



PLANNING COMMISSION MEETING AGENDA
Tuesday, September 15, 2015, 7:00 PM
City Municipal Center, 616 NE 4th Avenue

I. CALL TO ORDER

II. ROLL CALL

III. MINUTES

Approval of the minutes from the August 18, 2015 Planning Commission Meeting.

 [August 18, 2015 Planning Commission Meeting Minutes](#)

IV. MEETING ITEMS

- A. Public Hearing to consider amendments to the Camas Municipal Code related to the establishment of marijuana retail stores within the City of Camas.

Details: The Camas Municipal Code prohibits Marijuana Retail stores pursuant to Section 18.07.030 Table 1 with an expiration or sunset date of November 30, 2015. The purpose of the public hearing will be for the Planning Commission to accept public comment, deliberate, and forward on to City Council a recommendation regarding Marijuana Retailing as a use under the zoning code (File No. MC15-06).

Presenter: Phil Bourquin, Community Development Director

Recommended Action: Planning Commission to conduct a public hearing, deliberate and forward on a recommendation for consideration by the City Council.

 [Retail Marijuana Staff Report \(MC15-06\)](#)

- B. Public Hearing to consider amendments to the Camas Municipal Code related to the establishment of Smoke Shops within the City of Camas.
Details: Proposed amendments to Section 18.03.030 Definitions for land uses, and Section 18.07.030 Table 1 - Commercial and industrial uses, pertaining to Smoke Shops/Head Shops (File MC15-07 Smoke Shops).
Presenter: Phil Bourquin, Community Development Director
Recommended Action: Planning Commission conduct a public hearing, deliberate and forward on a recommendation for consideration by City Council.

 [Smoke Shops Staff Report \(MC15-07\)](#)

[Exhibit List MC15-07 Smoke Shops](#)

[Exhibit 001 MC15-07](#)

[Exhibit 002 MC15-07](#)

[Exhibit 003 MC15-07](#)

[Exhibit 004 MC15-07](#)

[Exhibit 005 MC15-07](#)

[Exhibit 006 MC15-07](#)

[Exhibit 007 MC15-07](#)

[Exhibit 008 MC15-07](#)

[Exhibit 009 MC15-07](#)

[Exhibit 010 MC15-07](#)

[Exhibit 011 MC15-07](#)

[Exhibit 012 MC15-07](#)

[Exhibit 013 MC15-07](#)

V. MISCELLANEOUS UPDATES

Miscellaneous Updates

VI. NEXT MEETING DATE

The next regularly scheduled Planning Commission Meeting will be held on Tuesday, October 20, 2015, in the City Council Chambers at 7:00 p.m.

VII. ADJOURNMENT

NOTE: The City of Camas welcomes and encourages the participation of all of its citizens in the public meeting process. A special effort will be made to ensure that persons with special needs have opportunities to participate. For more information, please call 360.834.6864.



**PLANNING COMMISSION
MEETING MINUTES - DRAFT
Tuesday, August 18, 2015, 7:00 PM
City Municipal Center, 616 NE 4th Avenue**

I. CALL TO ORDER

Chair Hull called the meeting to order at 7:00 p.m.

II. ROLL CALL

Present: Frank Hood, Troy Hull, Jaima Johnson, Jim Short and Lloyd Goodlett

Excused: Bryan Beel and Timothy Hein

Staff Present: Robert Maul, Jan Coppola, David Schultz and Alicia Pacheco (student intern)

III. MINUTES

- A. Approval of the Minutes from the June 16, 2015 Planning Commission Meeting

 [June 16, 2015 Planning Commission Meeting Minutes](#)

It was moved by Commissioner Goodlett, seconded by Commissioner Johnson to approve the minutes from the June 16, 2015 Planning Commission Meeting. The motion carried unanimously by roll call vote.

IV. MEETING ITEMS

- A. Grand Ridge Annexation Area Zoning Designation Public Hearing
Details: The Planning Commission held a public hearing to consider possible zoning designations for the Grand Ridge Annexation Area.
Presenter: Robert Maul, Planning Manager

 [Grand Ridge Annexation Zoning Designation Staff Report](#)

Robert Maul summarized the proposed zoning designations and responded to inquiries from the Commissioners.

The public testimony portion of the hearing opened and closed at 7:16 p.m. There were no members of the public who wished to speak.

It was moved by Commissioner Goodlett, seconded by Commissioner Short to forward a recommendation of approval to City Council for the zoning designations for the Grand Ridge Annexation Region as outlined in the August 18, 2015 Staff Report. The motion carried unanimously by roll call vote.

B. Open Public Meetings Act Training

Details: Members of a governing body of a public agency are subject to the Open Public Meetings Act (OPMA) and must receive open public meetings training. They include members of city councils, boards of county commissioners, school boards, fire district boards, state boards and commissions, and other public agency boards, councils and commissions.

Presenter: Robert Maul, Planning Manager

Robert Maul gave a brief overview of the training sponsored by the Washington Cities Insurance Authority (WCIA).

V. MISCELLANEOUS UPDATES

A. Miscellaneous Updates

Robert Maul briefly discussed the following future agenda items: Capital Facilities Plans for the Camas, Evergreen and Washougal School Districts, retail marijuana, and head shops. He added that these topics will be scheduled for public hearings before the Planning Commission in the near future.

VI. NEXT MEETING DATE

- A. The next Planning Commission Meeting will be held on Tuesday, September 15, 2015, in the City Council Chambers at 7:00 p.m.

VII. ADJOURNMENT

Chair Hull adjourned the meeting at 8:24 p.m.

NOTE: The City of Camas welcomes and encourages the participation of all of its citizens in the public meeting process. A special effort will be made to ensure that persons with special needs have opportunities to participate. For more information, please call 360.834.6864.



STAFF REPORT
CAMAS MUNICIPAL CODE – RETAIL MARIJUANA

FILE #MC15-06
SEPTEMBER 12, 2015

To: Bryan Beel, Chair
Planning Commission

Public Hearing: September 15, 2015

From: Phil Bourquin, Community Development Director

Compliance with state agencies: Notice of the public hearing before Planning Commission was published in the Camas Post Record on September 8, 2015 (Legal publication#543624).

SUMMARY

The City of Camas passed Ordinance# 2712 on October 20, 2014 in response Washington Initiative Measure 502 "I-502". Ordinance #2712 amended Camas Municipal Code Sections 18.03.030 and 18.07.030 by adopting land use and zoning regulations, and establishing prohibitions on the location of marijuana-related facilities. Specifically, under Ordinance #2712 Marijuana Processing and Production were prohibited in all zoning districts throughout the City. Marijuana Retailers were also prohibited in all zoning districts, however, the code established a sunset date of November 30, 2015, on this prohibition in all commercial and industrial designated districts. The record related to Ordinance #2712 can be found online in the Agenda for the October 20, 2014, City Council Meeting at <http://www.cityofcamas.us/index.php/yourgovernment/minuteagendavideo>.

The purpose of this Staff Report is to revisit the subject of retail marijuana, provide updates related to statewide legislation, trends in the retail marijuana industry and to establish or confirm a City Policy on retail marijuana sales within the City of Camas.

ANALYSIS/FAQ'S

Question: What will happen if the City takes no action to amend the current code related to retail marijuana prior to the sunset date of November 30, 2015?

Answer: If the City takes no further action, on November 1, 2015, retail marijuana would be permitted in all employment zones including the RC, CC, NC, DC, MX, HI, LI, BP, and LI/BP zones subject to the locational and licensing requirements of the State of Washington.

Question: What action is necessary if the City wishes to continue to continue to prohibit Marijuana Retail sales in the City of Camas?

Answer: An Ordinance amending CMC 18.07.030 Table 1 would need to be adopted and effective prior to December 1, 2015 that would repeal sunset date language as follows: Notes: ~~9. This section shall be in effect through October 31, 2015.~~

Question: If the City were to allow retail marijuana stores, what zoning districts would be appropriate?

Answer: In determining what zoning districts are appropriate for a given use, the Camas Municipal provides a summary of the zones and the differing characteristics of each:

18.05.050 - Commercial and industrial zones.

The purpose of the commercial, industrial, and high technology zones are to provide services and employment primarily to residents. These areas are zoned according to the services they provide. As a result, each zone has different characteristics as summarized below:

- A. NC Neighborhood Commercial. This zone provides for the day-to-day needs of the immediate neighborhood. This zone is intended to be small, but fairly numerous throughout the city. Convenience goods (e.g., food, drugs and sundries), along with personal services (e.g., dry cleaning, barbershop or beauty shop), are common goods and services offered.
- B. CC Community Commercial. This zone provides for the goods and services of longer-term consumption, and tend to be higher-priced items than the neighborhood commercial zone district. Typical goods include clothing, hardware and appliance sales. Some professional services are offered, e.g., real estate office or bank. Eating and drinking establishments may also be provided. This zone tends to vary in size, but is larger than the neighborhood commercial zone.
- C. RC Regional Commercial. This zone provides apparel, home furnishings, and general merchandise in depth and variety, as well as providing services for food clusters and some recreational activities. Regional commercial is the largest of the commercial zones and is designed to serve the region or a significant portion of the region's population.
- D. DC Downtown Commercial. This zone is designated as a large community commercial area, providing a large range of goods and services. This area is designed to promote commercial diversification to serve the immediate residential and office uses in the surrounding areas. Compact development is encouraged that is supportive of transit and pedestrian travel, through higher building heights and floor area ratios than those found in other commercial districts.
- E. LI Light Industrial. This zone provides for uses that are more compatible with commercial, residential, or multifamily uses. Typical uses in this zone include assembly and manufacturing of electronic and precision instruments. More intensive industry, e.g., metal fabrication, is excluded.
- F. LI/BP Light Industrial/Business Park. This zone provides for uses such as, offices related to industrial usage, research and development, limited commercial, and associated warehousing uses, including the provision of employee recreation opportunities. Development in campus-like setting with generous landscaping, well-designed buildings and near major traffic corridors is anticipated.
- G. HI Heavy Industrial. This zone provides for a wide range of industrial and manufacturing uses. Types of activities in this zone include assembly, manufacturing, fabrication, processing, bulk handling and storage, research facilities, associated warehousing, and heavy trucking.
- H. MX Mixed Use. This zone provides for a wide range of commercial and residential uses. Compact development is encouraged that is supportive of transit and pedestrian travel.

If the Planning Commission/City Council wishes to allow marijuana retail sales, Staff recommends limiting the use to the Regional Commercial (RC) and Community Commercial (CC) zones based upon the following:

1. The Community Commercial (CC) and Regional Commercial (RC) zones are generally located in proximity to collector or arterial roadways and permit the broadest list of retail uses of the commercial zoning districts. In contrast, the Neighborhood Commercial (NC) Zone is intended to be located to serve immediate neighborhoods and be fairly numerous through out the City. Considering Washington State limits the number of licenses it will issue for marijuana retail stores (currently approximately 1 license per 10,000 population) marijuana retailers would serve a larger geographic area than contemplated by the NC zone. Both the RC and CC zones would provide opportunities that meet the locational requirements for licensing by the state.
2. The Downtown Commercial zone includes the historic downtown area of Camas. While it appears that two blocks, between NE Adams and NE Birch and NE 3rd Avenue and NE 5th could satisfy the licensing requirements of the state, the business owners, tenants and residents of the downtown area have previously expressed a strong opinion against this type of use in the downtown core.
3. Industrial/Mixed Use/Business Park zones. These zones are intended for industry, professional business, or commercial uses that directly service these uses or the residential uses therein.

Question: What are the locational requirements of the State of Washington in issuing a marijuana retailers license and can the City adopt locational requirements that are either more or less restrictive?

Answer: A retail marijuana store must be a minimum 1000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or game arcade that allows minors to enter. Recent legislation allows local governments to pass an ordinance to allow for a reduction in the 1000-foot buffer requirements to 100 feet around all entities except elementary and secondary schools and public playgrounds. The City may adopt by Ordinance additional locational standards or requirements.

Question: What about medical marijuana sales?

Answer: Under the 2015 State Legislature, medical marijuana sales are essentially consolidated into the marijuana retail licensing requirements and in addition would be subject to any zoning requirements of the imposed upon retail sales of marijuana.

RECOMMENDATION

That Planning Commission conduct a public hearing, deliberate, and forward on a recommendation to City Council.

Staff recommends two options for consideration:

Option 1 – Amend the Camas Municipal Code to allow the retail sales of marijuana in the Community Commercial (CC) and Regional Commercial (RC) zoning districts as shown below.

Amend CMC 18.07.030 Table 1:

18.07.030 Table 1—Commercial and industrial land uses.

KEY:

- P = Permitted Use
- C = Conditional Use
- X = Prohibited Use
- T = Temporary Use

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Commercial Uses									
Machine shop ⁶	X	X	C	C	C	C	P ⁵	C	P
Marijuana processor	X	X	X	X	X	X	X	X	X
Marijuana Producer	X	X	X	X	X	X	X	X	X
Marijuana Retailer ⁹	X	X	X _P	X _P	X	X	X	X	X

Notes:

~~9. This section shall be in effect through October 31, 2015.~~

Option 2: Amend the Camas Municipal Code to simply prohibit the retail sales of marijuana within the City of Camas based upon community values/preferences and the record previously established under Ordinance 2712.

Amend CMC 18.07.030 Table 1:

18.07.030 Table 1—Commercial and industrial land uses.

KEY:

- P = Permitted Use
- C = Conditional Use
- X = Prohibited Use
- T = Temporary Use

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Commercial Uses									
Machine shop ⁶	X	X	C	C	C	C	P ⁵	C	P
Marijuana processor	X	X	X	X	X	X	X	X	X
Marijuana Producer	X	X	X	X	X	X	X	X	X
Marijuana Retailer ⁹	X	X	X	X	X	X	X	X	X

Notes:

~~9. This section shall be in effect through October 31, 2015.~~



STAFF REPORT
CAMAS MUNICIPAL CODE – SMOKE SHOPS

FILE #MC15-07
SEPTEMBER 12, 2015

To: Bryan Beel, Chair
Planning Commission
Public Hearing: September 15, 2015

From: Phil Bourquin, Community Development Director

Compliance with state agencies: Notice of the public hearing before Planning Commission was published in the Camas Post Record on September 8, 2015 (Legal publication #543624).

SUMMARY

With the legalization of marijuana within Washington State, many cities including the City of Camas have witnessed an increased interest in the sale paraphernalia that can be used in conjunction with tobacco or marijuana use. While the City of Camas has or is addressing marijuana retail sales, marijuana production and marijuana processing under its zoning regulations, there is currently no zoning regulation defining or regulating the sales of paraphernalia related to tobacco or marijuana use. Lacking a clear definition of a smoke shop, the City has interpreted and applied its code to date to be permissive of the use in all commercial zones under a broad umbrella and general category of retail commercial uses.

City Council in response from concerns from the public regarding the establishment and location of a smoke shop in proximity to Crown Park, Liberty Middle School, Hayes Freedom High School, and Helen Baller Elementary School, directed Staff to bring forward for public discussion smoke shops as a category of use to be potentially regulated under local zoning controls.

Pursuant to Camas municipal Code 2.32.010, the role of the Planning Commission is to act a research and fact finding agency for the City and serves in an advisory capacity to the city council and mayor. The purpose of the public hearing is for the Planning Commission to accept public testimony on the subject, deliberate and either request further study on the subject done, or forward on a recommendation to City Council.

DISCUSSION

1. In determining what zoning districts are appropriate for a given use, the Camas Municipal provides a summary of the zones and the differing characteristics of each:

18.05.050 - Commercial and industrial zones.

The purpose of the commercial, industrial, and high technology zones are to provide services and employment primarily to residents. These areas are zoned according to the services they provide. As a result, each zone has different characteristics as summarized below:

- A. NC Neighborhood Commercial. This zone provides for the day-to-day needs of the immediate neighborhood. This zone is intended to be small, but fairly numerous throughout the city.

Convenience goods (e.g., food, drugs and sundries), along with personal services (e.g., dry cleaning, barbershop or beauty shop), are common goods and services offered.

- B. CC Community Commercial. This zone provides for the goods and services of longer-term consumption, and tend to be higher-priced items than the neighborhood commercial zone district. Typical goods include clothing, hardware and appliance sales. Some professional services are offered, e.g., real estate office or bank. Eating and drinking establishments may also be provided. This zone tends to vary in size, but is larger than the neighborhood commercial zone.
 - C. RC Regional Commercial. This zone provides apparel, home furnishings, and general merchandise in depth and variety, as well as providing services for food clusters and some recreational activities. Regional commercial is the largest of the commercial zones and is designed to serve the region or a significant portion of the region's population.
 - D. DC Downtown Commercial. This zone is designated as a large community commercial area, providing a large range of goods and services. This area is designed to promote commercial diversification to serve the immediate residential and office uses in the surrounding areas. Compact development is encouraged that is supportive of transit and pedestrian travel, through higher building heights and floor area ratios than those found in other commercial districts.
 - E. LI Light Industrial. This zone provides for uses that are more compatible with commercial, residential, or multifamily uses. Typical uses in this zone include assembly and manufacturing of electronic and precision instruments. More intensive industry, e.g., metal fabrication, is excluded.
 - F. LI/BP Light Industrial/Business Park. This zone provides for uses such as, offices related to industrial usage, research and development, limited commercial, and associated warehousing uses, including the provision of employee recreation opportunities. Development in campus-like setting with generous landscaping, well-designed buildings and near major traffic corridors is anticipated.
 - G. HI Heavy Industrial. This zone provides for a wide range of industrial and manufacturing uses. Types of activities in this zone include assembly, manufacturing, fabrication, processing, bulk handling and storage, research facilities, associated warehousing, and heavy trucking.
 - H. MX Mixed Use. This zone provides for a wide range of commercial and residential uses. Compact development is encouraged that is supportive of transit and pedestrian travel.
2. The Community Commercial (CC) and Regional Commercial (RC) zones are generally located in proximity to collector or arterial roadways and permit the broadest list of retail uses of the commercial zoning districts. In contrast, the Neighborhood Commercial (NC) Zone is intended to be located to serve immediate neighborhoods and be fairly numerous throughout the City.

3. The Downtown Commercial zone includes the historic downtown area of Camas that is considered Camas' living room. The downtown is a destination for family and community events, includes a public library, restaurants a theater.
4. Industrial/Mixed Use/Business Park zones. These zones are intended for industry, professional business, or commercial uses that directly service these uses or the residential uses therein.
5. Under state law (RCW 69.50.331) retail marijuana stores must be a minimum 1000 feet of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or game arcade that allows minors to enter. The siting standards address public concerns with the increased potential for visibility and sales to minors and increased acceptance and interest by minors. Applying a similar standard to "smoke shops" would seemingly place reasonable restrictions on the location of smoke shops while still providing for a reasonable number and location for potential shops to locate.

RECOMMENDATION

Staff recommends the Planning Commission conduct a public hearing, consider the following proposed amendments to the Camas Municipal and forward on a recommendation to City council regarding the definition of a "smoke shop" and zoning and siting standards related thereto. Underlined text represents proposed additions to the existing code while ~~strikethrough text~~ represents proposed deletions of the code.

1. Proposed amendments to CMC 18.03.030-Definitions for Land Uses:

* * *

"E-cigarette" shall mean any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as "juice", and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice fall under the classification of tobacco products and tobacco paraphernalia.

* * *

"Smoke Shop/Head Shop" shall mean any premises where the primary use (fifty percent or more of the net floor area of a business) is dedicated to the display, sale, distributions, delivery, offering, furnishing, or marketing of tobacco, tobacco products or tobacco paraphernalia.

* * *

"Tobacco paraphernalia" shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, marijuana, marijuana products, or other controlled substances as defined by the State of Washington.

Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bong, water bong, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

“Tobacco product” shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term “tobacco product” excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

2. Proposed amendments to CMC 18.07.030 Table 1:

18.07.030 Table 1—Commercial and industrial land uses.

KEY:

P = Permitted Use

C = Conditional Use

X = Prohibited Use

T = Temporary Use

Zoning Districts	NC	DC	CC	RC	MX	BP	LI/BP	LI	HI
Commercial Uses									
<u>Smoke Shop (9)</u>	X	X	P	P	X	X	X	X	X

Notes:

~~9. This section shall be in effect through October 31, 2015.~~

9. Must be sited a minimum 1000 feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, or library, or game arcade to which is not restricted to persons twenty-one years or older. Further, a Smoke Shop shall post clear signage in a conspicuous location near each public entrance stating the minors may not enter the premises unless accompanied by a parent or legal guardian.

Exhibit List
Zoning of Smoke Shops
File No. MC15-07

Planning Commission Hearing Date: September 15, 2015

- Exhibit 001 Abilene Texas, Ordinance No.23-2013 regulating head shops (3 pages)
- Exhibit 002 City of Pico Rivera, California, Ordinance No. 1078 (4 pages)
- Exhibit 003 Web Article, *Reduce Drug Paraphernalia – NCPC*
- Exhibit 004 The Oregonian, *Vancouver considers ordinance to keep bong, pipes hidden at convenience stores*, dated February 10, 2012 (2 pages)
- Exhibit 005 Article, Rocklin, California, temporary ban on smoke shops (4 pages)
- Exhibit 006 Fayetteville Observer Article, Fayetteville North Carolina, *Proposed ordinance targets tobacco shops in Fayetteville*. January 2, 2015. (2 pages)
- Exhibit 007 Tri-City Beat Article, *Fremont cracks down on head shops*, April 28, 2015
- Exhibit 008 North Coastal Prevention Coalition in Vista California, FAQ head shops (3 pages)
- Exhibit 009 Open Post, Monrovia, California, *City Bans New Headshops With Urgency Ordinance*, May 1, 2012 (3 pages)
- Exhibit 010 Article by Aaron Rugar, *Moorehead Drug paraphernalia law...*, May 24, 2012 (2 pages)
- Exhibit 011 Rohnert Park, California, Ordinance No. 813, April 28, 2009 (11 pages)
- Exhibit 012 Covina, California, Code Chapter 17.61 Smoke shops and Tobacco stores (4 pages)
- Exhibit 013 Holtom City, Texas, Ordinance No. 0-2014-032-03 regarding smoke shops and smoke lounges, October 13, 2014 (6 pages)

ORDINANCE NO. 23-2013

AN ORDINANCE AMENDING CHAPTER 23, "LAND DEVELOPMENT CODE," OF THE ABILENE MUNICIPAL CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; CALLING A PUBLIC HEARING; AND DECLARING THE PASSAGE AN EMERGENCY NECESSARY TO IMMEDIATELY PRESERVE THE PUBLIC WELFARE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, part known as the "Land Development Code," of the Abilene Municipal Code be amended as set out in Exhibit "A," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each day such violation shall continue or be permitted to continue, shall be deemed a separate offense.

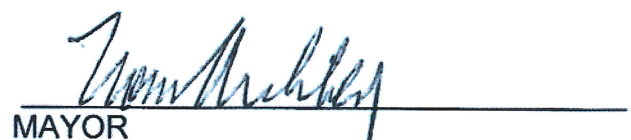
PART 4: That the Council finds that the adoption of this ordinance relates to the immediate preservation of public welfare due to the potential negative consequences on public health and safety of delaying this decision, thus requiring only one reading of this ordinance upon affirmative vote of at least five council members.

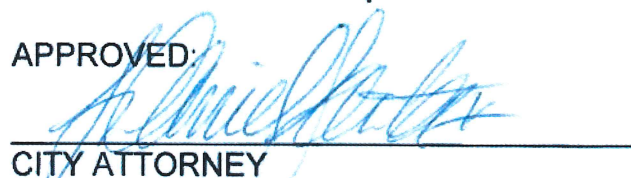
A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the 25th day of May, 2013, the same being more than fifteen (15) days prior to a public hearing to be held in the Council Chamber of the City Hall in Abilene, Texas, at 8:30 a.m., on the 13th day of June, 2013, to permit the public to be heard prior to final consideration of this ordinance. Said ordinance, being a penal ordinance passed as an emergency measure, becomes effective immediately after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST AND FINAL READING THIS 13th day of June, A.D. 2013.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:

CITY ATTORNEY

ORDINANCE NO. 23-2013

EXHIBIT "A"

AMEND: Section 2.4.2.1 The Land Use Matrix

ADD: Add the 'head shop' use to the Land Use Matrix

LEGEND: P-Permitted, Blank-Not Permitted, C-Conditional Use Permit, TP-Requires a Temporary Permit, M-Conditions Apply See Ch.2 Art.5 Div.3

Permitted Uses	Agricultural Open Space	Rural Residential RR-5 & RR1	Residential Single-Family	Residential Single-Family Palis Home	Residential Townhouse	Residential Medium Density	Residential Multi-Family	Manufacture/Mobile Home	College & University	Neighborhood Office	Office	Neighborhood Retail	General Retail	Medical Use	Central Business	Mixed Use	General Commercial	Heavy Commercial	Light Industrial	Heavy Industrial	Parking Requirements (also refer to Chapter 4, Article 2, Division 1)
	AO	RR	RS	PH	TH	MD	MF	MH	CU	NO	O	NR	GR	MU	CB	MX	GC	HC	LI	HI	
Trade - Retail Uses																					
Head Shop	<input checked="" type="checkbox"/>																	P	P	P	1,500 SF

AMEND: Section 2.4.3.3 All Other Uses with Specific Requirements

ADD: Add regulations for head shops to subsection (a) Specific Requirements

(a) Specific Requirements.

(27) HEAD SHOP:

- (a) All structures housing a head shop (as defined in Chapter 5 of this LDC) shall be located as follows:
 - (1) At least six hundred feet (600') from the property boundary line of any lot in a College University zoning district;
 - (2) At least six hundred feet (600') from the property boundary line of any residentially zoned lot or any lot used for church, park, or hospital purposes;
 - (3) At least one thousand feet (1,000') of another structure housing a head shop; and
 - (4) At least two thousand five hundred feet (~~2,000~~2,500') from any lot used for school purposes.

SCHOOL

Measurements are to be in a straight line in all directions from the structure housing the head shop to the nearest property line on any lot in the College-University zoning district, any residentially zoned district, any lot used for church, school, or hospital purposes, any park, or any structure housing a head shop.

- (b) The measurements for a structure shall be taken from the furthest point that a structure extends in any direction, including overhanging roofs and all other projections or portions of said structure.
- (c) Should a head shop be located in conjunction with other buildings in a manner where the head shop is clearly separated from other portions of the structure, (for example, a head shop store in a shopping center) the head shop's measurements shall be taken from the

boundaries of the space in which the store is housed or confined (not the entire shopping center, motel, or structure).

- (d) Should a head shop be located in conjunction with other buildings in a manner where the store is situated above the ground level of a multi-story structure and is clearly separate from other activities within the structure (for example, an head shop store on an upper level of an office tower or hotel), the head shop's measurements shall be taken from the entry to that portion of the structure housing the store, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line to the nearest point on any lot in a residential district or a College University district, or any lot or tract used for church, school, hospital or park purposes, and any structure housing a head shop.
- (e) Each applicant for a head shop must submit a Site Plan setting out the dimension and locations for such store. The applicant shall sign a certified and notarized statement attached to the Site Plan that the proposed head shop store complies with the requirements set forth herein above. It shall be the duty of the applicant to prepare the Site Plan and to assure compliance with the distance requirements.

GRAND FATHERLY (f) **Amortization:** A head shop in operation prior to the effective date of this ordinance which does not conform to the regulations pertaining to head shops shall be considered to be a non-conforming use that may continue for four 6(4) months from the effective date of this ordinance.

AMEND: Section 5.1.1.3 Land Use Definitions

ADD: Add a definition for head shops to subsection (a) Land Use Definitions & Matrix Correlation

(a) Land Use Definitions & Matrix Correlation.

- (86) **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, to include any device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of marijuana, hashish, cocaine, methamphetamine, any other "controlled substance," "controlled substance analogue," "synthetic controlled substance," or substance or chemical that mimics the effect of THC such as synthetic cannabinoids or other controlled substances, or any other substance that violates local, State, or Federal law, and is adapted to that purpose by virtue of a distinctive feature or combination of features associated with drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

-END-

ORDINANCE NO. 1078

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, EXTENDING THE TERMS AND PROVISIONS OF ORDINANCE NO. 1077 DECLARING A MORATORIUM ON THE ACCEPTANCE, PROCESSING OR ISSUANCE OF ANY ZONING PERMIT, USE PERMIT, BUILDING PERMIT, OCCUPANCY PERMIT, OR OTHER ENTITLEMENT FOR DRUG PARAPHERNALIA RETAILERS AND HEAD SHOPS WITHIN CITY LIMITS FOR A PERIOD OF ONE YEAR.

THE CITY COUNCIL OF THE CITY OF PICO RIVERA DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds that on May 28, 2013, it adopted Ordinance No. 1075, an Ordinance of the City Council of the City of Pico Rivera declaring a moratorium on the acceptance, processing or issuance of any zoning permit, use permit, building permit, occupancy permit, or other entitlement for establishment and operation for electronic cigarettes retailers, drug paraphernalia retailers, head and smoke shops within city limits, and setting forth facts constituting the same as an urgency ordinance.

SECTION 2. On June 25, 2013, the City Council voted to extend the moratorium for 45 additional days adopting Ordinance No. 1077 and continued the public hearing.

SECTION 3. The City Council finds that it is imperative that the moratorium be separated between drug paraphernalia, head and smoke shops and electronic cigarettes and grant the extension of one year for Ordinance 1077.

SECTION 4. The City Council finds that in accordance with the terms and provision of Ordinance No. 1075 and Ordinance No. 1077, planning division staff commenced studies pertaining to the proper conditions and regulations for electronic cigarette retailers, drug paraphernalia retailers, smoke and head shops and a written report describing the measures taken and to be taken to alleviate the conditions that led to the adoption of Ordinance No. 1075 and subsequently Ordinance No. 1077 is set forth in the staff report accompanying the Ordinances, which are incorporated by reference. Said reports are approved and issued by the City Council pursuant Government Code Section 65858(d).

SECTION 5. The City Council finds that in accordance with the terms and provisions of Section 65858 of the Government Code and following notice given in the time and manner required by law, it held a public hearing on the extension of Ordinance No. 1075 on June 25, 2013 and adopted Ordinance No. 1077 and requested to continue the public hearing. After hearing all applicable evidence, the City Council finds that the conditions and findings cited in Ordinance No. 1075 and Ordinance No. 1077 continue to exist and that further studies by staff are necessary to develop the proper land use regulations for the establishment and operation of drug paraphernalia retailers, head and smoke shops.

SECTION 6. The City Council hereby finds that it can be seen with certainty that there is no possibility the adoption of this Ordinance, and extension of the moratorium hereby, may have a significant effect on the environment, because the moratorium will impose greater limitations on development in the City, and will thereby serve to reduce potential significant adverse

environmental impacts. It is therefore, exempt from California Environmental Quality Act review pursuant to Title 14, Section 15061 (b) (3) of the California Code of Regulations.

SECTION 7. Imposition of Moratorium.

1. In accordance with the authority granted the City under Government Code Section 65858, from and after the date of this ordinance, no use permit, variance, building permit, or any other applicable entitlement for use, including but not limited to the issuance of a business license, shall be approved or issued for the establishment or operation drug paraphernalia retailer, head shop and smoke shop for a period of one year.
2. For purposes of this ordinance “**drug paraphernalia retailer**” shall be consistent with the California Health and Safety Code Section 11014.5 and shall mean a business that makes available (wholesale or retail), trades, loans, or barter any of the following:
 - a. Kits designed for use or marketed for use in planning, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - b. Kits designed for use or marketed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
 - c. Isomerization devices designed for use or marketed for use in increasing the potency of any species of plant which is a controlled substance.
 - d. Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of controlled substances.
 - e. Scales and balances designed for use or marketed for use in weighing or measuring controlled substances.
 - f. Containers and other objects designed for use or marketed for use in storing or concealing controlled substances.
 - g. Hypodermic syringes, needles and other objects designed for use or marketed for use in parenterally injecting controlled substances into the human body.
 - h. Objects designed for use or marketed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body. such as: carburetion tubes and devices; smoking and carburetion masks; roach clips, meaning objects used to hold burning material. such as a marijuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoons, and cocaine vials; chamber pipes; carburetor pipes; electric pipes; air-driven pipes; chillums; bongs; ice pipes or chillers.
3. For purposes of this ordinance “**Head Shop or Smoke Shop**” shall mean a business that sells (wholesale or retail), trades loans or barter drug-related paraphernalia or any item whether useful for non-drug related purposes or not, which is displayed, grouped with other items, advertised, or promoted in a manner to reasonably suggest its usefulness in the growing, harvesting, processing manufacturing, preserving, inhaling, injecting or ingesting of marijuana, hashish, cocaine, any controlled substance, new age herbs, or other recreational drugs.

*INTERIM
ORDINANCE*

4. This ordinance is an interim ordinance adopted as an urgency measure pursuant to the authority granted to the City of Pico Rivera under Government Code Section 65858 and is for immediate preservation of the public safety, health and welfare. The facts constituting the urgency are:
- a. The City of Pico Rivera currently does not have locally established laws, rules or regulations consistent with state law to control drug paraphernalia, head and smoke shops and the possible effects on the health of persons and the environment;
 - b. The City of Pico Rivera is experiencing inquiries of drug paraphernalia, head and smoke shops which if approved would frustrate the purpose of further study;
 - c. The City of Pico Rivera Municipal Code is not consistent with the California Health and Safety Code Section 11014.5 which prohibits drug paraphernalia and by including drug paraphernalia to the moratorium will further strengthen state law in the City;
 - d. The City of Pico Rivera wishes to include head and smoke shops and other current mechanisms used for drugs; including paraphernalia that may not be intended for drug use but that can be used for such purposes.
5. Therefore the City Council hereby declares an extension to the existing moratorium and ordains the Ordinance No. 1077 be extended for a term of one year, terminating on August 26, 2014, subject to all of the terms and provision contained in Ordinance No. 1077.

SECTION 8. In order to protect the public health, safety and welfare, it is necessary to enact this Ordinance as an urgency measure to go into effect immediately upon its adoption, and to enact this Ordinance, after giving notice, holding public hearings and two readings thereof, and thereafter to wait thirty days for the Ordinance to become effective would be detrimental to the public health, safety and welfare, in that during the interim period further such inquiries may be received and without proper criteria and regulations to evaluate secondary impacts. It is therefore necessary that this Ordinance go into effect immediately upon its adoption by at least a four-fifths vote of the City Council.

SECTION 9. The City Council hereby declares that it would have passed this Ordinance sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this Ordinance are severable, and if, for any reason, any sentence, paragraph or section of this ordinance shall be held invalid, such decision shall not affect the validity of the remaining parts of this Ordinance.

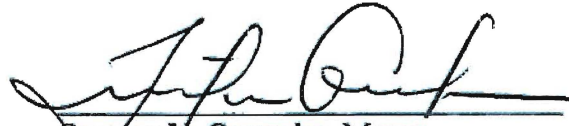
SECTION 10. No person shall violate any provision, or fail to comply with any of the requirements of this ordinance, and any person violating any provision, or failing to comply with

ORDINANCE NO. 1078
Page 4 of 4

any provision of this ordinance shall be subject to any and all penalties as set forth under the Pico Rivera Municipal Code shall apply to violations of the provisions of this ordinance.


SECTION 11. The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be published or posted as prescribed by law. This Ordinance shall take effect immediately upon expiration of the 45 day moratorium enacted under Ordinance No. 1077. This Ordinance and the provisions set forth herein shall be effective for a period of one year and shall expire on August 26, 2014.

APPROVED AND ADOPTED this 23rd day of July, 2013 by members of the City Council of the City of Pico Rivera, voting as follows:


Gustavo Y. Camacho, Mayor

ATTEST:

APPROVED AS TO FORM:


Anna M. Jerome, Assistant City Clerk


Arnold M. Alvarez-Glasman, City Attorney

AYES: Archuleta, Armenta, Camacho
NOES: Salcido, Tercero
ABSENT: None
ABSTAIN: None

Reduce Drug Paraphernalia

Advocate for restrictions on the placement and business practices of headshops/smokeshops and other establishments that sell merchandise commonly used as drug paraphernalia.

‘Head Shop’ ordinance

In 2002, NCPC observed that two new retail stores that sell drug paraphernalia opened in the city of Oceanside. These stores had been allowed to sell drug paraphernalia by stating that the paraphernalia’s intended use was related to tobacco, a claim that enabled them to circumvent established laws.

In an effort to stop the proliferation of these stores, NCPC staff, board members, and concerned residents worked with the City of Oceanside, including the Oceanside City Council, to adopt an ordinance in 2003 that classified businesses that sold tobacco/drug paraphernalia as adult businesses requiring a conditional use permit. The ordinance language specified the presence of “tobacco/drug paraphernalia” and established a distance requirement that mandated that stores selling such items be a minimum of 1,000 feet away from any school, church, or other place where children congregate. Additionally, these stores must also be a minimum of 1,000 feet away from any regulated business. This made it difficult to find any suitable location in the city of Oceanside for such businesses.

As a result of this ordinance, two such businesses in Oceanside have closed down and, while several stores have attempted to open, no additional ones have been successful. Two stores were granted grandfather privileges since they had opened prior to the ordinance being adopted, and remained open. Unfortunately, other cities in the county that lack such an ordinance have substantially more ‘smoke shops’ selling drug paraphernalia. Although the cities of Carlsbad and Vista do not have ordinances similar to that of Oceanside, they have adopted internal business licensing procedures to increase scrutiny and oversight of business operations which have curtailed drug paraphernalia sales. This has not been the case in many other cities. The City of Escondido, in north inland San Diego County with a population of 137,000 has gone from 6 smoke shops in 2005 to 8 in 2009; and the City of El Cajon, in east County with a population of 93,000 currently has six smoke shops. Throughout the county, the number of smoke-shops has ranged from approximately 75 in 2005 to 87 in 2009.

Later in 2004, we became aware of drug paraphernalia being sold at street fairs, swap meets, and outdoor concerts in Oceanside. In response, NCPC members took photos at these events and presented them to City officials. As a result, the council approved an amendment to the City’s ordinance to clarify that the sale of any tobacco/drug paraphernalia needs to be done within a store front, and is not permitted outdoors. This has resulted in a much friendlier family environment at outdoor activities.

Through our community assessments in 2007, we discovered several variety stores that cater to the Hispanic community in the city of Vista selling similar drug paraphernalia, such as bongos. The city had an administrative policy addressing this problem. It was found that these businesses were in violation of that policy. In response, cease and desist orders were sent to offending businesses—resulting in those businesses ceasing in the sale of drug paraphernalia. As an aside, these same variety stores were also found to be selling weapons including large knives designed for fighting and other violent uses. As a result of our efforts, the sale of these dangerous items was also stopped.

Vancouver considers ordinance to keep bongos, pipes hidden at convenience stores



By Special to The Oregonian

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on February 10, 2012 at 11:00 AM, updated February 10, 2012 at 12:00 PM

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Faith Cathcart/The Oregonian

Advocacy groups have encouraged Vancouver and Clark County governments to restrict the sale of drug paraphernalia in convenience stores. Vick's Market, in an effort to keep the items out of children's sight, has created a separate smoke shop.

It soon might be a little harder to know whether your local convenience store carries glass bongos, pipes and other drug paraphernalia.

The Vancouver city attorney's office is working on a draft ordinance that would require convenience stores to keep drug paraphernalia out of sight and in a secure area -- and to sell it only to people 18 and older.

The City Council could consider the ordinance as early as March. It's currently being reviewed by Clark County's government.

"We like the county to join in ordinances to have uniformity throughout the urban area," says city attorney Ted Gathe.

The ordinance would be a victory for PREVENT!, a local substance-abuse-prevention coalition, which has been pursuing restrictions on the sale of drug paraphernalia for two years. The organization made a presentation to the Vancouver City Council in January, where it urged the council to pass an ordinance that would prohibit children from buying paraphernalia. Tacoma and Spokane have passed similar ordinances.

Supporters of the proposed ordinance say the presence of drug paraphernalia in convenience stores - typically marketed as tobacco pipes and often displayed near candy and gum -- sends a message to children "about what is acceptable."

"By allowing drug paraphernalia, we're saying it's OK (to use drugs), even though it's illegal," said Tom Breitenbauch, executive director of **Hands Across the Bridge**, an advocacy group for people in recovery. "It's an unspoken message."

Breitenbauch also says recovering addicts can be triggered when they see paraphernalia, tempting them to go back to drugs.

But the Vancouver City Council has been hesitant to regulate the sale of bong and similar items, which are considered paraphernalia only when they have the residue of an illegal drug in them. Otherwise, the sale of bong, pipes and other such objects is perfectly legal.

Vancouver city councilors told the PREVENT! coalition to seek the support of the business community and neighborhood associations. "To be quite honest, I'm not sure where our community is (on the issue)," said Councilman Larry Smith. "I would rather hear more from the community."

Sondra Storm, the coalition's director, says PREVENT! has spoken with two dozen neighborhood associations. "We definitely have the support and interest from neighborhood associations, especially the ones with stores that sell drug paraphernalia," she said.

Bud Van Cleve, president of the East Hazel Dell neighborhood association, says there is drug activity in his neighborhood that affects the whole community. As long as paraphernalia is available, he says, it will encourage drug use.

"It's a poison to the community," he said. "We don't need to encourage it."

About 22 percent of convenience stores in Clark County sell drug paraphernalia, according to a survey the coalition conducted of every store that has a tobacco license. Neighborhoods with high poverty rates have a higher prevalence of stores that sell paraphernalia.

"It's a small minority that actually are selling paraphernalia," Storm said. "But of the ones that are, they tend to be concentrated in a couple (areas). There is some unfair exposure going on."

The coalition has asked store owners if they would be willing to stop selling the paraphernalia. "What we've heard," Storm said, "is that we are going to sell it as long as it is legal."

PREVENT! and its youth arm STASHA, or Strong Teens Against Substance Hazards and Abuse, are now trying to reach out to other cities in Clark County about drug paraphernalia ordinances.

Smoke Shop Near Schools Prompts **Rocklin** To Enact **Temporary Ban**

CALIF ROCKLIN

February 24, 2015 11:12 PM

20

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Nick Janes
Nick Janes joined KOVR/KMAX in December 2008 as a reporter.
[Nick...Read More](#)

ROCKLIN (CBS13) — There’s an uproar in the city of Rocklin over a proposed smoke shop near not one, but four schools.

The City Council approved a temporary ban on smoke shops near schools on Tuesday night.

So many [parents](#) have complained about the proposed shop, the city is considering putting at least a temporary stop to it.

The idea of the Three Monkeys [moving](#) into a vacant Rocklin storefront is unpopular with parents like Stephanie Mills because of what’s close by.

“I really don’t like the idea. I mean, I have two small kids and there’s a lot of schools—literally walking distance, there’s four schools,” she said.


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The shop would be 800 feet from Breen Elementary, Rocklin High and Victory Continuing Education, and about 2,100 feet from Granite Oaks Middle School.

"It's no different than a liquor store, something strange like that, that just opens up right next to your school you're just not gonna be okay with it," said [parent](#)  Jeanette Anderson.

And in part, because so many parents aren't OK with it, Rocklin's city manager drew up an ordinance calling for a 45-day moratorium that would ban any tobacco shop from opening near schools. The report concludes the shop could present a "clear and present danger to the immediate preservation of public health, [safety](#) , and welfare of our community."

Anthony Hirani, the man behind Three Monkeys, says he already has a few locations in the Sacramento Valley. His Rocklin shop would be different, with only tobacco, e-cigarettes and cigars would be sold to people 18 and over.

"I just want my right to do business like everyone else. I am going by the law," he said. "The store sells tobacco. Arco, Walgreens, everybody sells tobacco and cigarettes. That's what I am selling. They don't sell

premium cigars but I have the license to sell cigars. Everything is legal.”

But it seems, there's no selling parents like Amanda Quarry on a smoke shop steps away from schools.

“None of this was here when I was in high school. My kids have a whole lot of options, and I don't want that to be one of them,” she said.

Seal Beach council restricts new smoke, e-cigarette shops

March 11, 2014 Updated March 12, 2014 10:53 a.m.

ORANGE COUNTY

**BY
KENDRA
ABLAZA /
STAFF
WRITER**

SEAL BEACH – New smoke shops, including places that sell electronic cigarettes, will only be able to operate in commercial zones under an ordinance approved Monday.

The City Council voted unanimously to update the city’s zoning code and implement the restrictions.

FACEBOOK

The ordinance, first introduced at the council’s Feb. 24 meeting, was passed without further discussion as an item on the council’s consent calendar Monday. It limits the shops to operating in commercial zones.

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The restriction follows the passage of an ordinance Feb. 10 that requires a conditional use permit for the establishment of any smoke shop, defined as a store whose primary use is selling e-cigarettes or tobacco products. That ordinance also limits how and to whom e-cigarettes can be sold at other stores and prohibits smoking lounges.

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Councilman Michael Levitt, who represents the 5th district, which includes much of Leisure World, said after the meeting that the restrictions are meant to protect residents from secondhand smoke and appease businesses who don’t want the smoke shops nearby.

“Typically, a commercial zone won’t be too close to a residential neighborhood, a school or a playground,” Levitt said. “Until the federal government comes down and says, ‘An e-cigarette is not a tobacco product, and inhaling the vapor as

secondhand smoke is not harmful’ ... we’re going to go ahead on the basis that we’ve had.”

The ordinance also adds the definition "smoke shop" to the city’s zoning code, described as establishments involved in the sale, distribution or exchange of “electronic smoking devices, tobacco products, tobacco paraphernalia, or any combination thereof.”

Advocates say e-cigarette devices vaporize liquid cartridges to provide a safer dose of nicotine than cigarettes and other methods of smoking. Officials in Sacramento and Washington, D.C., have not regulated selling or smoking e-cigarettes, so cities, including Long Beach and Los Angeles, have recently been writing their own rules.

Seal Beach was the first Orange County city to regulate e-cigarettes. The city placed a ban on e-cigarette sales in August, which was lifted in February after the council felt it had struck a balance between business interests and health concerns.

Contact the writer: kablaza@lbregister.com

North Carolina

Proposed ordinance targets tobacco shops in Fayetteville

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Posted: Friday, January 2, 2015 10:32 pm | Updated: 11:33 am, Sat Jan 3, 2015.

By Paige Rentz Staff writer

Fayetteville's tobacco shops have caught the eye of local law enforcement.

A police-driven proposal seeks to more tightly regulate the more than 60 shops, which department leaders say often are targets of robberies and some of which have seen drug activity, shootings and illegal gambling.

The proposed city ordinance would limit where new shops can open and potentially close some in certain areas.

The City Council halted the proposal after a public hearing last month and asked city staff to collect more input from representatives of the shops.

The revised ordinance is on the agenda for the council's Monday work session, but it may not come up for discussion, city planner Craig Harmon said. The council could consider the issue at a future meeting.

If the City Council was to require extensive revisions to the ordinance, it could go back to the Planning Commission before the council takes it up, Harmon said.

Fayetteville police began pushing for the ordinance in 2013 because of crime and high call volumes associated with these types of stores. Between Jan. 1, 2012, and Nov. 30, 2013, there were 13,171 calls for police service within 250 feet of 61 tobacco shops.

Yaya Food Mart on Murchison Road topped the list with 1,033 calls during that time. Matchbox Smoke Shop on Cliffdale Road had the fewest, with 60.

Ten tobacco shops have been identified as potentially subject to closure based on how their property is zoned.



Staff photo by Andrew Craft

A proposed ordinance targets tobacco shops in the city

Manager Moses Shahban says the majority of items he sells are groceries at the 20/20 Mart on Murchison Road.

Tobacco shops [read more](#)

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Related: **Capsules of 10 tobacco shops Fayetteville is attempting to close**

Where a store can locate is based on whether it falls into one of three classes created in the law, which essentially regulate higher-end cigar and tobacco stores, stores for which at least 20 percent of retail space is devoted to tobacco products, and those that sell water pipes, bongos, bowls and other smoking apparatus.

Under the proposal, shops would no longer be allowed in neighborhood commercial districts, which are closer to residential

areas. Shops aside from the high-end tobacco shops would not be allowed downtown.

The proposal calls for stores currently located downtown or in neighborhood commercial districts to be amortized, meaning they would be required to close within three years.

The 10 stores below were identified by city staff as potentially facing closure unless they move, seek rezoning, or adjust their operations to be more like a convenience store. Harmon said he does not have a list indicating how each store is classified, and therefore, which aspects of their operations make them subject to the ordinance.

The original list of the city's tobacco shops was compiled by the Police Department, Harmon said. Police spokesmen on Friday could not provide the criteria for their initial list. The planning department, Harmon said, has not removed any shop from the list of those expected to be subject to amortization because staff does not know what the final ordinance will require.

Fremont cracks down on head shops

Posted on April 28, 2009 by Matt Artz

FREEMONT

CALIF

UPDATE: I was wrong. The council approved the head shop 5-0.

In about an hour, the City Council will decide whether or not to allow a new head shop in the Irvington district. The Planning Commission had refused to grant the prospective business owners a permit because head shops sell stuff like glass pipes that are used to smoke pot.

The permit battle led City Hall to determine whether regular old smoke shops were also selling the stuff without a special head shop permit.

Guess what? They were.

It turns out Fremont effectively has eight head shops, only one of which legally sells the glass pipes and other paraphernalia legally. The Devil's Workshop in Niles opened shop before the city passed its head shop ordinance. All of the others are out of compliance.

The city has alerted five of them that they must apply for a head shop permit to continue selling the merchandise. Two of them must stop selling altogether because they are in areas not zoned for head shops.

The violators were:

- Cigarette Discounters, 34245 Fremont Blvd.
- Mike Smoke Shop, 35766 Fremont Blvd.
- Rocky Smoke Shop, 39471 Fremont Blvd.
- Fremont Smoke Shop, 40796 Fremont Blvd.
- Wonderland Smoke Shop, which is at Fremont and Chapel
- Smoke Zone, 46699 Mission Blvd.
- Underground Smoke Shop, 3633 Thornton Blvd.

If Fremont hadn't surveyed its smoke shops, it would have been vulnerable to the argument that it was playing tough with potential head shop owners who wanted to play by the rules, while turning a blind eye as other stores sold the stuff without a permit.

My guess is that this ends up giving the council a little extra cover to keep that prospective head shop from opening in Irvington. We'll find out soon enough.

OCEANSIDE,
~~VISTA~~,
CA



Organization: North Coastal Prevention Coalition in Vista, CA

Contact: John Byrom

Q: What did you change a law, a regulation, an ordinance, a policy or other?

A: We passed a local ordinance, which reclassifies head shops as adult businesses with all the associated regulations thereof, making it more difficult for new head shops to open, and prohibits youth under the age of 18 from entering head shops.

Q: Where did the idea to make the change originate?

A: Our coalition saw a proliferation of head shops (businesses that sell drug paraphernalia) in the City of San Diego. While we had only one shop in the City of Oceanside, which had opened in the 1970's (Inner World), three more had recently opened for business (The Hole, Outer Limits and Vishions). We did not want to see a similar proliferation of these types of businesses in our city. While we knew we would probably not be successful in eliminating them altogether, we knew we stood a good chance of regulating the ones already in business. Additionally, we believed regulations, along with the required Conditional Use Permit Process, would make it very difficult for any new businesses to open.

Q: What elected or other government officials did you meet with to accomplish this change? And at what point(s) in the process did you meet with them?

A: We presented our findings to the Oceanside Planning Commission, since the issue was one of land use. We felt we were able to provide compelling environmental prevention arguments for considering the merits of an ordinance that would regulate businesses that sold drug paraphernalia. We received a unanimous vote for our proposed Head Shop Ordinance from the Planning Commission.

Last, we brought the proposed ordinance to the Oceanside City Council. With some 20 coalition members in tow, we made our case to City Council members. While we did not all testify, we were anxious to make sure Council members knew how many of us had shown up in favor of this issue. When we asked our supporters to stand up to indicate their support, the entire audience (some 200 individuals) stood up as well. There was, indeed, broad support for our issue. The City Council voted unanimously for the proposed ordinance.

Q: What materials did you use to make your case that the change was necessary and would produce the desired results?

A: Our first step was to discuss the situation with one of our coalition members in the Oceanside Police Department (OPD) to get a law enforcement perspective. OPD discussions were followed by visits to each of the head shops to conduct a thorough assessment of their business practices and the merchandise they carried.

Assessments were followed up with a survey of local teens to ascertain their knowledge and opinion about head shops. Survey results revealed that half of the teens surveyed had been inside of these types of businesses. More than half agreed that individuals should have to be eighteen years old to enter and a majority of the teens agreed that products promoting drug use should not be sold in our city.

With the information we received from OPD, research information on the history of businesses that sell drug paraphernalia and our survey information, we created an issue brief document to inform residents, organizations, and City officials about the issue. We provided city officials in the Planning Department and City Council members with copies of our issue brief.

Q: Through what system/process did you make your change?

A: The change was made through the City Council with the support of the Oceanside Planning Commission.

Q: Who were your allies in making this change?

A: Our allies were coalition members, law enforcement, school boards, districts and PTA's, treatment and recovery.

Q: Who opposed this change?

A: Head shops opposed this change. After the ordinance was implemented, one shop in particular, Inner World, was scrutinized by the city for its attempt to get around the "spirit" of the law, if not the "letter" of the Law by constructing a wall between their two addresses, but only one business license. The ordinance states that you must be 18 to enter the business and though their maneuver does restrict underage individuals from the first address where drug paraphernalia is sold; youth continue to be exposed to the pro-drug messages at the second address.

Q: Did you participate in media advocacy to make your change?

A: We did work with local media outlets to gain community support.

Q: Please describe in detail the outcome of your change.

A: Head shops have been reclassified as adult businesses with all the associated regulations thereof. Head shops, as adult businesses, are restricted from being less than 1,000 feet from other regulated businesses (such as bars, liquor stores and adult bookstores). Head shops must be at least 500 feet from schools, churches, public libraries or public parks. It is illegal for individuals under 18 to go into a head shop in

the City of Oceanside. Any new businesses intending to sell drug paraphernalia is subject to a special use permit process.

The head shop ordinance will make it more difficult for new head shops to open, given the requirements of the ordinance. As of July 2004 we are pleased to report the following updates on Oceanside head shops...

- The Hole went out of business in 2002. We have no information as to the reason.
- Due to continued surveillance of Visions Smoke Shop, a change of address, which might have otherwise gone unnoticed, was immediately reported to the City. A code enforcement officer was dispatched and Visions was found to be in a violation of the ordinance. Rather than pursue a Special Use Permit, Visions closed their doors for business.

City Bans New Head Shops With Urgency Ordinance

An ordinance passed Tuesday will put a moratorium on tobacco shops for 45 days while the council considers whether to ban new head shops permanently.

By **NATHAN MCINTIRE** (Open Post)

May 1, 2012

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MONROVIA, CA



MORATORIUM

The City Council voted to place a moratorium on new tobacco shops Tuesday in the wake of public uproar over the opening of a new head shop in the heart of .

The urgency ordinance passed in a 4-1 vote with Councilman Tom Adams as the lone dissenter. It bans the issuance of business licenses to new head shops for 45 days while the council considers whether to make the ban permanent.

According to some residents, the moratorium came too late. A new head shop, O.G. Smoke Shop, obtained a business license and will take over a storefront at 512 South Myrtle Avenue.

Several residents decried the shop's opening at the council meeting Tuesday, saying that head shops increase the availability of drug paraphernalia like glass pipes and bongs used to smoke marijuana, methamphetamine and other illicit substances.

Pam Fitzpatrick, owner of the toy store in Old Town, said a moratorium should be passed even though it wouldn't keep O.G. out.

"I want to send a message to O.G. Smoke Shop that people don't want them here," she said.

Collin Spencer, listed as the owner of O.G. on its business license, did not return a message seeking comment on this story. The company's website boasts that its Azusa location carries "the largest selection of glassware in the SGV. Hand pipes, water pipes, specialty pipes, and hookah pipes."

Before the moratorium passed, Jamie Holes, parent of a student at , said the city should not just wind up confining smoke shops to certain zones. She wanted them banned outright.

"I'm concerned that we may be unsuccessful in dealing with a problem that we're not directly addressing," Holes told the council. "We're asking you to reduce access and availability of drug paraphernalia and synthetic drugs in the community and to our youth."

With the moratorium's passage, the city will now have 45 days before it must

take up the issue again. The ban can be extended to one or two years following a public hearing, City Attorney Craig Steele said. That time would allow the council to determine whether to ban the shops entirely or relegate them to certain zones.

Three smoke shops currently operate in Monrovia, and they will not be affected by the ban, Steele said. But the moratorium does make a “pretty strong community statement about the nature of that type of business in the city and what the council’s feeling is...,” he said.

In voting against the moratorium, Adams clarified that he was only against the use of urgency ordinances and would support a normal ordinance establishing a moratorium.

Moorhead drug paraphernalia law: A look at the precedent-setting ordinance and legal ruling

By Aaron Rupaar Thu., May 24 2012 at 8:06 AM
Categories: **Drugs, Law**

Comments (0)

MINNESOTA

In recent weeks, two cities in the Twin Cities metro -- Stillwater and Hudson, Wisconsin -- have taken steps to criminalize the sale or possession of unused glass pipes and other objects that can be used to inhale controlled substances. Such objects, city officials argue, constitute "drug paraphernalia."



Is there a workable legal distinction between this...

State statute prohibits the use, possession, delivery, and advertisement of drug paraphernalia, but doesn't precisely define what constitutes "drug paraphernalia." In practice, Minnesota cities have historically turned a blind eye as smoke and head shops through the state sold glass pipes, bongs, and other items of that sort.

But last December, the city council in Moorhead took the unusual step of banning "objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances," including glass pipes, water pipes, roach clips, and chillums. In February, that broad definition of "drug paraphernalia" withstood a challenge in U.S. District Court, suggesting to cities like Stillwater and Hudson that there is a legal basis for their crackdown on glass pipes.

APPLICATION

Given its proximity to North Dakota and the more restrictive drug paraphernalia laws there, Moorhead was something of a hub for head shops -- five stores in town sold everything from glass pipes to grinders to bongs before the "drug paraphernalia" ban went into effect in January.

A couple weeks after the new ordinance went on the books, Randall Tighe, an attorney representing Moorhead head shop Discontent, filed a federal lawsuit requesting a temporary restraining order to keep police from enforcing the new law. Part of Tighe's argument was that the ordinance caused irreparable harm to Discontent's business. In fact, the shop closed the day the ordinance went into effect.



... and this? Courts haven't yet provided a decisive answer to that question.

But in February, Chief U.S. District Judge Michael Davis denied Tighe's request, ruling that Discontent failed to prove it would suffer irreparable harm under the ordinance.

Two months later, Stillwater approved an almost identical paraphernalia ban and cited Moorhead's ordinance and its ability to withstand a legal challenge as inspirations. Then, earlier this month, Hudson police decided to change their working definition of "drug paraphernalia" to mirror Moorhead's and on Monday confiscated a smoke shop's entire collection of glass pipes.

Hudson Police Chief Marty Jensen said that before the Moorhead ordinance came along, his department worked "under the assumption that [if] the pipe hadn't been used, it wasn't considered drug paraphernalia." Now, it appears there is a legal basis for criminalizing unchristened pipes.

But Tigue, who also represents a Stillwater tobacco store affected by that city's new paraphernalia ban, recently said he plans to challenge that city's new ordinance as well. He suggested that this time around, his legal argument will hinge on the seemingly unenforceable ambiguity between legal tobacco pipes and illegal drug paraphernalia rather than the harm such ordinances do to tobacco stores' business.

"What [cities like Moorhead and Stillwater] have done is gone in and said, 'If you sell any of these pipes, we're going to bust you for it, regardless if you have intent,'" Tigue told the Pioneer Press last month, adding that he doesn't think the new drug paraphernalia bans cropping up throughout the region justify that level of enforcement.

It may soon be for the courts to decide. Head shop owners throughout the state will no doubt be looking on with bated breath.

ORDINANCE NO. 813

CALIF

AN ORDINANCE OF THE CITY OF ROHNERT PARK AMENDING THE MUNICIPAL CODE CHAPTER 8.32 (USE OF TOBACCO IN PUBLIC PLACES); SECTION 17.06.060 (ZONING ORDINANCE – PERMITTED USES) AND ADDING CHAPTER 8.33 (PROHIBITION OF HEAD SHOPS, HOOKAH BARS, TOBACCO VENDING MACHINES AND SELF SERVICE DISPLAYS); FILE NO.: 2008-026MC

WHEREAS, scientific studies have concluded that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys;¹ and

WHEREAS, more than 440,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death;² and

WHEREAS, the World Health Organization (WHO) estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide;³ and

WHEREAS, the U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke and neither separating smokers from nonsmokers nor installing ventilation systems effectively eliminates secondhand smoke;⁴ and

WHEREAS, the United States Environmental Protection Agency (EPA) has found secondhand smoke to be a risk to public health, and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen;⁵ and

WHEREAS, the California Air Resources Board has put secondhand smoke in the same category as the most toxic automotive and industrial air pollutants by categorizing it as a toxic air contaminant;⁶ and

WHEREAS, the California Office of Environmental Health Hazard Assessment has included secondhand smoke on the Proposition 65 list of chemicals known to the State of California to cause cancer, birth defects, and other reproductive harm;⁷ and

WHEREAS, exposure to secondhand smoke is the sixth leading cause of preventable death in this country, killing over 53,000 non-smokers each year,⁸ and smoking is the number one cause of lung cancer

¹ U.S. Dep't of Health and Human Services, Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002*.

² U.S. Dep't of Health and Human Services, Centers for Disease Control and Prevention, *Highlights Annual Smoking – Attributable Mortality, Years of Potential Life Lost, and Economic Costs – United States 1995-1999* (2002) MORBIDITY AND MORTALITY WEEKLY REPORT.

³ U.S. Dep't of Health and Human Services, Centers for Disease Control and Prevention, *Reducing Tobacco Use: A Report of the Surgeon General*, 437 (2001).

⁴ U.S. Dep't of Health and Human Services, Centers for Disease Control and Prevention, *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General* 11 (2006).

⁵ U.S. Dep't of Health and Human Services, Centers for Disease Control and Prevention, *Clean Indoor Air Regulations Fact Sheet* (2001).

⁶ Cal. Air Resources Bd., Resolution 06-01, at 5 (Jan. 26, 2006).

⁷ Cal. Env'tl. Prot. Agency, Office of Env'tl. Health Hazard Assessment, *Chemicals Known to the State to Cause Cancer or Reproductive Toxicity* 17, (Aug. 11, 2006).

⁸ S.A. Glantz & W. Parmley, *Passive Smoking and Heart Disease: Epidemiology, Physiology, and Biochemistry*, 83(1) *Circulation* 1 (1991) and *California Environmental Protection Agency, Office of Env'tl. Health Hazard Management, Health Effects of Exposure to Environmental Tobacco Smoke: Final Report* (1997).

deaths;⁹ and

WHEREAS, secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight, and increased risk of Sudden Infant Death Syndrome (SIDS) in infants of mothers who smoke;¹⁰ and

WHEREAS, secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis,¹¹ exacerbates childhood asthma, and increases the risk of acute chronic middle ear infection in children,¹² and

WHEREAS, the total cost of smoking in California was estimated to be \$475 per resident or \$3,331 per smoker per year, for a total of nearly \$15.8 billion in smoking-related costs in 1999 alone;¹³ and

WHEREAS, the medical and economic costs to nonsmokers suffering from lung cancer or heart disease caused by secondhand and third hand smoke are nearly \$6 billion per year in the United States;¹⁴

WHEREAS, almost 90% of adult smokers started smoking at or before age 18;¹⁵ and

WHEREAS, with certain exceptions, state law prohibits smoking inside an enclosed place of employment;¹⁶ and

WHEREAS, in 2004 13.2% of California high school students smoke¹⁷; however, in 2006 the rate increased to 15.4%; and

WHEREAS, state law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees,¹⁸ and

WHEREAS, state law prohibits smoking in playgrounds and tot lots and also prohibits smoking within twenty feet of the main entrances and exits of public buildings while expressly authorizing local communities to enact additional restrictions.¹⁹

WHEREAS, on March 12, 2009, the Planning Commission conducted a public hearing, reviewed the reports and testimony and recommended to the City Council adoption of the Ordinance.

⁹ U.S. Dep't of Health and Human Servs., Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002*, 2 (2002).

¹⁰ Cal. Env'tl. Prot. Agency, Office of Env'tl Health Hazard Assessment, *Health Effects of Exposure to Environmental Tobacco Smoke, Final Report ES-5* (1997).

¹¹ U.S. Dep't of Health and Human Services., Centers for Disease Control and Prevention, *Targeting Tobacco Use: The Nation's Leading Cause of Death 2002*, 2 (2002).

¹² U.S. Dep't of Health and Human Services. Centers for Disease Control and Prevention, *Clean Indoor Air Regulations Fact Sheet* (2001).

¹³ Max W, Rice DP, Zhang X, Sung H-Y, Miller L., *The Cost of Smoking in California, 1999*, California Department of Health Services (2002).

¹⁴ American Academy of Actuaries, *Costs Associated with Secondhand Smoke*, October, 2006.

¹⁵ National Household Surveys on Drug Abuse, unpublished data, 1998. *See also*, U.S. Dep't of Health & Human Services. et al., *Preventing Tobacco Use Among Young People: A Report of the Surgeon General*, 101 (1994).

¹⁶ Cal. Lab. Code § 6404.5.

¹⁷ Tobacco Control Section, Cal. Dep't of Health Services, *Youth Smoking* (July 2008).

¹⁸ Cal. Educ. Code § 48901(a).

¹⁹ Cal. Health & Safety Code § 104495 and Cal. Gov't Code § 7597.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROHNERT PARK, CALIFORNIA, does hereby ordain as follows:

SECTION 1. Recitation. That the above recitations are true and correct.

SECTION 2. Findings. The City Council makes the following findings per Rohnert Park Municipal Code, Section 17.25.073, to wit:

- A. That the proposed amendments are consistent with the General Plan land use goal LU-H which encourages land use patterns that maximize residents' accessibility to parks, open space, and neighborhood shopping centers; and
- B. That the proposed amendments are beneficial, and not detrimental to, the public health, safety and welfare in that a decrease in second and third hand smoke will assure that fewer individuals are subjected to dangerous chemicals and toxic air.

SECTION 3. The City Council of the City of Rohnert Park does repeal Ordinance No.: 808 entitled, "*An Urgency Ordinance of the City of Rohnert Park Adopting a Moratorium on Private Smokers' Lounges and Tobacco Shops*" as adopted by the City Council on October 28th, 2008; and extended by Ordinance No. 809 entitled, "*An Ordinance of the City of Rohnert Park Adopting a 10 month 15 day Extension of Time on the Previously Adopted Moratorium on Private Smokers' Lounges and Tobacco Shops,*" that was set to expire on October 27, 2009.

SECTION 4. The City Council of the City of Rohnert Park does ordain the following amendments and additions to the Municipal Code and particularly Chapters 8.32 and 8.33 and Section 17.06.060 as follows:

- A. **Rohnert Park Municipal Code Chapter 8.32 (*Use of Tobacco*) shall be amended to read as follows:**

**Chapter 8.32
Use of Tobacco**

8.32.010 Purpose.

The purpose of this Chapter is to provide for the health, safety, and welfare of individuals residing, working or visiting in the City of Rohnert Park by regulating the location and use of tobacco and tobacco products and their effects on individuals.

8.32.020 Findings.

- A. Numerous studies have determined that tobacco smoke is a major contributor to indoor air pollution.
- B. The Surgeon General of the United States has documented that breathing secondhand smoke is a significant health hazard, particularly to elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function.
- C. Breathing secondhand smoke has been determined to be a health hazard by increasing the incidence of lung cancer, bronchitis, and respiratory infection while decreasing exercise tolerance and respiratory function.

- D. Non-smokers who suffer from allergies, respiratory diseases, or the negative effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions.
- E. Persons, particularly employees, have a right to a smoke free environment if they desire.
- F. Secondhand smoke exposure causes as many as 300,000 children in the United State to suffer from lower respiratory tract infections, exacerbates childhood asthma, and increases the risk of acute chronic, middle ear infections.

8.32.030 Definitions.

- A. "Business" means the sole proprietorship, partnership, joint venture, corporation, association, nonprofit or other entity formed for public interest or profit-making purposes or that has an employee as defined in this section.
- B. "Employee" means any person who is employed; retained as an independent contractor by an employer, as defined in this section; or any person who volunteers his or her services for any employer, association, business, nonprofit or volunteer entity.
- C. "Employer" means any person, partnership, corporation, association, nonprofit, or other entity who employs or retains the services of one or more persons or supervises volunteers.
- D. "Enclosed" means closed in by a roof and four walls (with the appropriate openings for egress and ingress). This would include but not be limited to lobbies, lounges, waiting areas, elevators, hallways, restrooms, stairwells, common areas (e.g., laundry and recreation rooms within a multi unit residential development), that are a structural part of the building.
- E. "Food" means any raw or processed substance, beverage (including frozen or liquid water) or ingredient intended to be used as food, drink, confection, or condiment for human consumption.
- F. "Head Shop" means a retail outlet that receives 90% or more of its gross revenues from the sale of paraphernalia related to the consumption of cannabis, other recreational drugs and/or new age herbs. Products typically include but are not limited to, water pipes, bong, roach clips, pipes, rolling papers, rolling machines, and whipped cream chargers containing nitrous oxide.
- G. "Hookah Bar" means a business location that provides for the ingestion, inhalation or consumption of tobacco or tobacco products by way of an apparatus which includes, but is not limited to the following parts: a water vessel, a bowl for holding combustible tobacco or tobacco products and an inhalation hose or tube.
- H. "Multi Unit Residential Development" means a development consisting of residential condominiums, townhouses, rowhouses or apartments, represented by one common property management group or Home Owners Association and providing for-sale, for-lease or for-rent units with complete and independent living facilities for one or more persons.
- I. "Place of Employment" means any area under the control of an employer or business where an employee can be found to frequent during the course of a work day. For example, cafeterias, conference rooms, lobbies, lounges (break rooms), elevators, hallways, restrooms, stairwells, vehicles and work areas.
- J. "Private Smokers' Lounge" means an area that is attached to and incidental to a tobacco store that may be occupied by persons eighteen (18) years of age or older who intend to ingest or inhale any smoking tobacco or tobacco product by means of a pipe, cigar, cigarette or any other method. Private smokers' lounges do not include hookah bars which are prohibited in the City of Rohnert Park pursuant to Municipal Code, Chapter 8.33 (*Prohibition of Head Shops, Hookah Bars, Tobacco Vending Machines and Self-Service Displays*).
- K. "Smoking" means possessing a lighted pipe, cigar or cigarette of any kind, or the lighting of a pipe, cigar or cigarette of any kind, including but not limited to tobacco or tobacco products.

- L. "Tobacco Paraphernalia" means cigarette papers or wrappers, blunt wraps, pipes, holders, cigarette rolling machines or other instruments or things designed for the smoking or ingestion of tobacco or tobacco products.
- M. "Tobacco Product" means any product containing tobacco leaf, including but not limited to, bidis, chewing tobacco, cigarettes, cigars, dipping tobacco, pipe tobacco, snuff, or any other preparation of tobacco.
- N. "Tobacco Store" means a retail or wholesale business, with or without an attached private smokers' lounge, that meets all of the following requirements:
 1. Primarily sells tobacco, tobacco products and tobacco paraphernalia. Does not include merchandise that is generally associated with a head shop which is prohibited in the City of Rohnert Park;
 2. Generates more than sixty percent (60%) of its gross revenues annually from the sale of tobacco, tobacco products and tobacco paraphernalia;
 3. Prohibits any person who is under the age of eighteen (18) years of age from being present or entering the premises unless accompanied by the minor's parent or legal guardian; and
 4. Does not sell food (including alcoholic beverages) for consumption on the premises.

8.32.040 Prohibition on Smoking in Enclosed Areas.

- A. Smoking shall be prohibited in the following enclosed areas unless specifically exempted pursuant to section 8.32.060 of this Chapter (*Exceptions*).
 1. Any place of employment.
 2. Multi unit residential developments as follows:
 - a. Enclosed common areas, including but not limited to a laundry room, lobby or community center;
 - b. At least 75% of the units constructed after June 1, 2009, including private outdoor spaces associated with the units, such as balconies, patios and decks, shall be designated and maintained as non-smoking. Non-smoking units shall be grouped together to the maximum extent practical;
 - c. At least 50% of any units constructed before June 1., 2009, including private outdoor spaces associated with the units, such as balconies, patios and decks, shall be designated and maintained as non-smoking. Non-smoking units shall be grouped together to the maximum extent practical;
 - i. Any existing multi unit residential development has until June 1, 2011 to comply with the provisions herein;
 - ii. Any unit which has been designated non-smoking shall not be subject to the restrictions of this Chapter as long as the unit is occupied continually by the same resident who occupied the unit on June 1, 2009 and until such time the resident voluntarily vacates the unit; and
 - d. Every landlord/property manager shall maintain a list of designated non-smoking units and a site plan identifying the relative position of smoking and non-smoking units. The site plan shall also identify the location of any designated smoking areas. A copy of this list and site plan shall accompany every new lease or agreement for occupancy of a unit within a multi unit residential development. If a copy of the list and site plan do not accompany the lease or agreement then the unit shall be a non-smoking unit.
 3. Any elevator, public restroom, service line (i.e. ATM), bus, limousine, taxi cab, train, or other public transportation vehicle.
 4. Any vehicle that is occupied by a minor (person under the age of 18 years of age).
 5. On the premises of a licensed day care center and in a licensed family day care home.
 6. On the premises of a licensed, long-term, health care facility.

8.32.050 Prohibition on Smoking in Unenclosed Areas.

- A. Smoking shall be prohibited in the following unenclosed areas unless regulated by more restrictive state or federal law, in which case the state or Federal law applies; or specifically exempted under section 8.32.060 of this Chapter.
1. The strip of land which is located approximately one hundred (100) feet south of the boundary of University Park Subdivision, immediately adjacent to the north boundary of Rancho Cotati High School, and within the strip from between the eastern most curb of Snyder Lane to the western most property line of Sonoma State University and better known by the Sonoma County Assessor's Office as: APN's 158-230-065; -066, -069 and 158-220-074 and -075.
 2. Multi unit residential development common areas, including but not limited to: pools, walkways, gardens, play areas.
 3. Any service line (i.e., ATM), bus stop, taxi stand or phone booth.
 4. Within twenty (20) feet of the exit, entrance, or operable window of any City owned building, except while actively passing on the way to another destination.
 5. Within twenty (20) feet of the exit, entrance, or operable window of any private building or structure that is posted as nonsmoking, except while actively passing on the way to another destination, except while actively passing on the way to another destination.
 6. Within twenty-five (25) feet of a public playground or tot lot (sandbox) areas.
 7. Any business or place of employment in which food is being consumed or where setup, service, and cleanup functions are occurring, including but not limited to: dining areas, farmers markets, concerts, fairs and other such events.
 8. On the premises of a licensed day care center or licensed family day care home.

8.32.060 Exceptions.

- A. The following are exceptions to the smoking prohibitions in enclosed and unenclosed areas.
1. A private smokers' lounge attached to a tobacco store, subject to the following:
 - i. The tobacco store must have a conditional use permit and be located on a site that is zoned for "C-R" - Regional Commercial land uses;
 - ii. The Tobacco Store shall have a minimum separation of five hundred (500) feet between the use and a school, religious assembly, public facility, multi unit residential development or another Tobacco Store; and
 - iii. The Tobacco Store shall not include a head shop or hookah bar. The City of Rohnert Park prohibits head shops and hookah bars pursuant to Municipal Code, Chapter 8.33 (*Prohibition of Head Shops, Hookah Bars, Tobacco Vending Machines and Self-Service Displays*).
 2. Medical research or treatment sites, if smoking is integral to the research and treatment being conducted.
 3. A private residence, unless expressly prohibited by sections 8.32.040 (*Prohibition on Smoking in Enclosed Areas*) and 8.32.050 (*Prohibition on Smoking in Unenclosed Areas*) e.g., licensed day care facility, licensed health care facility or multi unit residential development.
 4. A portion of the outdoor area of a multi unit residential development may be designated as a smoking area subject to the following provisions:
 - i. Must be located at least 20 feet from any indoor area where smoking is prohibited;
 - ii. Must not include, and must be at least 20 feet from any outdoor area primarily used by children including, but not limited to, areas improved or designated for play or swimming;

- iii. Must have a clearly marked perimeter;
 - iv. Must be identified by conspicuous signs; and
 - v. Must not overlap with any area in which smoking is otherwise prohibited by this Chapter
5. Public sidewalks unless otherwise prohibited.

8.32.070 Duty of Employers and Businesses

- A. No employer or business entity shall knowingly or intentionally permit or engage in the smoking of tobacco or tobacco products in an area that is under the employer's or business entity's control and in which smoking is prohibited.
- B. No employer or business entity shall knowingly or intentionally permit the presence or placement of ash receptacles, such as without limitation, ash trays or cans within an area which is under the control of the employer or business entity and in which smoking is prohibited.
- C. Any employer or business entity that permits a nonemployee access to its place of employment or business on a regular basis has not acted knowingly or intentionally if it has taken the following reasonable steps to prevent smoking by a nonemployee:
 - 1. Posted clear and prominent signs, as follows:
 - a. Where smoking is prohibited throughout the building or structure, a sign stating "No Smoking" shall be posted. The "No Smoking" sign shall be of letters that are a minimum of one inch in height or the international "no smoking" symbol. The sign shall be clearly and conspicuously posted on the exterior of every building or other place where smoking is controlled by this Chapter, by the owner, operator, manager, or other person having control of such building or other place. The sign shall include the distance limitations contained in sections 8.32.050 (A) (4) and (5) of this Chapter as applicable; and
 - b. Where smoking is permitted in designated areas of the building or structure, a sign stating "Smoking Is Prohibited Except in Designated Areas" shall be posted at each entrance to the building or structure.
 - 2. Has requested, when appropriate, that a nonemployee who is smoking refrain from smoking.
- D. Any business, person, or other establishment which sells tobacco products for consumption shall post plainly visible signs at each point of purchase of tobacco products in compliance with the requirements of state law.
- E. It is unlawful for any business, person, or other establishment to sell, offer to sell, or permit to be sold any tobacco product to a minor individual eighteen (18) years of age or younger. Identification shall be requested unless there is reasonable basis to determine that the buyer is not a minor.
- F. Notwithstanding any other provision of this Chapter, any employer, business entity or person who controls any area may declare that any part of such area in which smoking would otherwise be permitted to be a nonsmoking area.

8.32.080 Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner, retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

8.32.090 Violations and Penalties.

- A. Any violation of any prohibition of this Chapter is an infraction, punishable by a fine not to exceed that which is set by Municipal Code Chapter 1.16 (*General Provisions*).

- B. Smoking in any area where smoking is prohibited by this Chapter constitutes a public nuisance and may be abated as such including the application of any of the enforcement remedies provided in the City of Rohnert Park’s Municipal Code or under any applicable state or federal statute or pursuant to any other lawful power the City may possess.
- C. Any private person who claims violation of this Chapter may bring a civil action for damages or for injunctive relief in accordance with applicable laws governing such civil actions.

8.32.100 Interpretation.

This Chapter shall not be interpreted or construed to permit smoking where is it otherwise restricted by state or federal law.

8.32.110 Effective Date.

The provisions of this Chapter shall be effective thirty days (30) from and after the date of its adoption and publication or posting as required by law.

8.32.120 Statutory Severability.

If any section, subsection, sentence or clause or phrase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

- B. Rohnert Park Municipal Code Title 17 (Zoning) section 17.06.060 (Permitted Uses-Commercial Zoning Districts) shall be amended to add the following permitted land use to the “C-R” zoning district:**

17.06.060 Permitted Uses

Land Use Category	C-O	C-N	C-R
Tobacco store (retail or wholesale) and private smoker’s lounges when attached to a tobacco store (Regulated by Municipal Code Chapters: 8.32, 8.33).	--	--	C

- C. Rohnert Park Municipal Code Chapter 8.33 (Prohibition of Head Shops, Hookah Bars, Tobacco Vending Machines and Self Service Displays) shall be added to read as follows:**

**Chapter 8.33
Prohibition of Head Shops, Hookah Bars, Tobacco Vending Machines and
Self Service Displays**

8.33.010 Purpose.

The purpose of this Chapter is to detail the prohibition of head shops, hookah bars, tobacco vending machines and tobacco self-service displays within the City of Rohnert Park.

8.33.020 Findings.

- A. The Surgeon General of the United States and local public health agencies and private health organizations have found that cigarettes and other tobacco products are easily available to minors from vending machines, tobacco retailers, and shoplifting.

- B. The U.S. Centers for Disease Control have found that at least 434,000 Americans die each year from tobacco-caused diseases. The Surgeon General of the United States and the U.S. Department of Health and Human Services have found that a majority of those Americans who die of tobacco caused diseases became addicted to nicotine in tobacco products as minors.
- C. The National Institute on Drug Abuse has concluded that there is a strong correlation between drug use and violence and that head shops promote the use of illegal or illicit drugs.
- D. Strong legislative action is needed to curtail the wide availability of all types of paraphernalia, tobacco and tobacco products.

8.33.030 Definitions.

- A. “Head Shop” means a retail outlet that receives 90% or more of its gross revenues from the sale of paraphernalia related to the consumption of cannabis, other recreational drugs and/or new age herbs. Products typically include but are not limited to, water pipes, bong, roach clips, pipes, rolling papers, rolling machines, and whipped cream chargers containing nitrous oxide.
- B. “Hookah Bar” means a business location that provides for the ingestion, inhalation or consumption of tobacco or tobacco products by way of an apparatus which includes, but is not limited to the following parts: a water vessel, a bowl for holding combustible tobacco or tobacco products and an inhalation hose or tube. Hookah bar does not include a private smokers' lounge attached to a tobacco shop.
- C. “Self-Service Display” means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.
- D. “Tobacco Paraphernalia” means cigarette papers or wrappers, blunt wrap, pipes, holders of smoking materials of all types, cigarette rolling machines or other instruments or things designed for the smoking or ingestion of tobacco products.
- E. “Tobacco Product” means any product containing tobacco leaf, including but not limited to, bidis, chewing tobacco, cigarettes, cigars, dipping tobacco, pipe tobacco, snuff, or any other preparation of tobacco.
- F. “Vending Machine” means a machine, appliance, or other mechanical device operated by currency, token, debt card, credit card, or any other form of payment that is designed or used for vending purposes.

8.33.040 Distribution and Uses.

- A. It is unlawful for any person, business or other entity to operate a head shop or hookah bar.
- B. It is unlawful for any person, business or other entity to sell, offer to sell, or permit to be sold any cigarette or other tobacco product or paraphernalia from a vending machine.
- C. It is unlawful for any person, business, or other entity to display tobacco products or tobacco paraphernalia by means of a self-service display or to engage in tobacco retailing by means of a self-service display.

8.33.050 Violations and Penalties.

- A. Every act prohibited or declared unlawful by the provisions of this Chapter shall constitute an infraction, and each day or portion thereof that such violation is in existence shall be a new and separate offense as set forth in Chapter 1.25. The fourth and any additional violations within any twelve consecutive month period may be charged as a misdemeanor pursuant to Chapter 1.16 of the Rohnert Park Municipal Code.

- B. Any violation of any provision of this Chapter shall be punished by administrative penalties as prescribed in Chapter 1.25 of the Rohnert Park Municipal Code.
- C. In addition to any other remedy provided by the Rohnert Park Municipal Code or by state law or any other law, the City may commence action or proceedings for the abatement, removal and enjoinder of any violation of this Chapter in the manner provided by law.
- D. In addition to the penalties and remedies set forth above, anyone violating a provision(s) of this Chapter shall be subject to having any other related permits or licenses revoked by the City of Rohnert Park for said violation.

8.33.060 Nonretaliation.

No person or employer shall discharge, refuse to hire, or in any manner, retaliate against any employee or applicant for employment because such employee or applicant exercises any rights afforded by this Chapter.

8.33.070 Interpretation.

This Chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by state or federal law.

8.33.080 Effective Date.

The provisions of this Chapter shall be effective thirty days (30) from and after the date of its adoption and publication or posting as required by law.

8.33.090 Statutory Severability.

If any section, subsection, sentence or clause or phrase of this Chapter is, for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter.

SECTION 5. Environmental Clearance. In accordance with CEQA general rule, Section 15061(b)(3), “[C]EQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” There is no possibility that amendment of the Municipal Code to prohibit smoking in certain areas would have a significant effect on the environment, and thus the adoption of the Ordinance has been determined to be exempt from CEQA review.

SECTION 6. Severability. The City Council hereby declares that every section, paragraph, sentence, clause and phrase of this Ordinance is severable. If any section, paragraph, sentence, clause or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 7. Effective Date. This ordinance shall be in full force and effective 30 days after its adoption, and shall be published and posted as required by law. Development applications that have been deemed complete pursuant to Government Code Section 65944 shall be processed in accordance with the laws and ordinances which were in effect at the time the application was deemed complete.

This ordinance was introduced on the 14th day of April, 2009, and **DULY AND REGULARLY ADOPTED** this 28th day of April, 2009, by the following vote:

AYES: Three (3) Council Members Mackenzie, Stafford, and Mayor Breeze

NOES: Two (2) Council Members Belforte and Callinan

ABSENT: None (0)

ABSTAIN: None (0)

CITY OF ROHNERT PARK

/s/ Mayor Amie Breeze

ATTEST:

City Clerk Judy Hauff

APPROVED AS TO FORM:

Assistant City Attorney Ben Winig

COVINA, CA

Home

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Chapter 17.61 SMOKE SHOPS AND TOBACCO STORES

Sections:

17.61.010 Purpose.

17.61.020 Definitions.

17.61.030 Zoning and land use standards for smoke shops and tobacco stores.

Prior legislation: Ord. 14-2030.

17.61.010 Purpose.

The regulation of smoke shops and tobacco stores is necessary and in the interests of the public health, safety and general welfare because there is the substantial likelihood of the establishment and operation of smoke shops and tobacco stores in the city of Covina. The expansion of smoke shops and tobacco stores in the city would result in undesirable impacts to the community. Among these impacts are increased potential for tobacco sales to minors, greater opportunity for the sale of illegal drug paraphernalia that is marketed as tobacco paraphernalia, and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses. This chapter contains amendments consistent with good zoning and planning practices to address such negative impacts of smoke shops and tobacco stores while providing a reasonable number of locations and zones for such shops/stores to locate within the city of Covina. (Ord. 14-2031 § 6, 2014.)

17.61.020 Definitions.

“Ancillary sale” shall mean where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. For any grocery store, convenience market, retail kiosk or similar use consisting of 250 square feet or less, “ancillary sale” shall mean where no more than five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restrictions of this chapter and shall not constitute ancillary sale” under any circumstances.

“E-cigarette” shall mean any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as “juice,” and that causes the user to exhale any smoke, vapor, or substance

other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia.

“Smoke shop and tobacco store” shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke shop and tobacco store” and shall not be subject to the restrictions in this chapter.

“Tobacco” shall mean any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

“Tobacco paraphernalia” shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in California Health and Safety Code Section 11054 et seq. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

“Tobacco product” shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term “tobacco product” excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose. (Ord. 14-2031 § 6, 2014.)

17.61.030 Zoning and land use standards for smoke shops and tobacco stores.

A. Notwithstanding any other provision of this title to the contrary, smoke shops and tobacco stores shall be a conditionally permitted use only in the following zones, subject to the regulations contained in this chapter:

1. C-4 commercial zone (highway).
2. C-5 commercial zone (specified highway).

B. All smoke shops and tobacco stores wishing to operate within the above zones after the effective date of the ordinance codified in this chapter must obtain a conditional use permit (CUP) in accordance with Chapter 17.62 CMC.

C. Additional zoning and land use standards for smoke shops and tobacco stores shall be as follows:

1. Smoke shops and tobacco stores shall not be located within 300 feet, measured property line to property line, from a school (public or private), family day care home, child care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.
2. Smoke shops and tobacco stores shall not be located within 500 feet, measured property line to property line, from another smoke shop and tobacco store.
3. It is unlawful for a smoke shop and tobacco store to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop and tobacco store.
4. Smoke shops and tobacco stores shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco store. It shall be unlawful for a smoke shop and tobacco store to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

D. Standard conditions of approval for any CUP shall, at minimum, include the following:

1. No smoking shall be permitted on the premises at any time.
2. No sales may be solicited or conducted on the premises by minors.
3. No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.
4. No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia, as well as coupons for said items, shall be permitted.

E. Smoke shops and tobacco stores that are legally existing on the effective date of the ordinance codified in this chapter may continue to operate as legal nonconforming uses in accordance with Chapter 17.70 CMC and shall not be required to obtain a conditional use permit. However, any change or expansion of the legal nonconforming use may require compliance with this chapter and a conditional use permit, as more particularly set forth in Chapter 17.70 CMC. (Ord. 14-2031 § 6, 2014.)

The Covina Municipal Code is current through Ordinance 15-2038, passed May 19, 2015.

Disclaimer: The City Clerk's Office has the official version of the Covina Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.covinaca.gov/>

City Telephone: (626) 384-5430

Code Publishing Company

ORDINANCE NO. O-2014-032-03

AN ORDINANCE AMENDING ORDINANCE NO. O-2002-032-15, AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF HALTOM CITY, TEXAS, BY ADOPTING REGULATIONS FOR SMOKE SHOPS AND SMOKE LOUNGES; PROVIDING A DEFINITION FOR SMOKE SHOP AND SMOKE LOUNGE; PROVIDING FOR THE CLASSIFICATION OF SMOKE SHOPS AND SMOKE LOUNGES IN CERTAIN ZONING DISTRICTS; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Haltom City is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

WHEREAS, the City Council of the City of Haltom City heretofore adopted Ordinance No. O-2002-032-15, as amended, the Zoning Ordinance of the City of Haltom City, Texas, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

WHEREAS, the Planning and Zoning Commission after conducting a public hearing has made its recommendation for the following amendment to the zoning ordinance; and

WHEREAS, after appropriate notice and public hearing, the Planning and Zoning Commission of the City of Haltom City, Texas has forwarded a recommendation to the City Council for amendment of the City's zoning ordinance as set forth herein; and

WHEREAS, notice has been given and public hearings held as required for amendments to the zoning ordinance.

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

SECTION 1.

Section 28, "Definitions" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following definitions:

Electronic vaping device. Any electronically powered or battery powered device designed to simulate the smoking of tobacco, cigarettes, pipes or cigars. An electronic vaping device includes personal vaporizers, electronic cigarettes (e-cigarettes), electronic pipes (e-pipes), electronic cigars (e-cigars) and any other type of electronic nicotine delivery system or any part thereof.

Smoke lounge. An assembly establishment that is dedicated, in whole or in part, to entertaining smokers of tobacco, electronic vaping devices or other similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, hookah cafes, tobacco clubs, tobacco bars, vapor shops/lounges, and similar establishments, but shall not include an establishment which derives more than 50 percent of its gross revenue from food, beverage, or gasoline fuel sales.

Smoke shop. A retail establishment that is dedicated, in whole or in part, to the smoking of tobacco, electronic vaping devices or other similar substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories, electronic vaping devices, vapor accessories or similar substances and products to the customer; and, the onsite smoking of such. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco product shops, vapor shops, and similar establishments, but shall not include an establishment which derives more than 50 percent of its gross revenue from food, beverage, or gasoline fuel sales.

SECTION 2.

Section 9, "Use matrix" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following to the table of uses:

KEY:

- P = Permitted
- C = Conditional
- SE = Special Exception

D. Recreation and entertainment uses:	SF-1	SF-2	D	MF-1	MF-2	MHD	TH	O	C-1	C-2	C-3	C-4	C-5	M-1	M-2
Smoke Lounge														P*	

* Refer to Sec. 29.X for distance requirements

G. Retail and service uses:	SF-1	SF-2	D	MF-1	MF-2	MHD	TH	O	C-1	C-2	C-3	C-4	C-5	M-1	M-2
Smoke Shop												P*		P*	

* Refer to Sec. 29.X for distance requirements

SECTION 3.

Section 29, "Supplementary district regulations" in Appendix B – Zoning of the Code of Ordinances of the City of Haltom City, Texas, as amended, is hereby amended by adding the following:

X. *Smoke lounges and smoke shops.*

1. A person, including an operator, commits an offense if he/she causes or permits the operation or establishment of a smoke lounge or a smoke shop in or within 1,500 feet of an existing:
 - a. Religious institution;
 - b. School;
 - c. Public park;
 - d. A residential district;
 - e. A public library;
 - f. A property line of a lot devoted to a residential use; or
 - g. Another smoke lounge or smoke shop.

2. For the purpose of subsection (1) above, measurement of the distance shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property line of an existing religious institution, school, smoke lounge, or smoke shop, or from the boundary line of a public park, public library, or residential district, to the nearest property line of the property sought to be used as a smoke lounge or smoke shop.

3. Also for the purposes of subsection (a) above, measurement of the 1,500 foot distance shall also include religious institutions, schools, public parks, residential district, other smoke lounges, or other smoke shops, which are located in an adjacent city, township or rural land area and which are within the 1,500 foot distance of the nearest property line of the property sought to be used as a smoke lounge or smoke shop within the City of Haltom City.
4. A certified survey prepared by a licensed surveyor or licensed engineer showing distance measurements in accordance with this section shall be submitted to the Zoning Administrator as part of the application for building permit or certificate of occupancy. Any certificate of occupancy issued for a building or facility used to conduct a smoke lounge or smoke shop without submission of the required survey shall be null and void.
5. A person commits an offense if he causes or permits the establishment or operation of more than one smoke lounge or smoke shop or a combination of a smoke lounge and a smoke shop on the same property, in the same building or structure, or any portion thereof.
6. A smoke lounge or smoke shop lawfully operating on the effective date of this article that is in violation of the location requirements of this section shall be deemed a nonconforming use. The nonconforming use will be permitted to continue unless terminated for any reason. A nonconforming use under this subsection shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more smoke lounges or smoke shops are within 1,500 feet of one another and otherwise in a permissible location, the smoke lounge or smoke shop which was first established and continually operating at a particular location is the conforming use and the later-established smoke lounge or smoke shop is nonconforming.
7. A smoke lounge or smoke shop lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the smoke lounge or smoke shop certificate of occupancy, of a religious institution, school, smoke lounge, smoke shop, a public park, public library, residential district, or subsequent designation of a historical/cultural district, within 1,500 feet of the smoke lounge or smoke shop. This provision applies only to the renewal of a certificate of occupancy.

SECTION 4.

This ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Haltom City, Texas, 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 the conflicting provisions of such ordinances and such Code are hereby repealed.

SECTION 5.

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections 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 6.

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) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

SECTION 7.

All rights and remedies of the City of Haltom City are expressly saved as to any and all violations of the provision of the Zoning Ordinance of the Code of Ordinances of the City of Haltom City, Texas, as amended, or any other ordinances regulating zoning and land use that 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 8.

The City Secretary of the City of Haltom City is hereby directed to publish in the official newspaper of the City of Haltom City, the caption, penalty clause, publication clause and effective date clause of this ordinance one (1) time within ten (10) days after the first reading of this ordinance as required by Section 10-01 of the Charter of the City of Haltom City.

SECTION 9.

This ordinance shall be in full force and effect from an after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED ON FIRST READING THIS 13th DAY OF OCTOBER, 2014.

PASSED AND APPROVED ON SECOND READING THIS 27th DAY OF OCTOBER, 2014.



MAYOR

ATTEST:



CITY SECRETARY



APPROVED AS TO FORM AND LEGALITY:



CITY ATTORNEY