

**CITY OF TEMECULA
AGENDA REPORT**

TO: City Manager/City Council

FROM: Luke Watson, Deputy City Manager

DATE: August 22, 2023

SUBJECT: Introduce Ordinance Amending Titles 5, 8, and 17 of the Temecula Municipal Code, and Adopt a Resolution Setting the Fee for a Tobacco Shop Permit and Find that this Ordinance is Exempt from the California Environmental Quality Act (CEQA) Pursuant to CEQA Guidelines Section 15061 (b)(3)

PREPARED BY: Mark Collins, Assistant Planner

RECOMMENDATION: That the City Council:

1. Introduce and read by title only an ordinance entitled:

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMECULA AMENDING TITLES 5, 8, AND 17 OF THE TEMECULA MUNICIPAL CODE TO (1) AMEND MESSAGE ESTABLISHMENT REGULATIONS, (2) ADD DEFINITIONS FOR TOBACCO SHOP, TOBACCO SHOP PERMIT AND UPDATE DEFINITIONS OF TOBACCO PRODUCT AND TOBACCO PARAPHERNALIA, (3) IMPLEMENT A TOBACCO SHOP PERMIT PROGRAM TO INCLUDE STRUCTURAL AND OPERATIONAL REQUIREMENTS, (4) UPDATE TOBACCO RETAILERS LICENSE PROCESSES, (5) AMEND REGULATIONS ON SMOKING IN HOTEL ROOMS, (6) REMOVE TOBACCO SHOP AS A CONDITIONALLY PERMITTED USE IN TABLE 17.08.030, (7) IMPLEMENT TOBACCO SHOP PERMIT REQUIREMENTS IN PLANNED DEVELOPMENT OVERLAY ZONING DESIGNATIONS 1 AND 4, AND (8) MAKE A FINDING THAT THIS ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15061 (B)(3)

2. Adopt Resolution entitled:

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
TEMECULA ESTABLISHING A TOBACCO SHOP PERMIT
FEE

SUMMARY OF ORDINANCE: The proposed Ordinance would make amendments to Titles 5, 8, and 17 of the Temecula Municipal Code. Listed below is a summary of the proposed changes to the Municipal Code:

Changes to Title 5 – Chapter 5.22 Massage and Massage Establishments:

1. Clarifying that Reiki, Cupping, Lymphatic, and similar massage, or wellness activities are massage activities that require a Massage Establishment Permit (MEP)
2. Require the practitioners of Reiki, Cupping, Lymphatic and similar massage or wellness activities to be a Certified Massage Therapist with a valid California Massage Therapy Council License (CAMTC)
3. Prohibit outcall massage services without a physician’s written recommendation or order
4. Prohibit pets at massage establishments, with the exception of working service dogs
5. Require medical professionals who operate, own or supervise an exempt massage business to sign an affidavit attesting that massage is performed under their care and must be on site during such treatments
6. Modify the code to consolidate violations into an inspection friendly table

Changes to Title 5 – Chapter 5.24 Licensure of Tobacco Retailers:

7. Add definition for “Tobacco Shop,” “Tobacco Shop Permit,” and update the definitions of “Tobacco Paraphernalia,” and “Tobacco Product”
8. Implement an annual permit for Tobacco Shops, to include:
 - a. A cap on the number of Tobacco Shops within the City at a rate of one (1) Tobacco Shop per 10,000 Temecula residents,
 - b. Separation requirements for Tobacco Shops from sensitive receptors,
 - c. Operational standards,
 - d. Sign and lighting requirements,
 - e. Prohibit lounge and leisure type activities; and
 - f. Prohibit the sale or consumption of alcohol
9. Update the process for a Tobacco Retailers License and assign duties to specific departments, in this instance it would be the Chief of Police or their designee

Changes to Title 8 – Chapter 8.36 Smoking in Public Places:

10. Update the number of hotels rooms permitted to be designated as “smoking” rooms in accordance with state law
11. Remove an outdated exemption for smoking indoors for significant tobacco retailers

Changes to Title 17

Table 17.08.030 Schedule of Permitted Uses:

12. Remove Tobacco Shop as a conditionally permitted use in the Neighborhood Commercial (NC) Zoning Designation

Planned Development Overlay No. 1 – Table 17.22.106 Schedule of Permitted Uses:

13. Add “Note 6” to the table specifying that Tobacco Shops are subject to the requirements of Section 5.24.120

Planned Development Overlay No. 4 – Table 17.22.136B Schedule of Permitted Uses:

14. Add “Note 7” to the table specifying that Tobacco Shops are subject to the requirements of Section 5.24.120

BACKGROUND: The City of Temecula City Council adopted the Municipal Code in January 1990. Since its adoption, the City Council has periodically made amendments to various sections of the Code to improve its clarity, make corrections and implement state law. The proposed amendments to the Temecula Municipal Code include amendments to Title 5 (Business Licenses and Regulations), Title 8 (Health and Safety), and Title 17 (Zoning).

Pursuant to Government Code Section 65800, the Planning Commission is required to review and make recommendations to the City Council regarding zoning regulations and amendments to Title 17 Zoning (Development Code) of the Temecula Municipal Code. The changes to Title 5 (Business Licenses and Regulations), and Title 8 (Health and Safety) of the Temecula Municipal Code of the proposed ordinance fall outside the purview of the Planning Commission, in that it is not an amendment to Title 17. However, staff felt it was important for the Planning Commission to review these proposed changes, which will place new requirements on existing and future tobacco shops throughout the City. The item was presented at a public hearing to the Planning Commission on July 19, 2023, and Resolution No. 2023-14 was adopted recommending the City Council adopt the proposed ordinance.

City staff met with the City Council Public Safety Ad Hoc Subcommittee on April 25, 2023 to discuss the proposed ordinance and again on June 13, 2023 to discuss proposed changes to the draft ordinance (Councilmembers Alexander and Kalfus).

City staff met with the Planning Commission Municipal Code Maintenance Ad Hoc Subcommittee on June 7, 2023 (Commissioners Hagel and Ruiz).

FISCAL IMPACT: Community Development budgeted sufficient funds for the ordinance development and fee study, which will include administrative costs, and enforcement.

ATTACHMENTS:

1. Ordinance
2. Resolution
3. Planning Commission Resolution No. 2023-14
4. Notice of Public Hearing
5. Notice of Exemption