

# PLANNING DIVISION STAFF REPORT

February 23, 2015



PREPARED FOR THE PLAN COMMISSION

**Proposal:** Zoning Text Amendments

**Legistar File ID #:** [36650](#) and [36865](#)

**Prepared By:** Planning and Zoning Staff

The following is a summary of the proposed zoning text amendments for Plan Commission consideration.

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## **[36650](#) – Amending Section 28.211 of the Zoning Code to modify the definition of “Adult Motion Picture Theater**

The Zoning Code regulates adult entertainment establishments, which include adult motion picture theaters. Under the code's current definition of adult motion picture theater, a single showing of an adult motion picture would turn the establishment into an adult motion picture theater. The City Attorney's Office believes that under current First Amendment law, this definition is likely too strict and would be struck down as a violation of free speech if challenged. This ordinance amendment ensures that the City's definition of adult motion picture theater is consistent with the requirements of the First Amendment, and also makes the definition consistent with most other zoning jurisdictions across the United States.

Staff recommends approval of the text amendment as presented.

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## **[36865](#) – Amending Sections 28.211, 28.061, 28.072, 28.082, and 28.151 of the Zoning Code to revise the definition of “auto sales”, create new definitions for “motorcycle and moped sales” and “heavy traffic vehicle sales”, and allow motorcycle and mopeds sales in areas previously prohibited.**

This ordinance amends the definition of auto sales so that it no longer includes the sale of motorcycles. This ordinance also creates new definitions for “motorcycle and moped sales” and “heavy traffic vehicle sales”. The amendment will allow establishments that sell motorcycles and mopeds in some areas where auto sales are prohibited. The amendment will continue to allow the sale of heavy-traffic vehicles in the IL and IG districts while prohibiting auto sales and rental in those districts otherwise. Staff feels that the elimination of heavy-traffic vehicles from the auto sales definition and supplemental regulations in favor of a definition and use category specific to heavy-traffic vehicle sales will eliminate confusion in the Zoning Code.

Unlike the sale of autos or heavy-traffic vehicles, which tend to have a much greater exterior presence and require more land for outdoor inventory display areas, the sale of motorcycles and mopeds has less of an exterior presence, with most of the sales and service of those vehicles as well as accessories and clothing occurring indoors. The compact nature of motorcycle and moped sales should have less impact on the ability to otherwise develop properties in employment districts with the office, distribution and light industrial uses at the core of those zoning districts.

Staff is generally supportive of the proposed amendments to clarify the Zoning Code as it pertains to these uses.