

## Legislation Details (With Text)

<b>File #:</b>	17-159	<b>Name:</b>	
<b>Type:</b>	Ordinance	<b>Status:</b>	Passed
<b>File created:</b>	2/13/2017	<b>In control:</b>	City Council
<b>On agenda:</b>	2/27/2017	<b>Final action:</b>	2/27/2017
<b>Title:</b>	Discuss and consider approval of the first reading of an ordinance amending Chapter 62, Article VII - Smoking in Public Places, of the Code of Ordinances, by amending definitions, adding electronic smoking devices, prohibiting smoking in bars, private clubs and hotel/motel rooms; adding vape shops to exceptions; and prohibiting outdoor smoking within ten (10) feet of entrances, exits, operable windows and ventilation systems of places where smoking is prohibited.		

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. 2017.02.27 Smoking Ordinance First Reading

Date	Ver.	Action By	Action	Result
2/27/2017	3	City Council	approved	Pass

Presenter/Contact

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**SUBJECT:**

Discuss and consider approval of the first reading of an ordinance amending Chapter 62, Article VII - Smoking in Public Places, of the Code of Ordinances, by amending definitions, adding electronic smoking devices, prohibiting smoking in bars, private clubs and hotel/motel rooms; adding vape shops to exceptions; and prohibiting outdoor smoking within ten (10) feet of entrances, exits, operable windows and ventilation systems of places where smoking is prohibited.

**BACKGROUND / RATIONALE:**

On February 13, 2017, a presentation was made to the City Council on the proposed amendments. The presentation included a variety of public comment received by staff throughout the public ordinance development process. In addition, copies of public feedback received by staff from citizens were provided to City Council.

On December 12, 2016, City Councilmember Chris Monceballez asked the New Braunfels City Council to consider reviewing and updating the current City ordinance related to smoking. Areas for consideration included vaping technology, expansion of the locations where smoking is prohibited indoors (in an effort to broaden employee protection from second-hand smoke), and possible smoking distance requirement from facility entrances. City Council unanimously agreed that a stakeholder workgroup should be assembled to develop recommendations to the Council. A work group was formed consisting of Councilmember Chris Monceballez, District 4, Hampton Eudy, Scores; John Schendel, American Legion; Suzzane Russel, The Huisache; James Stuckey, Elks Lodge; Jerry Saavedra, Smoke Free Texas; Joel Dunnington, American for Non Smokers Rights; and

city staff. The initial meeting was held on December 30, 2016.

As part of the process, the workgroup requested public input through press releases, social media and the city's website. A public meeting was held on January 18<sup>th</sup> at which the public was allowed to participate. Another public meeting was held on January 31<sup>st</sup> to receive additional public input. Furthermore, two press releases were issued informing the public about the meetings and providing a link to the draft ordinance. The public had the opportunity to either email comments or attend the public meetings.

The three main issues considered by the work group were: 1) whether or not to prohibit smoking in bars, private clubs, hotels/motels, retail tobacco shops, and vape shops; 2) address the use of electronic smoking devices; and 3) whether or not to include an outdoor smoking distance requirement from the entrances, exits, operable windows and ventilation systems of places where smoking is prohibited. Here are some of the highlights of the proposed draft ordinance:

1. It expands the smoking prohibition to include bars, private clubs, hotel/motel rooms, but exempt retail tobacco shops, vape shops and private residences that are not used as child care, adult daycare, or health care facilities, and the outdoors with some exceptions. See distance requirement in paragraph 3 below. The definition of movie theaters was amended to include drive in theaters.
2. It addresses vaping and e-cigarettes as well as all other types of devices collectively referred to as *electronic smoking devices*, including any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, tank system or advanced personalized vaporizer (APV), or under any other product name or descriptor.
3. It prohibit outdoor smoking within ten (10) feet of entrances, exits, operable windows, and ventilation systems of enclosed areas where smoking is prohibited so as to prevent tobacco smoke from entering those areas.

**ADDRESSES A NEED/ISSUE IN A CITY PLAN OR COUNCIL PRIORITY:**

N/A

**FISCAL IMPACT:**

N/A

**COMMITTEE RECOMMENDATION:**

No committee was formed however the stakeholder work group recommends certain amendments to the ordinance to include bars, private clubs and hotel/motel rooms in the smoking prohibition; include electronic smoking devices in the smoking prohibition; and let staff develop a recommendation on distance requirements. Also let the public input be received and considered. The work group declined to reach a consensus on distance requirements for smoking outside the entrance/exit of public places or places of employment. The work group deferred to Bryan Ruiz, Environmental Services Manager, to recommend a distance.

**STAFF RECOMMENDATION:**

Staff recommends approval.