

ORDINANCE NO. 4045

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA AMENDING TITLE 20 OF THE SANTA ROSA CITY CODE SECTION 20-70.020 (DEFINITIONS OF SPECIALIZED TERMS AND PHRASES) TO MODIFY THE DEFINITIONS OF “TOBACCO OR SMOKE SHOP” AND “TOBACCO OR DRUG PARAPHERNALIA” AND TO ADD A DEFINITION OF “ELECTRONIC SMOKING DEVICE” AS PART OF THE SMOKING REGULATIONS UPDATE – FILE NUMBER ST14-004

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. The Council finds, based on evidence and records presented, that amending Title 20 (Zoning) of the Santa Rosa City Code, as follows, is required for clarifying which tobacco and smoking related land uses trigger the requirement for a Minor Conditional Use Permit to ensure the new tobacco or smoke shop uses are compatible with surrounding uses.

The Council further finds and determines that:

1. The proposed amendment is consistent with the goals and policies of all elements of the General Plan, and any applicable specific plan; and
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City; and
3. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA); and
4. The proposed amendment is internally consistent with other applicable provisions of this Zoning Code.

Section 2. Amend Zoning Code Section 20-70.020 (Definitions of specialized terms and phrases) to replace the “Tobacco or Smoke Shop” definition with the following definition:

“Tobacco or Smoke Shop. Any store, stand, booth, or concession that devotes 30% or more of its display floor area to tobacco products, or to the display and sale of tobacco, electronic smoking devices, or drug paraphernalia to purchasers for consumption or use. This classification of use does not include medical cannabis dispensaries which are defined separately and regulated by Chapter 10-40 (Medical Cannabis Dispensaries) in the Santa Rosa City Code.”

Section 3. Amend Zoning Code Section 20-70.020 (Definitions of specialized terms and phrases) to replace the “Tobacco or Drug Paraphernalia” definition with the following definition:

“Tobacco, Electronic Smoking Device, or Drug Paraphernalia. (1) Any device intended or designed primarily for use by individuals for the smoking or ingestion of tobacco, notwithstanding that the device may also be used for the smoking or ingestion of marijuana, hashish, hashish oil, cocaine or any other “controlled substance,” as that term is defined in the Health and Safety Code; examples of such devices include but are not

limited to: “pipes,” “bongs,” “hookahs,” “vaporizers,” “roach clips,” “electric pipes,” “buzz bombs,” “blunts” or similar devices; (2) or any equipment, product, or material that is modified for making, using, or concealing illegal drugs such as cocaine, heroin, marijuana, and methamphetamine; (3) cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other item specifically designed for the preparation, charging, or use of Electronic Smoking Devices; (4) an Electronic Smoking Device.”

Section 4. Amend Zoning Code Section 20-70.020 (Definitions of specialized terms and phrases) to add a definition of “Electronic Smoking Device” as follows:

“Electronic Smoking Device. 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. “Electronic Smoking Device” includes any such electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor. “Electronic Smoking Device” does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.”

Section 5. In addition to any other conditions that are deemed appropriate or necessary at the time a Use Permit or other development permit is applied for, any development approval for this property shall be expressly conditioned to require the applicant to fulfill the following condition:

Sewer connections for this development, or any part thereof, will be allowed only in accordance with the requirements of the California Regional Water Quality Control Board, North Coast Region, in effect at the time that the building permit(s) for this development, or any part thereof, are issued.

Section 6. Environmental Determination. The Council finds that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to 15061(3) which is the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The minor Zoning Code text amendment which codifies an existing practice affects retail stores on sites designated for retail uses; therefore, this exemption applies.

Section 7. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 8. Effective Date. This ordinance shall take effect on the 31st day following its adoption.

This ordinance was introduced by the Council of the City of Santa Rosa on June 30, 2015.

IN COUNCIL DULY PASSED this 7th day of July, 2015.

AYES: (6) Mayor Sawyer, Vice Mayor Coursey, Council Members Combs, Olivares, Schwedhelm, Wysocky

NOES: (0)

ABSENT: (0)

ABSTAIN: (1) Council Member Carlstrom

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney