

RESOLUTION NO. PC-2024-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FULLERTON, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND TITLE 15 ZONING OF THE FULLERTON MUNICIPAL CODE TO PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS, INCLUDING AMENDING SECTIONS 15.04.040 DEFINITIONS, 15.30.030.1 PERMITTED USES IN THE O-P ZONING DISTRICT, 15.30.030.2 PERMITTED USES IN THE G-C ZONING DISTRICT, 15.30.030.3 PERMITTED USES IN THE C-3 ZONING DISTRICT, 15.30.030.4 PERMITTED USES IN THE C-M ZONING DISTRICT, TABLE 15.40.020.A AND ADDING CHAPTER 15.33 REGULATIONS FOR TOBACCO SMOKE SHOPS

LRP-2024-0007

APPLICANT: CITY OF FULLERTON

WHEREAS, an application was filed by the City of Fullerton to consider revisions to Title 15 Zoning of the Fullerton Municipal Code; and

WHEREAS, on March 13, 2024, the Planning Commission of the City of Fullerton provided direction involving the development of regulations for businesses selling tobacco products; and

WHEREAS, on August 14, 2024, the Planning Commission provided additional direction; and

WHEREAS, on February 26, 2025, a study session was held with the Planning Commission which provided additional direction; and

WHEREAS, the Planning Commission, in compliance with the noticing requirements of FMC Section 15.76.050, has held a duly noticed public hearing for LRP-2024-0007 on April 9, 2025; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines the recommended action is exempt from further review pursuant to Section 15061(b)(3) as the action is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment and the changes in regulations relating to tobacco products.

RESOLUTION

THEREFORE, the Planning Commission of the City of Fullerton does hereby recommend APPROVAL of said amendments to Title 15 of the Fullerton Municipal Code as follows:

SECTION 1. SECTION 15.04.040. Definitions, is amended to add the following definitions:

CHARACTERIZING FLAVOR means a taste, odor or aroma, distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product, other than the taste or odor of tobacco, including, but are not limited to, tastes, odors or aromas relating to any fruit, vanilla, chocolate, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, spice, or a cooling sensation distinguishable by an ordinary consumer during the consumption of a tobacco product.

CIGARETTE means a product that is a tobacco product and includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

CONSTITUENT means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacture to a tobacco product during the processing, manufacture, or packing of the tobacco product.

ELECTRONIC SMOKING DEVICE means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances in aerosolized or vaporized form to a person, including, but not limited to, any other device manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vapes, vaporizers, vape pens, or any other product name or descriptor that can be used to deliver nicotine in aerosolized or vaporized form to a person, including any component, part, or accessory of the device that is intended or reasonably expected to be used during its operation, whether or not sold separately.

ELECTRONIC SMOKING DEVICE PARAPHERNALIA means any item designed, marketed, or reasonably expected to be used for the consumption, use, or preparation of an electronic cigarette, which includes, but is not limited to, cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic cigarette batteries, electronic cigarette chargers, and any other item designed for the preparation, storing, charging, or use of electronic cigarettes.

FLAVORED SHISHA TOBACCO PRODUCT means any shisha tobacco product that contains a constituent that imparts a characterizing flavor.

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HOOKAH means a type of waterpipe, used to smoke shisha or other tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses.

HOOKAH TOBACCO RETAILER means a tobacco retailer that is engaged in the retail sale of shisha tobacco products, hookah, and hookah smoking accessories.

LOOSE LEAF TOBACCO consists of cut or shredded pipe tobacco, usually sold in pouches, excluding any tobacco product which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes, including roll-your-own cigarettes.

NICOTINE means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived, and includes nicotinic alkaloids and nicotine analogs.

PREMIUM CIGAR means any cigar that is handmade, is not mass produced by use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, and has a wholesale price of no less than twelve dollars. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

SELF-SERVICE DISPLAY means the open display or storage of tobacco products, tobacco paraphernalia, electronic cigarettes or electronic cigarette paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of a retailer or employee of a retailer and a direct person-to-person transfer between a retailer or employee of a retailer and any other person. A vending machine is a form of self-service display.

SHISHA TOBACCO PRODUCT means a tobacco product smoked or intended to be smoked in a hookah. Shisha tobacco products include, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. Shisha tobacco products does not include any electronic devices, such as electronic hookah, electronic cigarette or electronic tobacco product.

SMOKE CONSTITUENT means any ingredient, substance, chemical, or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by combustion or heating of tobacco, additives, or other component of the tobacco product.

SMOKELESS TOBACCO means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

TOBACCO SMOKE SHOP means a retail store that devotes more than 15 percent of its total floor area and is dedicated to the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia or devotes more than a two-foot by four-foot (two feet in depth maximum) section of shelf space for the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia provided, 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 “tobacco smoke shop”.

TOBACCO PARAPHERNALIA means any item designed or marketed for the consumption, use or preparation of tobacco products. Includes but is not limited to cigarette papers or wrappers, pipes, whether made of glass, wood or other materials, waterpipes, hookahs, holders of smoking materials of all type, cigarette rolling machines, and any other thing or item designed for the smoking or ingestion of tobacco, or the smoking of any tobacco product.

TOBACCO PRODUCT means a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and any electronic smoking device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, an electronic cigarette, cigar, pipe or hookah; and any component, part, or accessory of a tobacco product, whether or not sold separately. Notwithstanding the forgoing, tobacco product does not include a nicotine replacement product approved by the United States Food and Drug Administration. Cannabis or a cannabis product that includes an ingredient substance, chemical, or compound that contains or is made or derived from tobacco or nicotine is a “tobacco product”.

TOBACCO PRODUCT FLAVOR ENHANCER means a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.

SECTION 2. SECTION 15.30.030.1 Permitted uses in the O-P Zoning District; Subsection B will be amended in its entirety to read as follows:

15.30.030.1 Permitted uses in the O-P Zoning District.

B. The following uses are permitted in the O-P zoning district subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:

1. Car rental agency
2. Childcare center
3. Fitness facility
4. Health facility (24-hour care)
5. Heliport
6. Human service agency
7. Large group home subject to FMC 15.55.030.G
8. Mortuary
9. Parking lot (exclusive use) or Parking structure
10. Pharmacy
11. Religious institution subject to FMC 15.55.030.D
12. Residential care facility for the elderly subject to FMC 15.55.030.G
13. Restaurant, with or without on-site alcohol sales or Entertainment
14. Retirement Complex Types III, IV, V and VI subject to FMC 15.55.030.H
15. School, private subject to FMC 15.55.030.D
16. Social service facility subject to FMC 15.55.030.B.
17. Tobacco smoke shop subject to FMC Chapter 15.33

SECTION 3. SECTION 15.30.030.2 Permitted uses in the G-C Zoning District; Subsection A will be amended in its entirety to read as follows:

15.30.030.2 Permitted uses in the G-C Zoning District.

A. The following uses are permitted in the G-C zoning district:

1. Retail and service uses (subject to further conditions for those listed below)
2. Automotive wholesaler or broker with no car display
3. Club or lodge, without living quarters
4. Communication facility, non-commercial subject to FMC 15.55.020.C
5. Copy shop, retail
6. Financial institution
7. Fitness facility, small
8. Furniture upholstery shop
9. Home improvement center; hardware store
10. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
11. Nursery
12. Office, general
13. Office, medical
14. Personal service facilities (includes barbershops, beauty shops, etc.)
15. Pharmacy
16. Poolroom subject to FMC 3.54
17. Public amusement room subject to FMC 3.54
18. Recycling facility: Reverse vending subject to FMC 15.30.090.A
19. Restaurant, without on-site alcohol sales or entertainment
20. Satellite dish antennae subject to 15.55.020.C
21. Special event subject to FMC 15.58
22. Studio
23. Tattoo parlor subject to FMC 15.55.020.E
24. Temporary commercial use subject to FMC 15.55.020.D
25. Theater, live and movie, excluding drive-in theaters and adult uses.

26. Tobacco smoke shop subject to FMC Chapter 15.33

27. Tutoring center

SECTION 4. SECTION 15.30.030.3 Permitted uses in the C-3 Zoning District, Subsection A will be amended in its entirety to read as follows:

15.30.030.3 Permitted uses in the C-3 Zoning District.

A. The following uses are permitted in the C-3 zoning district:

1. Retail and service uses (subject to further conditions for those listed below)
2. Automotive wholesaler or broker with no car display
3. Car rental agency with less than 10 vehicles
4. Club or lodge without living quarters
5. Communication facility, noncommercial subject to FMC 15.55.020.C
6. Copy shop, retail
7. Dwelling units, as part of a mixed-use development subject to FMC 15.30.040.E
8. Financial institution
9. Fitness facility, small
10. Furniture upholstery shop
11. Home improvement center, hardware store
12. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
13. Massage establishment subject to FMC 3.24
14. Office, general
15. Office, medical
16. Personal service facilities (includes barbershops, beauty shops, etc.)
17. Pharmacy
18. Poolroom subject to FMC 3.54
19. Public amusement room subject to FMC 3.54
20. Public parking area

21. Recycling facility: Reverse vending subject to FMC 15.30.090.A
22. Restaurant, without on-site alcohol sales or entertainment
23. Satellite dish antennae subject to FMC 15.55.020.C
24. Special event subject to FMC 15.55.020.D
25. Studio
26. Tattoo parlor subject to FMC 15.55.020.E
27. Temporary commercial use subject to FMC 15.55.020.D
28. Theater, live and movie, excluding drive-in theaters and adult uses
29. Tobacco smoke shop not within the Restaurant Overlay District subject to FMC Chapter 15.33
30. Tutoring center

SECTION 5. SECTION 15.30.030.3 Permitted uses in the C-3 Zoning District, Subsection B will be amended in its entirety to read as follows:

15.30.030.3 Permitted uses in the C-3 Zoning District.

- B. The following uses are permitted subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:
 1. Agriculture
 2. Animal hospital
 3. Automobile service station subject to FMC 15.30.040.D
 4. Automotive parts, including installation
 5. Automotive (including automobile "single or multiple car display" dealer, boat, motorcycle, trailer and equipment) sales subject to FMC 5.30.040.F
 6. Bar including Tavern and Cocktail Lounge subject to FMC 15.31
 7. Bed and breakfast inn subject to FMC 15.55.030.A
 8. Car rental agency with more than 10 vehicles
 9. Fitness facility
 10. Fortuneteller
 11. Hotel subject to FMC 15.55.030.F

12. Karaoke bar or Nightclub subject to FMC 15.31
13. Mortuary
14. Motel subject to FMC 15.55.030.F
15. Parking lot (exclusive use) or Parking structure
16. Pawnshop
17. Reception hall, banquet facility, dance hall or related use subject to FMC 15.31
18. Recreation, commercial
19. Religious institution subject to FMC 15.55.030.D
20. Residential care facility for the elderly subject to FMC 15.55.030.G
21. Restaurant with Entertainment and on-site alcohol sales subject to FMC 15.31
22. School, private subject to FMC 15.55.030.D
23. Single room occupancy (SRO) residential hotel subject to FMC 15.30.080
24. Social service facility subject to FMC 15.55.030.D
25. Tobacco smoke shop within the Restaurant Overlay District subject to FMC Chapter 15.33

SECTION 6. SECTION 15.30.030.4 Permitted uses in the C-M Zoning District; Subsection A will be amended in its entirety to read as follows:

15.30.030.4 Permitted uses in the C-M Zoning District.

- A. The following uses are permitted in the C-M zoning district:
 1. Automotive parts, including installation
 2. Automotive wholesaler or broker with no car display
 3. Car rental agency with 10 or less vehicles
 4. Communication facility, non-commercial subject to FMC 15.55.020.C
 5. Copy shop, retail
 6. Copy shop, industrial
 7. Emergency shelter for homeless subject to FMC 15.42
 8. Furniture refinishing shop

9. Furniture upholstery shop
10. Fitness facility, small
11. Home improvement center; hardware store
12. Interior designer office including showroom and sales
13. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
14. Manufacturing, processing, assembling of materials and products along with offices and storage incidental thereto as well as sales and repairs of products manufactured and materials directly related thereto
15. Massage establishment subject to FMC 3.24
16. Micro-brewery, with tasting room(s), or tap room(s) not to exceed a total of 1,000 square feet of indoor area subject to the approval of an Administrative Restaurant Use Permit
17. Multi-service center for homeless subject to FMC 15.42
18. Personal service facilities (includes barbershops, beauty shops, etc.)
19. (Reserved)
20. Poolroom subject to FMC 3.54
21. Public amusement room subject to FMC 3.54
22. Recording studio
23. Recycling facility: Reverse vending subject to FMC 15.30.090.A
24. Restaurant, with on-site alcohol sales subject to FMC 15.31 and FMC 15.71
25. Satellite dish antennae subject to FMC 15.55.020.C
26. Special event subject to FMC 15.58
27. Studio
28. Tattoo parlor subject to FMC 15.55.020.E
29. Temporary commercial use subject to FMC 15.55.020.D
30. Tobacco smoke shop subject to FMC Chapter 15.33
31. Tutoring center

SECTION 7. SECTION 15.40.020 Permitted uses, table 15.40.020.A will be amended to include:

Table 15.40.020.A Permitted uses		
Classified Uses	NAICS**	M-P or M-G Zone
Tobacco smoke shop - subject to Chapter 15.33	459991	CUP
Notes: * If proposed within 1,000 feet of property with a residential zone classification and the gross floor area exceeds 10,000 square feet, the use is subject to the approval of a Conditional Use Permit. ** Where three-digit and four-digit codes are listed, all NAICS uses beginning with the same digits shall be included, unless specifically excluded. NP: denotes that the use is not permitted. CUP denotes that the use is permitted with the approval of a Conditional Use Permit in accordance with Chapter 15.70 of this title.		

SECTION 8. CHAPTER 15.33 Regulations for Tobacco Smoke Shops shall be added to read as follows:

Chapter 15.33

REGULATIONS FOR TOBACCO SMOKE SHOPS

Sections:

- 15.33.010. Intent and purpose.
- 15.33.020. Applicability.
- 15.33.030. Separation requirements.
- 15.33.040. Applicable provisions and prohibitions.
- 15.33.050. Business license required.
- 15.33.060. Compliance monitoring.

15.33.010. Intent and purpose.

The regulation of tobacco smoke shops and tobacco retailers is necessary for the responsible sale of tobacco products and to discourage violations of tobacco related laws, including those which prohibit the sale and distribution of flavored tobacco products.

15.33.020. Applicability.

The provisions of this chapter shall apply to all tobacco retailers. The provisions of Section 15.33.030 and the requirement for a conditional use permit shall be applicable to all tobacco

smoke shops that are proposed to be established after the effective date of this chapter. These provisions shall not apply to any tobacco smoke shop legally existing on February 1, 2025.

15.33.030. Separation requirements.

- A. A tobacco smoke shop shall not be located within 500 feet, measured property line to property line from a public or private K-12 grade school, public park, child-care center or tutoring center.
- B. A tobacco smoke shop shall not be located within 250 feet, measured property line to property line from another tobacco smoke shop.

15.33.040. Applicable provisions and prohibitions.

- A. Retail sales to persons younger than the minimum age under state law prohibited. No person engaged in tobacco retailing shall sell, give, or furnish, or cause to be sold, given or furnished, a tobacco product or tobacco paraphernalia to a person who is under 21 years of age, to purchase and possess tobacco products or tobacco paraphernalia.
- B. Positive identification required. No person engaged in tobacco retailing shall sell, give or furnish a tobacco product or tobacco paraphernalia to a person who appears to be under the age of thirty (30) years without first examining a valid, legal photo identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco products or tobacco paraphernalia. The tobacco retailer shall refuse sale of any tobacco products or tobacco paraphernalia to any persons who appears to be under the age of thirty (30) years of age, who fails to present valid, legal photo identification prior to the sale or transfer.
- C. Self-service displays prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times.
- D. Sale of flavored tobacco products prohibited. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell, offer for sale, display for sale or possess with intent to sell or offer for sale, any flavored tobacco product or tobacco product flavor enhancer including menthol cigarettes, chewing tobacco, snuff, little cigars and e-cigarettes/vapes. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, images, or all, on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has characterizing flavor.

1. Section 15.33.040.D does not apply to the following:

- a. Retail sale of flavored shisha tobacco products by a permitted hookah tobacco retailer that does not permit any person under 21 years of age to be present or enter the premises at any time.
- b. Retail sale of premium cigars or looseleaf tobacco.

15.33.050. Business license required.

All tobacco retailers must obtain a valid city business license as required by Title 4 of this code which shall only be granted to a fixed location that meets all applicable zoning requirements.

15.33.060. Compliance monitoring.

The community development department may inspect the premises of tobacco retailers for compliance with this chapter and may make periodic inspections of the location during normal business hours to assure compliance with this chapter and other applicable state and federal laws relating to tobacco retailers or tobacco products. If any violations of this chapter are found, the department shall notify the licensee of the violation in writing and may take such other or additional action as permitted by this code or by law based on the nature and severity of the violation to remedy, correct, and cure it.

SECTION 9. The Planning Commission does hereby recommend that the City Council find the changes to Title 15 to be exempt from CEQA under the common sense exemption of CEQA Guidelines 15061(b)(3).

ADOPTED BY THE FULLERTON PLANNING COMMISSION ON APRIL 9, 2025.

Arnel Dino, Chairman

Attachment No. 2

Summary of Proposed Amendments

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

15.04.040. Definitions.

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FLAVORED TOBACCO PRODUCT means any tobacco product that contains a constituent that imparts a characterizing flavor.

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TOBACCO SMOKE SHOP means a retail store that devotes more than 15 percent of its total floor area and is dedicated to the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia or devotes more than a two-foot by four-foot (two feet in depth maximum) section of shelf space for the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco

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products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia provided, 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 “tobacco smoke shop”.

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15.30.030.1 Permitted uses in the O-P Zoning District.

B. *The following uses are permitted in the O-P zoning district subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:*

1. *Car rental agency*
2. *Childcare center*
3. *Fitness facility*
4. *Health facility (24-hour care)*
5. *Heliport*
6. *Human service agency*
7. *Large group home subject to FMC 15.55.030.G*
8. *Mortuary*
9. *Parking lot (exclusive use) or Parking structure*
10. *Pharmacy*
11. *Religious institution subject to FMC 15.55.030.D*
12. *Residential care facility for the elderly subject to FMC 15.55.030.G*
13. *Restaurant, with or without on-site alcohol sales or Entertainment*
14. *Retirement Complex Types III, IV, V and VI subject to FMC 15.55.030.H*
15. *School, private subject to FMC 15.55.030.D*
16. *Social service facility subject to FMC 15.55.030.B.*
17. **Tobacco smoke shop subject to FMC Chapter 15.33**

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15.30.030.2 Permitted uses in the G-C Zoning District.

A. The following uses are permitted in the G-C zoning district:

- 1. Retail and service uses (subject to further conditions for those listed below)*
- 2. Automotive wholesaler or broker with no car display*
- 3. Club or lodge, without living quarters*
- 4. Communication facility, non-commercial subject to FMC 15.55.020.C*
- 5. Copy shop, retail*
- 6. Financial institution*
- 7. Fitness facility, small*
- 8. Furniture upholstery shop*
- 9. Home improvement center; hardware store*
- 10. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
- 11. Nursery*
- 12. Office, general*
- 13. Office, medical*
- 14. Personal service facilities (includes barbershops, beauty shops, etc.)*
- 15. Pharmacy*
- 16. Poolroom subject to FMC 3.54*
- 17. Public amusement room subject to FMC 3.54*
- 18. Recycling facility: Reverse vending subject to FMC 15.30.090.A*
- 19. Restaurant, without on-site alcohol sales or entertainment*
- 20. Satellite dish antennae subject to 15.55.020.C*
- 21. Special event subject to FMC 15.58*

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

22. *Studio*

23. *Tattoo parlor subject to FMC 15.55.020.E*

24. *Temporary commercial use subject to FMC 15.55.020.D*

25. *Theater, live and movie, excluding drive-in theaters and adult uses.*

~~26. *Tutoring center*~~

26. Tobacco smoke shop subject to FMC Chapter 15.33

27. Tutoring center.

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.3 Permitted uses in the C-3 Zoning District.

- A. *The following uses are permitted in the C-3 zoning district:*
1. *Retail and service uses (subject to further conditions for those listed below)*
 2. *Automotive wholesaler or broker with no car display*
 3. *Car rental agency with less than 10 vehicles*
 4. *Club or lodge without living quarters*
 5. *Communication facility, noncommercial subject to FMC 15.55.020.C*
 6. *Copy shop, retail*
 7. *Dwelling units, as part of a mixed-use development subject to FMC 15.30.040.E*
 8. *Financial institution*
 9. *Fitness facility, small*
 10. *Furniture upholstery shop*
 11. *Home improvement center, hardware store*
 12. *Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
 13. *Massage establishment subject to FMC 3.24*
 14. *Office, general*
 15. *Office, medical*
 16. *Personal service facilities (includes barbershops, beauty shops, etc.)*
 17. *Pharmacy*
 18. *Poolroom subject to FMC 3.54*
 19. *Public amusement room subject to FMC 3.54*
 20. *Public parking area*
 21. *Recycling facility: Reverse vending subject to FMC 15.30.090.A*

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

22. *Restaurant, without on-site alcohol sales or entertainment*
23. *Satellite dish antennae subject to FMC 15.55.020.C*
24. *Special event subject to FMC 15.55.020.D*
25. *Studio*
26. *Tattoo parlor subject to FMC 15.55.020.E*
27. *Temporary commercial use subject to FMC 15.55.020.D*
28. *Theater, live and movie, excluding drive-in theaters and adult uses*
- ~~29. *Tutoring center*~~
- 29. Tobacco smoke shop not within ROD subject to FMC Chapter 15.33**
- 30. Tutoring center**

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.3 Permitted uses in the C-3 Zoning District.

B. The following uses are permitted subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:

- 1. Agriculture*
- 2. Animal hospital*
- 3. Automobile service station subject to FMC 15.30.040.D*
- 4. Automotive parts, including installation*
- 5. Automotive (including automobile "single or multiple car display" dealer, boat, motorcycle, trailer and equipment) sales subject to FMC 5.30.040.F*
- 6. Bar including Tavern and Cocktail Lounge subject to FMC 15.31*
- 7. Bed and breakfast inn subject to FMC 15.55.030.A*
- 8. Car rental agency with more than 10 vehicles*
- 9. Fitness facility*
- 10. Fortuneteller*
- 11. Hotel subject to FMC 15.55.030.F*
- 12. Karaoke bar or Nightclub subject to FMC 15.31*
- 13. Mortuary*
- 14. Motel subject to FMC 15.55.030.F*
- 15. Parking lot (exclusive use) or Parking structure*
- 16. Pawnshop*
- 17. Reception hall, banquet facility, dance hall or related use subject to FMC 15.31*
- 18. Recreation, commercial*
- 19. Religious institution subject to FMC 15.55.030.D*
- 20. Residential care facility for the elderly subject to FMC 15.55.030.G*

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

21. *Restaurant with Entertainment and on-site alcohol sales subject to FMC 15.31*

22. *School, private subject to FMC 15.55.030.D*

23. *Single room occupancy (SRO) residential hotel subject to FMC 15.30.080*

24. *Social service facility subject to FMC 15.55.030.D*

25. Tobacco smoke shop within ROD subject to FMC Chapter 15.33

Original text in *italics*, new text in **blue**, **bold** and underlined, deleted text in ~~red strike through~~.

15.30.030.4 Permitted uses in the C-M Zoning District.

- A. *The following uses are permitted in the C-M zoning district:*
1. *Automotive parts, including installation*
 2. *Automotive wholesaler or broker with no car display*
 3. *Car rental agency with 10 or less vehicles*
 4. *Communication facility, non-commercial subject to FMC 15.55.020.C*
 5. *Copy shop, retail*
 6. *Copy shop, industrial*
 7. *Emergency shelter for homeless subject to FMC 15.42*
 8. *Furniture refinishing shop*
 9. *Furniture upholstery shop*
 10. *Fitness facility, small*
 11. *Home improvement center; hardware store*
 12. *Interior designer office including showroom and sales*
 13. *Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
 14. *Manufacturing, processing, assembling of materials and products along with offices and storage incidental thereto as well as sales and repairs of products manufactured and materials directly related thereto*
 15. *Massage establishment subject to FMC 3.24*
 16. *Micro-brewery, with tasting room(s), or tap room(s) not to exceed a total of 1,000 square feet of indoor area subject to the approval of an Administrative Restaurant Use Permit*
 17. *Multi-service center for homeless subject to FMC 15.42*
 18. *Personal service facilities (includes barbershops, beauty shops, etc.)*
 19. *(Reserved)*
 20. *Poolroom subject to FMC 3.54*
 21. *Public amusement room subject to FMC 3.54*
 22. *Recording studio*

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

23. *Recycling facility: Reverse vending subject to FMC 15.30.090.A*
24. *Restaurant, with on-site alcohol sales subject to FMC 15.31 and FMC 15.71*
25. *Satellite dish antennae subject to FMC 15.55.020.C*
26. *Special event subject to FMC 15.58*
27. *Studio*
28. *Tattoo parlor subject to FMC 15.55.020.E*
29. *Temporary commercial use subject to FMC 15.55.020.D*
- ~~30. *Tutoring center*~~
- 30. Tobacco smoke shop subject to FMC Chapter 15.33**
- 31. Tutoring center**

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.40.020 Permitted uses.

Table 15.40.020.A Permitted uses		
<i>Classified Uses</i>	NAICS**	<i>M-P or M-G Zone</i>
<u>Tobacco smoke shop - subject to Chapter 15.33</u>	<u>459991</u>	<u>CUP</u>
<p>Notes:</p> <p>* <i>If proposed within 1,000 feet of property with a residential zone classification and the gross floor area exceeds 10,000 square feet, the use is subject to the approval of a Conditional Use Permit.</i></p> <p>** <i>Where three-digit and four-digit codes are listed, all NAICS uses beginning with the same digits shall be included, unless specifically excluded.</i></p> <p><i>NP: denotes that the use is not permitted.</i></p> <p><u>CUP denotes that the use is permitted with the approval of a Conditional Use Permit in accordance with Chapter 15.70 of this title.</u></p>		

Original text in *italics*, new text in blue, **bold** and **underlined**, deleted text in ~~red strike through~~.

Chapter 15.33

REGULATIONS FOR TOBACCO SMOKE SHOPS

Sections:

15.33.010. Intent and purpose.

15.33.020. Applicability.

15.33.030. Separation requirements.

15.33.040. Applicable provisions and prohibitions.

15.33.050. Business license required.

15.33.060. Compliance monitoring.

15.33.010. Intent and purpose.

The regulation of tobacco smoke shops and tobacco retailers is necessary for the responsible sale of tobacco products and to discourage violations of tobacco related laws, including those which prohibit the sale and distribution of flavored tobacco products.

15.33.020. Applicability.

The provisions of this chapter shall apply to all tobacco retailers. The provisions of Section 15.33.030 and the requirement for a conditional use permit shall be applicable to all tobacco smoke shops that are proposed to be established after the effective date of this chapter. These provisions shall not apply to any tobacco smoke shop legally existing on February 1, 2025.

15.33.030. Separation requirements.

A. A tobacco smoke shop shall not be located within 500 feet, measured property line to property line from a public or private K-12 grade school, public park, child-care center or tutoring center.

B. A tobacco smoke shop shall not be located within 250 feet, measured property line to property line from another tobacco smoke shop.

15.33.040. Applicable provisions and prohibitions.

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

- A. Retail sales to persons younger than the minimum age under state law prohibited. No person engaged in tobacco retailing shall sell, give, or furnish, or cause to be sold, given or furnished, a tobacco product or tobacco paraphernalia to a person who is under 21 years of age, to purchase and possess tobacco products or tobacco paraphernalia.
- B. Positive identification required. No person engaged in tobacco retailing shall sell, give or furnish a tobacco product or tobacco paraphernalia to a person who appears to be under the age of thirty (30) years without first examining a valid, legal photo identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco products or tobacco paraphernalia. The tobacco retailer shall refuse sale of any tobacco products or tobacco paraphernalia to any persons who appears to be under the age of thirty (30) years of age, who fails to present valid, legal photo identification prior to the sale or transfer.
- C. Self-service displays prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times.
- D. Sale of flavored tobacco products prohibited. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell, offer for sale, display for sale or possess with intent to sell or offer for sale, any flavored tobacco product or tobacco product flavor enhancer including menthol cigarettes, chewing tobacco, snuff, little cigars and e-cigarettes/vapes. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, images, or all, on the product's labeling or packaging that are used to explicitly or implicitly communicate that the tobacco product has characterizing flavor.
 - 1. Section 15.33.040.D does not apply to the following:
 - a. Retail sale of flavored shisha tobacco products by a permitted hookah tobacco retailer that does not permit any person under 21 years of age to be present or enter the premises at any time.
 - b. Retail sale of premium cigars or looseleaf tobacco.

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15.33.050. Business license required.

All tobacco retailers must obtain a valid city business license as required by Title 4 of this code which shall only be granted to a fixed location that meets all applicable zoning requirements.

15.33.060. Compliance monitoring.

The community development department may inspect the premises of tobacco retailers for compliance with this chapter and may make periodic inspections of the location during normal business hours to assure compliance with this chapter and other applicable state and federal laws relating to tobacco retailers or tobacco products. If any violations of this chapter are found, the department shall notify the licensee of the violation in writing and may take such other or additional action as permitted by this code or by law based on the nature and severity of the violation to remedy, correct, and cure it.

Attachment No. 3

Revised Map Exhibits