

Memorandum



CITY OF DALLAS

DATE March 29, 2017

TO Honorable Mayor and Members of the City Council

SUBJECT **DCA 156-004 Paraphernalia Shops**

On April 5, 2017, you will be briefed on the proposed amendments to Dallas Development Code Chapter 51A and to Dallas City Code Chapter 12B by David Cossum, Director, Sustainable Development & Construction and Deputy Chief Gilberto Garza, Dallas Police Department. The proposed amendments are intended to address the land use and public safety impacts of establishments that sell paraphernalia commonly used to ingest illegal substances. The briefing materials are attached for your review.

A handwritten signature in blue ink, appearing to read 'Majed A. Al-Ghafry'.

Majed A. Al-Ghafry
Assistant City Manager

A handwritten signature in blue ink, appearing to read 'Eric D. Campbell'.

Eric D. Campbell
Assistant City Manager

c: T.C. Broadnax, City Manager
Larry Casto, City Attorney
Craig D. Kinton, City Auditor
Rosa A. Rios, City Secretary
Daniel F. Solis, Administrative Judge
Kimberly Bizer Tolbert, Chief of Staff to the City Manager
Theresa O'Donnell, Interim Chief of Economic Development & Neighborhood Services

Mark McDaniel, Assistant City Manager
Jill A. Jordan, P.E., Assistant City Manager
Joey Zapata, Assistant City Manager
M. Elizabeth Reich, Chief Financial Officer
Alan E. Sims, Interim Chief of Community Services
Directors and Assistant Directors

Paraphernalia Shops

**City Council Briefing
April 5, 2017**

**David Cossum, Director
Sustainable Development &
Construction Department
City of Dallas**



Presentation Overview

- History
- Purpose
- Issues
- Proposed Action
- Staff Recommendation
- Next Steps



History

- February 8, 2016, the Dallas Police Department briefed the Public Safety Committee on K2 and drug paraphernalia shops
- April 11, 2016, the Sustainable Development & Construction Department, the Dallas Police Department, and the City Attorney's Office briefed the Public Safety Committee on tobacco and paraphernalia shops
 - Proposed 2-prong approach of additional zoning regulations and licensing requirements.

History

- August 18, 2016, the Zoning Ordinance Advisory Committee considered proposed changes to zoning regulations
- September 1, 2016, the Zoning Ordinance Advisory Committee recommended approval of the proposal
- October 6, 2016, the City Plan Commission considered the proposal and recommended approval
- February 13, 2017 the Public Safety Committee was briefed on the proposal and recommended forwarding to City Council for a full briefing

Purpose

- Propose appropriate regulations to address land use and public safety impacts of establishments that sell paraphernalia commonly used to ingest illegal substances
 - Create a new use for paraphernalia shops with appropriate regulations in Chapter 51A
 - Require licensing similar to convenience store requirements in Chapter 12B for establishments that sell paraphernalia

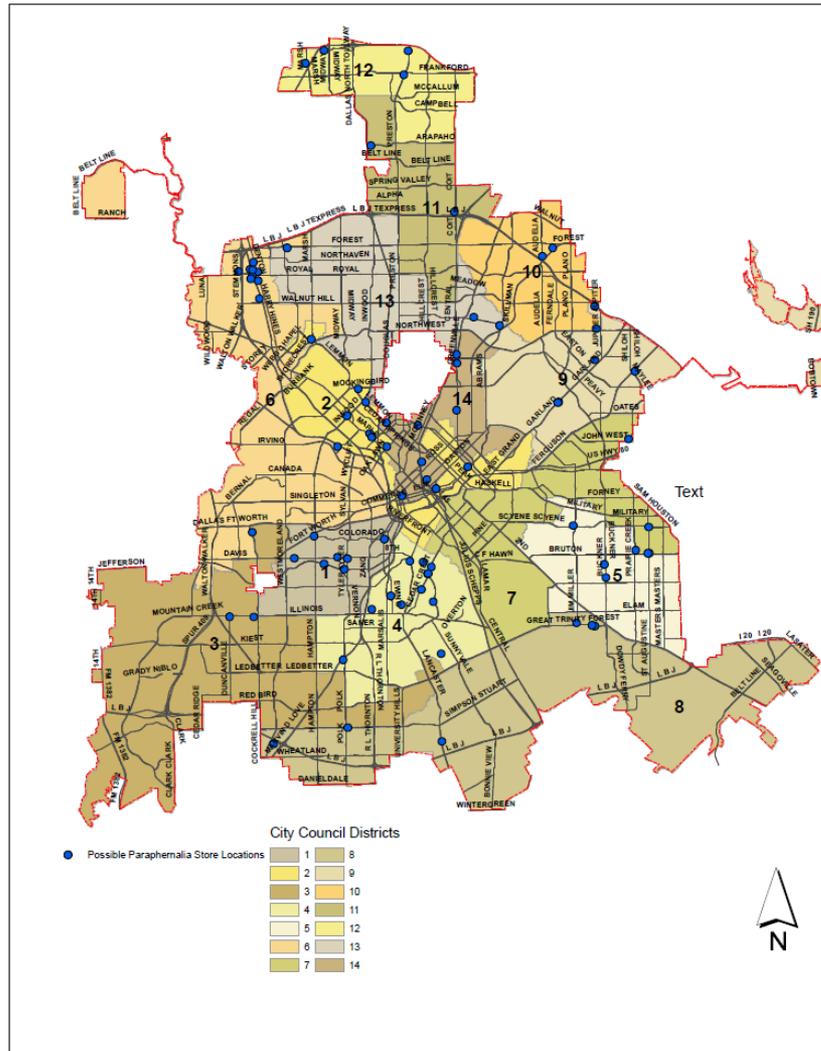
Issues

- Illegal activities such as gambling, K2 and other drug sales, trespassing, and prostitution
- Difficult for Dallas Police Department to track the location of stores selling paraphernalia due to lack of required registration
- For zoning purposes, stores that currently sell paraphernalia (pipes and other accessories) typically operate with a CO for general merchandise or food store use

Issues

Possible Paraphernalia Store Locations

The map depicts 81 possible paraphernalia store locations in the city.
 Data was obtained from DPD and from on-line searches at both headshopfinder.com and findheadshops.com.



Proposed Action – Chapter 51A

- **Create a Paraphernalia Shop Use:**
 - Definition: A Paraphernalia Shop is an establishment that displays or offers for sale paraphernalia, items, equipment, or products commonly used, or commonly known to be used, for the ingestion, inhalation, preparation, or injection of tobacco or illegal substances. For the purposes of this paragraph, rolling papers are not considered paraphernalia.

Proposed Action – Chapter 51A

- Require by Specific Use Permit (SUP) in the CR Community Retail, RR Regional Retail, CS Commercial Service, Industrial districts (LI, IR, and IM), and in the Mixed Use districts (MU-1, MU-2, and MU-3)

Proposed Action – Chapter 51A

- **Additional Provisions (Spatial Requirements)**
 - A paraphernalia shop may not be located within:
 - **1,500** feet of any other paraphernalia shop
 - **1,000** feet of a lot in a residential district
 - **1,000** feet of a lot with a school

Proposed Action – Chapter 51A

- **Additional Provisions:**
 - May only be a main use that requires a certificate of occupancy
 - Outside sale, display, or storage of products is prohibited
 - May not have a drive-in, drive-through, or walk-up window

Proposed Action – Chapter 12B

- Amend 12B to require stores selling paraphernalia or tobacco to register with DPD annually
- Create exception to registration requirement for Cigar Bars and Cigar Shops (Tobacco Shops)
- Allow DPD to conduct property inspections
- Amend 12B to revise the definition of Registrant to include, “the person in the care, custody, or control of the convenience store.”

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Proposed Action – Chapter 12B

- Cigar Bar – a bar that derives 15 percent or more of its gross revenue on a quarterly basis from the sale or rental of tobacco, tobacco products, or smoking accessories for on-premise consumption (similar to Dallas City Code – Ch. 41, Smoking)
- Tobacco Shop – a retail or service establishment that derives 90 percent or more of its gross revenue on a quarterly basis from the sale of tobacco, or tobacco products (similar to Dallas City Code – Ch. 41, Smoking)

Proposed Action – Chapter 12B

- Convenience Stores under Chapter 12B are required to comply with the following:
 - Criminal trespass affidavits
 - Surveillance cameras
 - Alarm system
 - Drop safe
 - Security signs
 - Height markers
 - No trespassing signs
 - Visibility through all windows and public entrances, and
 - Employee safety training

Proposed Action

- **Impact on New Stores**

- Must obtain a CO for Paraphernalia Shop
- Requires an SUP
- Subject to the distance requirements
- Requires registration with DPD
- Subject to 12B requirements

Proposed Action

- **Impact on Existing Stores**

- Existing stores with valid COs would have nonconforming rights
- An application could be made to the Board of Adjustment to consider establishing a compliance date for an existing nonconforming store
- Requires registration with DPD
- Subject to 12B requirements

Staff Recommendation

- Staff recommends the amendments be forwarded to City Council for consideration and approval:
 - Adoption of an ordinance amending Chapter 51A, the Dallas Development Code, to create the paraphernalia shop use
 - Adoption of an ordinance amending Chapter 12B Convenience Store Regulations

Next Steps

- Schedule for full City Council Action on May 10, 2017

Appendix

CITY	USE	DEFINITION	DISTRICT ALLOWED	OTHER REQUIREMENTS
Abilene	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...	<ul style="list-style-type: none"> - Heavy Commercial - Light Industrial - Heavy Industrial 	<ul style="list-style-type: none"> - Must be 600 feet from a college university district - Must be 600 feet from a residentially zoned property, church, park or hospital - Must be 2,500 feet from a school - Must be 1,000 feet from another Head Shop
Arlington	Specialty Paraphernalia Sales	Establishment where the primary use of the building or lease space includes any one or any combination of the following: the sale of cigarette papers, bongs, or other smoking accessories. The definition shall include head shops. This definition shall not include massage therapy clinics, acupuncture clinics, retail tobacco shops, or cigar or cigarette shops.	<ul style="list-style-type: none"> - Permitted by Specific Use Permit in the CC - Community Commercial, GC - General Commercial, LI - Light Industrial, and IM - Industrial Manufacturing Districts 	None

Appendix

CITY	USE	DEFINITION	DISTRICT ALLOWED	OTHER REQUIREMENTS
Desoto	Smoking Paraphernalia Establishment	A retail store where more than 15% of the gross square footage of the establishment is dedicated to the sale, distribution, delivery, furnishing of smoking paraphernalia, devices, or instruments that are designed or manufactured for the smoking, ingestion, inhaling or otherwise introduction into the body of tobacco, products prepared from tobacco, or controlled substances....	<ul style="list-style-type: none"> • Permitted by SUP in C1 and C2 districts • May be approved in PDs 	None

Appendix

CITY	USE	DEFINITION	DISTRICT ALLOWED	OTHER REQUIREMENTS
Garland	Smoke Shop	<p>A commercial establishment to which the public is admitted or invited which: (for sale, distribution or exchange, for any form of consideration, any items, instruments, devices, equipment, accessories, or products that are intended, designed or marketed for use in the smoking or inhaling of any substance, including but not limited to tobacco, salts, incense, marijuana, hashish, hashish oil, cocaine or other controlled substances as defined in the Texas Health and Safety Code; and (ii) holds itself out, taking into account its business operations, its general inventory, and its commercial promotions whether on or off-premise, as encouraging or promoting the use of cannabis, illegal or controlled substances, or on which controlled substances are sold, marketed, or displayed even if marked as being sold for "novelty" or not for human consumption purposes. This definition does not include, and categorically excludes, commercial establishments that derive more than 75% of their revenue from the sale of the following tobacco products contained in the original manufacturer package: cigarettes, cigars, pipe tobacco, snuff, or chewing tobacco.</p>	<ul style="list-style-type: none"> Permitted only upon approval of a Specific Use Provision (SUP) in the IN-Industrial district 	None

Appendix

CITY	USE	DEFINITION	DISTRICT ALLOWED	OTHER REQUIREMENTS
Richardson	Controlled substance paraphernalia shop	an establishment for the sale of any instrument, device, article, or contrivance used, designed for use, or intended for use in ingesting, smoking, administering or preparing marijuana, hashish, hashish oil, cocaine or any other controlled substance. For purposes of this appendix, "paraphernalia" shall be defined by the laws of the State of Texas.	<ul style="list-style-type: none"> C-M Commercial Districts by Special Permit Approval 	None

Tobacco & Paraphernalia Shops

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