

Chapter 17.61 SMOKE SHOPS AND TOBACCO STORES

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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.)