DISTRICT USE TABLE” AND SECTION 4.1203, “FORM-BASED DISTRICT USE TABLE” TO PROVIDE FOR ZONING DISTRICTS WHERE A “RETAIL SMOKE SHOP” IS ALLOWED; TO AMEND ARTICLE 1, “STANDARDS FOR SELECTED USES” OF CHAPTER 5, “SUPPLEMENTAL USE STANDARDS” TO ADD REGULATIONS FOR RETAIL SMOKE SHOP; AND TO AMEND CHAPTER 9, “DEFINITIONS” TO ADD A DEFINITION FOR “RETAIL SMOKE SHOP”; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 21, 2007, the City Council adopted Ordinance No. 17719 to prohibit smoking in public spaces such as restaurants, bars in restaurants and office buildings, as well as within 20 feet of a primary entrance/exit of a regulated facility (the Smoking Ordinance); and

WHEREAS, on December 12, 2018, the City Council further amended the Smoking Ordinance so prohibit smoking in bars and bingo parlors and prohibit retail smoke shops within 300 feet of schools, universities and hospitals; and

WHEREAS, the Zoning Ordinance does not have a use category for “Retail Smoke Shop” to clarify that this type of use is separate from “retail” and to amend the use table to include the use and where it is allowed;

WHEREAS, it is also advisable to amend the Zoning Ordinance to affirm the prohibition of retail smoke shops within 300 feet of schools, universities and hospitals;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS AS FOLLOWS:

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SECTION 5.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 6.

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same

would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 7.

Any person, firm, or corporation, who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation exists shall constitute a separate offense.

SECTION 8.

All rights and remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of the provisions of Ordinances No. 3011, 13896, 21653 and any other ordinances affecting zoning which have accrued at the time of the effective date of this ordinance, and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinances, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

SECTION 9.

The City Secretary of the City of Fort Worth, Texas, is hereby directed to publish the caption, penalty clause and effective date of this ordinance for two (2) days in the official newspaper of the City of Fort Worth, Texas, as authorized by Section 52.013, Texas Local Government Code.

SECTION 10.

All other provisions of the Zoning Ordinance of the City of Fort Worth not herein amended shall remain in full force and effect.

SECTION 11.

This ordinance shall take effect upon adoption and publication as required by law.

APPROVED AS TO FORM AND LEGALITY:

By: _____
Melinda Ramos,
Sr. Assistant City Attorney

Mary J. Kayser,
City Secretary

ADOPTED: _____

EFFECTIVE: _____