

ORDINANCE NO. 2013- 1121

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS, PROVIDING RULES FOR AMENDMENTS TO THE ZONING ORDINANCE OF THE CITY OF THE CITY OF FULSHEAR, TEXAS, TO PROVIDE FOR AN ADDITION OF A DEFINITION FOR "TATTOO PARLORS"; CHANGE IN DENSITY REQUIREMENTS FOR MULTIFAMILY HOUSING; ADDING PROVISIONS TO PROVIDE FOR MINIMUM LOT SIZES FOR COMMERCIAL PROPERTY; A CHANGE IN THE PARKING REQUIREMENTS FOR MULTIFAMILY HOUSING; CHANGES TO THE USES PERMITTED BY RIGHT AND SPECIAL USE PERMITS IN THE COMMERCIAL DISTRICT; AND REGULATIONS FOR ALTERNATIVE FINANCIAL SERVICES BUSINESSES; PROVIDING A PENALTY; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City Council of the City of Fulshear, Texas, ("City") is authorized by Chapter 211 of the Texas Local Government Code to promulgate rules and regulations governing land use, structures, businesses and related activities; and

WHEREAS, the City Council further finds that the rules and regulations governing land use, structures, businesses, and related activities promotes the health, safety, morals and general welfare of the City; and

WHEREAS, the City Council further finds that changes to the zoning ordinance are in the best interests of the City; and

WHEREAS, the Texas Local Government Code requires a public hearing on the proposed zoning text amendment to hear any and all person desiring to be heard ;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FULSHEAR, TEXAS:

Section 1. The facts and recitations found in the preamble are hereby found to be true and correct and are incorporated for all purposes.

Section 2. A new definition is added to section 1-72 to read as follows:

“Tattoo parlor or tattoo studio means an establishment wherein permanent or semi-permanent markings, brands, body art, or tattoos are placed on the skin by a tattoo artist. The term does not mean an establishment which provides permanent cosmetic makeup application. Unless expressly stated otherwise herein, such words, terms and definitions shall have the meaning indicated in V.T.C.A. Health and Safety Code ch. 146, as amended and Title 25, Texas Administrative Code, Sec. 229.401-229.413, as amended. Owners and employees of such businesses shall comply with all of said provisions thereof, as amended.”

Section 3. Section 1-163(c)(1) is hereby replaced with a new subsection (c) to read as follows:

“1. Maximum: twenty-one (21) units per acre. This restriction shall be noted on the plat.”

Section 4. Subsection (d) is hereby repealed and replaced with a new subsection (d) to read as follows:

“(d) Minimum commercial lot dimensions. Plat conditions and building codes will sometimes require more restrictive setbacks. The more restrictive setback controls.

1. Front setback: twenty-five feet (25’).
2. Rear and side setbacks: ten feet (10’) when not adjacent to residential property. Twenty feet (20’) when adjacent to residential property. There shall be no minimum side setbacks when the property is being developed as a mixed use project in the Commercial (C) or Downtown District (DD).
3. Corner lots.
 - a. If the corner is created by two (2) intersecting public streets, a front setback is required along each street. Of the two (2) remaining property lines, one (1) is considered a rear (the one most distant from a front) and the other, a side.
 - b. If the corner is created by the intersection of a public street and either an access easement or private road, a front setback is required only along the right of way, easement, or road providing primary access to the lot or from which the lot is addressed. The property line most opposite to the front will be a rear line, and the remaining two property lines will be side lines. The minimum setback is ten feet (10’) from a right of way, access easement, or private road.
4. Accessory structures, such as dumpsters, may be placed within five feet (5’) of the rear property line. Placement in required easements is prohibited.

5. Street or sidewalk improvements required to accommodate the improvement, such as rockeries and retaining walls, may be placed in a required setback.

Section 5. A new subsection (e) is added to Section 1-163 to read as follows:

“(e) Exceptions.

1. Planned Unit Developments District consisting of a development of at least one thousand five hundred (1,500) acres which will result in the construction of more than seven hundred (700) single-family residential homes may plat not more than five percent (5%) of the development with side set-backs of zero feet (0') on one side and ten feet (10') on the other side to allow for the construction of specialty housing products. Such exceptions shall be allowed so long as the portion of the development in which specialty housing products are to be located is platted as a single section of development that has uniform lots throughout the development
2. Special Use Permits. If the development standards for the proposed development differ from the base zoning district the Planning and Zoning Commission is authorized to recommend and the City Council is authorized to permit development standards which differ from the commercial lot dimensions in this Code subject to the process outlined in Section 1-283.”

Section 6. Section 1-164(3)c is hereby amended to read as follows:

“Multi-Family (MF) District structures, including townhomes, apartments, duplexes, and other similar structures, shall provide a minimum of 1.5 parking spaces per one (1) bedroom unit, with at least one (1) of these spaces per unit covered, and two (2) per two (2) or more bedroom unit, with at least one (1) of these spaces per unit covered.”

Section 7. Section 1-188(b) is hereby replaced with a new subsection (b) to read as follows:

“(b) Uses permitted by right. In the Commercial (C) District, no building or land shall be used and no building erected except for one (1) or more of the following specified uses, unless otherwise provided in this division:

- (1) Safety services;
- (2) Parks and recreation;
- (3) Retail;
- (4) Convenience retail;
- (5) Office;
- (6) Automobile sales;
- (7) Day care center
- (8) Place of Worship;
- (9) Art gallery or museum; and

(10) Thrift shops or secondhand stores.”

Section 8. Section 1-188(d) is hereby replaced and a new subsection (d) is added to read as follows:

“Special use permits. The following uses of land and structures are permitted in this District if they are approved in the process outlined in section 1-283:

- (1) Animal shelters or veterinary offices housing animals outdoors, kennels, stables, or any other use that keeps animals outdoors;
- (2) Temporary use stands, such as fruit or vegetable stands, hot dog or taco stands, snow cone stands, and other establishments of a similar nature. Exceptions may be permitted for special events (e.g. carnivals, parades, etc.), but such exceptions shall be for a maximum period of seventy two (72) hours (three operational days);
- (3) Automobile repair – new and used parts and service, enclosed (not salvage yards or similar);
- (4) Public House;
- (5) Single family detached dwellings on single lots; single family homes may be restored or replaced if they are substantially destroyed as described in Sec. 1-317; and
- (6) Eating and drinking places.”

Section 9. The following definitions are added to Section 1-72:

“Alternative financial services businesses means a business which is used for check cashing, payday advances or loans, money transfers, motor vehicle title loans, or a credit access business. This definition excludes a state or federally chartered bank, savings and loan association or credit union, pawnshop, convenience store, supermarket, or other retail establishment where consumer retails sales constitute at least 75% of the total gross revenue generated on site.

Check cashing business means an establishment that provides on or more of the following: an amount of money that is equal to the face of a check or the amount specified in a written authorization for an electronic transfer of money, less any fee charged for the transaction; or an agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or the cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any other person or entity for a fee.

Payday advance or loan business means an establishment that makes small consumer loans of \$2,500 or less, usually backed by postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed upon term or until a customer’s next payday and then cashed unless the customer repays the loan to reclaim the check or debit. Such establishments may charge a flat fee or other service charge and a fee or interest rate based on the size of the loan amount.

Motor title loan business means an establishment that makes small consumer loans of \$2,500 or less that leverage the equity value of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the vehicle.

Credit access business has the same meaning as defined in Section 393.601 of the Texas Finance Code, as amended."

Section 10. A new Section 1-229 is added to read as follows:

"Section 1-119. Alternative Financial Services Businesses.

- (a) An alternative financial services business may not be located on a site that is:
- (1) Within 1,000 feet of a site that contains another alternative financial services business use;
 - (2) Within 200 feet of a property in a district in which a residential use is allowed or located;
 - (3) Within 500 feet of the right of way of FM 359; or
 - (4) Within the Residential acreage (R1), Residential lots (R2), Multi-family (MF), Community Facilities (CF), Downtown District (DD), or Manufactured Housing (MH) District.
- (b) An alternative financial services business may only be located within a freestanding structure and may not be co-located in the same structure with other uses."

Section 11. The table in Section 1-196 (Land use categories table) of the Fulshear Zoning Code is amended to add the alternative financial services use and to indicate that the alternative financial services use is permitted in the Commercial (C) and Industrial (I) Districts.

Section 12. *Penalty.* Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Two Thousand Dollars (\$2000.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

Section 13. *Repeal.* Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 14. *Severability.* In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional, the City

Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 15. *Effective date.* This Ordinance shall be effective after being published as required by law.

PASSED, APPROVED, and ADOPTED on the 19th day of November,
2013.



Thomas C. Kuykendall, Jr., Mayor

ATTEST:



D. Gordon Offord, City Secretary