

## Legislation Text

---

File #: 17-183, Version: 1

---

Presenter/Contact

Valeria Acevedo, City Attorney  
(830) 221-4281 - [vacevedo@nbtexas.org](mailto:vacevedo@nbtexas.org)

**SUBJECT:**

Discuss and consider approval of the second and final 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 five (5) feet of entrances, exits, operable windows and ventilation systems of places where smoking is prohibited.

**BACKGROUND / RATIONALE:**

The first reading of this ordinance was approved on February 27, 2017, during which public comment was received. There was an amendment passed to eliminate the prohibition on smoking at drive-in movie theaters and the ten feet distance requirement for outdoor smoking was reduced to five feet.

In advance of the first reading, there was a presentation to the City Council on the proposed amendments at the February 13<sup>th</sup> meeting. 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. City Council unanimously agreed that a stakeholder workgroup should be assembled to develop recommendations to the Council. 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, as amended on February 27, 2017:

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. *As amended, the definition of movie theaters will not 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. *As amended on February 27<sup>th</sup>, it prohibits outdoor smoking within five (5) feet (instead of the originally proposed 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.

**STAFF RECOMMENDATION:**

Staff recommends approval.