

SMOKE SHOP CODE AMENDMENT

DRAFT TCC LANGUAGE

CHAPTER 7 BUSINESSES REGULATED

ARTICLE XIX. TOBACCO RETAIL ESTABLISHMENT

SEC. 7-427. DEFINITIONS

SEC. 7-435. BUSINESS LICENSE OF SMOKE SHOP REQUIRED

SEC. 7-436. SMOKE SHOP BUSINESS LICENSE APPLICATION; INFORMATION REQUIRED

Sec. – 7-427 Definitions.

License means a license required for operating a tobacco retail establishment under section [7-428](#)(A) of this code.

Smoke Shop means any establishment in which the sales or display of tobacco products consists of fifteen (15) percent or more of the product display, sales or storage of the space.

Tobacco product means:

(1) any product made or derived from tobacco or that contains nicotine and is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including cigarettes, cigars, pipe tobacco, chewing tobacco, shisha, snuff, snus, and liquid nicotine solution; and

(2) any component, accessory, instrument, or paraphernalia that is used in the consumption of a tobacco product or that is solely designed for the smoking or ingesting of tobacco or shisha, including a hookah, water pipe, filter, rolling papers, pipe, or electronic smoking device; except that:

(3) the term "tobacco product" does not include drugs, devices, or combination products, as those terms are defined in the Federal Food, Drug and Cosmetic Act, that are authorized for sale by the United States Food and Drug Administration.

Sec. 7-434. Hearing upon suspension or revocation by the department.

(a) The director of the department, upon notification that grounds for suspension or revocation of a tobacco retail establishment's license by the department exist, shall file a written petition for suspension or revocation with the city court, requesting that time and place be set for a hearing and specifying the grounds for suspension or revocation per this article. Within five (5) days a magistrate, special magistrate or limited special magistrate shall schedule a hearing to be conducted within fifteen (15) days of the receipt of the petition to

suspend or revoke. The magistrate, special magistrate or limited special magistrate shall notify the parties in the manner provided in this article and shall state the grounds relied upon for the proposed suspension or revocation. Should the licensee fail to appear at the hearing, a default judgment of suspension or revocation shall be entered. A record shall be kept of all proceedings. No license shall be suspended or revoked unless grounds therefor are established by a preponderance of the evidence. The hearing shall be held in an informal manner as to the order of proceeding and presentation of evidence. The Arizona Rules of Evidence shall not apply. Any evidence offered shall be admitted subject to a determination by the magistrate, special magistrate, or limited special magistrate that the offered evidence is relevant and material and has some probative value as to a fact at issue. The magistrate, special magistrate or limited special magistrate shall provide the licensee and other parties written notice of the decision within five (5) days, pursuant to subsection (b) of this section. Suspension or revocation of a license shall be effected by the magistrate, special magistrate or limited special magistrate's signing of the written notice of the decision. A licensee's right to sell tobacco products under authority of the license shall terminate immediately upon giving or mailing to the licensee a copy of the signed decision suspending or revoking the license; except that the suspension or revocation may be stayed by the superior court pending a timely appeal of the decision by special action. Such appeal must be filed within ten (10) days after the decision to suspend or revoke is signed unless the decision is mailed, in which case the appeal must be filed no later than fifteen (15) days after entry of the decision. The appellee shall bear the cost of preparing the record of appeal. If an appeal is not timely made, the suspension or revocation becomes final.

(b) Notices required by this section shall be served by certified mail to the licensee's attorney or to the licensee at the address as shown on the tobacco retail license, or by personal service.

(Ord. No. 11703, § 2, 10-22-19)

Sec. – 7-435. Business License for Smoke Shop Required.

No person shall operate a smoke shop without first obtaining a business license.

Sec. 7-436. Smoke shop business license application: information required.

An application for a smoke shop business license shall be filed by the owner of the smoke shop on forms provided by the revenue department. The information required at the time of application shall include but not be limited to the following:

- 1) The name, address and signature of the owner of the smoke shop to be licensed.
- 2) The address of the smoke shop to be licensed.
- 3) A copy of the zoning compliance certificate issued by the zoning administrator of the smoke shop to be licensed.
- 4) The owner of the smoke shop shall notify the city revenue department within thirty (30) days of any changes in the name or address of the owner.

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ARTICLE 4: ZONES

4.8. USE TABLES

4.8.4. PERMITTED USES: COMMERCIAL AND MIXED USE ZONES

4.8.7. PERMITTED USES: SPECIAL USE ZONES (2): NC, RVC, AND MU ZONES

11.3.9. DEFINITIONS OF LAND USE GROUPS, CLASSES, AND TYPES: RETAIL TRADE USE GROUP

TABLE 4.8-4: PERMITTED USES - COMMERCIAL AND MIXED USE ZONES

P = Permitted Use S = Permitted as Special Exception Use

[1] Mayor and Council Special Exception Procedure, Section [3.4.4](#)

[2] Zoning Examiner Special Exception Procedure, Section [3.4.3](#)

[3] PDSD Special Exception Procedure, Section [3.4.2](#)

LAND USE	C-1	C-2	C-3	OCR-1	OCR-2	USE SPECIFIC STANDARDS
Retail Trade Land Use Group With Land Use Class/Type:						

Smoke Shop	P	P	P	P	P	All: 4.9.9.H

4.8.9. PERMITTED USES: SPECIAL USE ZONES (2) – NC, RVC, & MU

TABLE 4.8-7: PERMITTED USES - SPECIAL USE ZONES (2): NC, RVC, AND MU ZONES

P = Permitted Use S = Permitted as Special Exception Use

[1] Mayor and Council Special Exception Procedure, Section [3.4.4](#)

[2] Zoning Examiner Special Exception Procedure, Section [3.4.3](#)

[3] PDSD Special Exception Procedure, Section [3.4.2](#)

LAND USE	NC	RVC	MU	USE SPECIFIC STANDARDS
Retail Trade Land Use Group With Land Use Class/Type:				

<u>Smoke Shop</u>			<u>S [2]</u>	<u>MU: 4.9.9.H and 4.9.5.C.6</u>

4.9. USE-SPECIFIC STANDARDS

4.9.9. RETAIL TRADE USE GROUP

H. Smoke Shop

1. A smoke shop shall be setback a minimum of 1,000 feet from another smoke shop, measured in a straight and direct horizontal line between the two closest exterior or applicable interior suite walls of smoke shops.
2. A smoke shop shall be setback a minimum of 1,000 feet from a K-12 public, private, or charter school, measured in a straight and direct horizontal line from the closest exterior or applicable interior suite wall of the smoke shop, to the closest property line of a school. Exception: For the purposes of this section, school administrative offices not located on or contiguous with a school site are not considered schools, and therefor, are exempt from the setback requirement.

ARTICLE 11: DEFINITIONS AND RULES OF CONSTRUCTION

11.3. DEFINITIONS OF LANDS USE GROUPS, CLASSES, AND TYPES

11.3.4. RETAIL TRADE USE GROUP

L. Smoke Shop

Smoke Shop means any establishment in which the sales or display of tobacco products consists of fifteen (15) percent or more of the product display, sales or storage of the space.

Tobacco Product is defined as:

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