



# Placentia Planning Commission Agenda

Adjourned Regular Meeting

October 2, 2014

6:30 p.m.

**Christine Schaefer**  
Chair

**Frank Perez**  
Vice Chairman

**Dana Hill**  
Commissioner

**Thomas Solomonson**  
Commissioner

**James Schenck**  
Commissioner

**Vic Tomazic**  
Commissioner

**City of Placentia**  
401 E Chapman Avenue  
Placentia, CA 92870

**Phone: (714) 993-8124**  
**Fax: (714) 961-0283**  
**Website: [www.placentia.org](http://www.placentia.org)**

## **Procedures for Addressing the Commission**

Any person who wishes to speak regarding an item on the agenda or on a subject within the Planning Commission's jurisdiction during the "Oral Communications" portion of the agenda should fill out a "Speaker Request Form" and give it to the Commission Secretary BEFORE that portion of the agenda is called. Testimony for Public Hearings will only be taken at the time of the hearing. Any person who wishes to speak on a Public Hearing item should fill out a "Speaker Request Form" and give it to the Commission Secretary BEFORE the item is called.

The Commission encourages free expression of all points of view. To allow all persons the opportunity to speak, please keep your remarks brief. If others have already expressed your position, you may simply indicate that you agree with a previous speaker. If appropriate, a spokesperson may present the views of an entire group. To encourage all views, the Commission discourages clapping, booing or shouts of approval or disagreement from the audience.

**PLEASE SILENCE CELL PHONES AND OTHER ELECTRONIC  
EQUIPMENT WHILE THE COMMISSION IS IN SESSION.**

## **Special Accommodations**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 993-8231. Notification 48 hours prior to the meeting will generally enable City staff to make reasonable arrangements to ensure accessibility.  
(28 CFR 35.102.35.104 ADA Title II)

Copies of all agenda materials are available for public review in the Office of the City Clerk, City Planning Division Counter, Placentia Library Reference Desk and the internet at [www.placentia.org](http://www.placentia.org) under the Planning Commission page. Persons who have questions concerning any agenda item may call the City Planning Division at (714) 993-8124 to make inquiry concerning the nature of the item described on the agenda.

In compliance California Government Code Section 54957.5, any writings or documents provided to a majority of the Planning Commission regarding any item on this agenda that are not exempt from disclosure under the Public Records Act will be made available for public inspection at the City Clerk's Office at City Hall, 401 East Chapman Avenue, Placentia, during normal business hours.

Study Sessions are open to the public and held in the City Council Chambers or City Hall Community Room.

**City of Placentia  
City Council Chambers  
401 E. Chapman Avenue  
October 2, 2014**

**REGULAR MEETING**  
6:30 p.m. – City Council Chambers

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**MEETING CALLED TO ORDER**

**ROLL CALL:** Chair Schaefer  
Vice Chairman Perez  
Commissioner Hill  
Commissioner Solomonson  
Commissioner Tomazic  
Commissioner Schenck

**PLEDGE OF ALLEGIANCE:**

**ORAL COMMUNICATIONS:**

At this time the public may address the Planning Commission concerning any agenda item, which is not a public hearing item, or on matters within the jurisdiction of the City. There is a five (5) minute time limit for each individual addressing the Planning Commission.

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**CONSENT CALENDER:** None

**PUBLIC HEARING**  
(Continued item from September 9, 2014 meeting)

**1. Applicant: City of Placentia**

**Zoning Code Amendment (ZCA) 2014-02:**

The Proposed amendments to § 23.33, §23.36, §23.37, and §23.37 §23.107 of Chapter 23.00 of Title 23 (Zoning Ordinance) of the Placentia Municipal Code pertaining to establishment of regulations for e-cigarette vaporizer stores.

**Recommended Actions:** It is recommended that the Planning Commission:

- a. Adopt Resolution PC-2014-11, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLACENTIA, CALIFORNIA RECOMMENDING THE CITY COUNCIL OF THE CITY OF PLACENTIA APPROVE AN AMENDMENT TO THE PLACENTIA MUNICIPAL CODE TO REGULATE ELECTRONIC CIGARETTE RETAILERS ; and
- b. Find that the proposed Zone Code Amendment is categorically exempt in conjunction with the California Environmental Quality Act (CEQA) guidelines pursuant to State CEQA Guidelines § 15061(b)(3).

**STUDY SESSION:**

**2. Presentation: iLegislate Agenda Management Training**

**Recommended Actions:**

a. Receive a Presentation on iLegislate Software Training

**3. NEW BUSINESS: None**

**DEVELOPMENT REPORT**

**DIRECTOR'S REPORT**

**PLANNING COMMISSION REQUESTS**

Commission members may make requests or ask questions of staff. If a Commission member would like to have formal action taken on a requested matter, it will be placed on a future Commission Agenda.

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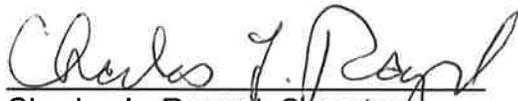
**ADJOURNMENT**

The Planning Commissioners ADJOURN to a Regular meeting on Tuesday, October 14, 2014 at 6:30 p.m. in the City Council Chambers at 401 East Chapman Avenue, Placentia.

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**CERTIFICATION OF POSTING**

I, Charles L. Rangel, Secretary to the Planning Commission of the City of Placentia, hereby certify that the Agenda for the October 2, 2014 regular meeting of the Planning Commission of the City of Placentia was posted on September 29, 2014.

  
Charles L. Rangel, Secretary



# Placentia Planning Commission Agenda Staff Report

TO: PLANNING COMMISSION  
FROM: CONTRACT SENIOR PLANNER  
DATE: October 2, 2014  
SUBJECT: Electronic Cigarette Retailers, Vaporizer Stores, and Related Businesses.

## **RECOMMENDATION:**

It is recommended that the Planning Commission take the following action:

1. Adopt Resolution PC-2014-xx, A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLACENTIA, CALIFORNIA RECOMMENDING THE CITY COUNCIL OF THE CITY OF PLACENTIA APPROVE AN AMENDMENT TO THE PLACENTIA MUNICIPAL CODE TO REGULATE ELECTRONIC CIGARETTE RETAILERS ; and
2. Find that the proposed Zone Code Amendment is categorically exempt in conjunction with the California Environmental Quality Act (CEQA) guidelines pursuant to State CEQA Guidelines § 15061(b)(3).

## **DISCUSSION:**

At the September 9<sup>th</sup> , 2014 Planning Commission (Commission) meeting, the Commission received a report from staff regarding electronic cigarettes (E-Cig) and recommendations on how to address business and zoning requirements associated with E-Cig businesses. The E-Cig public hearing item was continued to the October 2nd Planning Commission meeting with direction to Staff to report back on providing a list of jurisdictions which have adopted regulations for E-Cig retailers. Additionally, the Commission directed Staff to omit any reference about hookah lounges from the draft resolution and hookah lounges have since been deleted as a reference within the proposed zoning code amendment. Thirdly, Commission requested Staff to provide additional reports or articles which may be relevant to E-Cig subject matter.  
Supplemental Information

Attached to the September 9, 2014 Commission meeting was a report titled "Journal of Environmental & Public Health: Use of Emerging Tobacco Products in the United States". Since that time, Staff has obtained additional information concerning the health

effects of E-Cig use as well as how other jurisdictions are regulating E-Cig use and retailers.

A July 3, 2014 report (Attachment No. 2) compiled by American Nonsmokers' Rights Foundation illustrates how a considerable proportion of states and California cities are regulating E-Cigs. In several cases, cities and states have prohibited the use of e-cigarettes. Moreover, the American Nonsmokers' Rights Foundation released a January 2, 2014 report (Attachment No. 3) which outlined the harmful second hand effects of aerosol from these devices. Furthermore, another article (Attachment No. 4) by the Business Day reports that e-cigarette fluid has caused at least one death and scores of children and adults have been treated for accidental poisoning by making direct contact with E-Cig liquid.

In light of 1) the considerable number of other jurisdictions which have prohibited e-cigarettes; 2) various health organizations citing medical evidence that E-Cigs are a toxic substance, 3) E-Cigs are not currently regulated by any federal, or state government; and 4) the City has no Municipal Code or other mechanisms by which to allow E-Cig retailers, Staff is recommending that the Planning Commission adoption Resolution PC-2014-xx, recommending to City Council to approve an amendment to the Placentia Municipal Code to regulate electronic cigarette retailers. Should the Commission decide not to adopt the Resolution as recommended by Staff, any specific component of the draft Resolution may, by a majority of the Commission, be modified or deleted.

**CEQA:**

In accordance with the requirements of the California Environmental Quality Act ("CEQA"), Public Resources Code §§ 21000 *et seq.*, the State CEQA Guidelines, 14 C.C.R. §§ 15000 *et seq.*, and the Environmental Impact Report Guidelines of the City of Placentia, Staff recommends that the Planning Commission exercise its independent judgment and find that the proposed code amendment can be shown with absolute certainty that the project will have no possible effect on the environment. Therefore, no further environmental review for this project is necessary.

**Prepared and submitted by:**



Charles L. Rangel  
Contract Senior Planner

**Review and approved by:**



Damien R. Arrula  
Assistant City Administrator

**ATTACHMENTS:**

1. Resolution PC-2014-xx
2. American Non-Smokers Right Foundation- U.S. State and Local Laws Regulating Use of Electronic Cigarettes

3. Americans for Nonsmokers' Rights- Electronic (e-) Cigarettes and Secondhand Aerosol
4. Selling poison by the barrel-Business Day: Liquid Nicotine for E-Cigarettes

**RESOLUTION NO. PC 2014-11**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PLACENTIA, CALIFORNIA RECOMMENDING THE CITY COUNCIL OF THE CITY OF PLACENTIA APPROVE AN AMENDMENT TO THE PLACENTIA ZONING CODE TO REGULATE ELECTRONIC CIGARETTE RETAILERS**

**A. Recitals.**

1. Pursuant to Article XI, § 5 of the California Constitution and the Placentia City Charter, the City of Placentia may make and enforce all regulations and ordinances in respect to municipal affairs.

2. The stated purpose of the Placentia Zoning Code (Title 23 of the Placentia Municipal Code) is to promote the growth of the City in an orderly manner and to promote and protect the public health, safety and general welfare by means of the zoning or districting plan as a part of the master plan and consists of the establishment of various districts, including all the territory within the boundaries of the City, within which the use of land and buildings, the space of buildings, and the height and bulk of buildings are regulated.

3. All legal prerequisites to the adoption of this Resolution have occurred.

**B. Resolution.**

**NOW, THEREFORE,** the Planning Commission of the City of Placentia does hereby resolve, determine and order as follows:

1. This Commission hereby specifically finds that all the facts as set forth in the Recitals, Part A., of this Resolution are true and correct.

2. The City has recently received inquiries regarding the possible establishment of electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges and hookah bars/lounges within the City. Several existing businesses in the City are already advertising the sale of electronic cigarettes. Retail sales of electronic cigarettes, and the establishment/operation of electronic cigarette bars/lounges, vapor bars/lounges are not currently addressed by the Zoning Code. In the absence of specific standards and zoning

regulations pertaining to electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges and it is difficult to regulate such uses and establishments, and, as such, such uses require a commitment of police and code enforcement resources that is greater than other regulated retail establishments.

3. Electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges are typically adults-only uses in commercial settings and may not be appropriate in all zoning districts or near uses where minors and other sensitive receptors are present.

4. If the use and sale of electronic cigarettes and electronic cigarette bars/lounges, vapor bars/lounges are established and allowed without appropriate review and regulation, such land uses could have potential adverse secondary effects on surrounding neighborhoods and result in significant irreversible damage and change to the neighborhood and community character.

5. The use and sale of electronic cigarettes and electronic cigarette bars/lounges, vapor bars/lounges without appropriate review and regulation, before the City can adopt regulations, presents a current and immediate threat to the public health, safety and welfare. The negative health impacts related to tobacco use have been well-chronicled and studies show an increase in the use of electronic cigarettes by youth. Although the long-term health effects of using electronic cigarettes are still unknown, initial studies have found carcinogens and toxic chemicals in electronic cigarette vapors. Moreover, the United States Food and Drug Administration recently announced that it was undertaking proposed rulemaking studies pertaining to electronic cigarettes and their use.

6. The current Zoning Code does not provide guidance for reviewing and permitting the establishment of electronic cigarette retail stores, electronic cigarette bars/lounges, vapor bars/lounges.

7. The City of Placentia has a substantial interest in promoting the public health, safety, and welfare of the community.

8. The City of Placentia recognizes the need to develop reasonable criteria to guide the establishment and operation of electronic cigarette retail stores, electronic cigarette

bars/lounges, vapor bars/lounges.

9. The Planning Commission of the City of Placentia conducted, and concluded, a duly noticed public hearing on September 9, 2014 and October 2, 2014 to consider this code amendment.

10. The Planning Commission of the City of Placentia recommends that the City Council approve the Draft Ordinance, attached hereto as Exhibit "A" and incorporated herein by this reference, regarding the establishment and operation of electronic cigarette retail stores, electronic cigarette bars/lounges, vapor bars/lounges.

11. The adoption of the proposed zoning amendment will not be detrimental to the health, safety, or general welfare of the community, nor will it be injurious to the property or improvements within the neighborhoods affected or within the City. The proposed zoning amendment will enhance public safety and allow for more orderly development and establishment of businesses within the City.

12. The proposed zoning amendment is consistent with the General Plan in that it will allow the City to undertake a careful review of potential new businesses in the City.

13. Adoption of this Resolution is exempt from environmental review under the California Environmental Quality Act ("CEQA"), California Public Resources Code § 21065, et. seq., based on the finding that this ordinance is not a "project" within the meaning of § 15378 of the State CEQA Guidelines, because it has no potential to result in physical change in the environment, directly or ultimately. Additionally, adoption of this Resolution is exempt from CEQA pursuant to State CEQA Guidelines 14 CCR §§ 15061(b)(3) and 15306.

14. The secretary shall certify to the adoption of this Resolution

PASSED, ADOPTED AND APPROVED this 2nd day of October, 2014

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Christine Schaefer, Chairman

I, Charles Rangel, Secretary to the Planning Commission of the City of Placentia, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Placentia held on September 9, 2014 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

ATTEST:

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CHARLES L. RANGEL,  
Secretary to the Planning Commission

APPROVED AS TO FORM

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ANDREW V. ARCZYNSKI,  
City Attorney

EXHIBIT "A"

Draft City Council Ordinance

DRAFT ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF PLACENTIA ADDING A NEW CHAPTER 23.91 TO TITLE 23 OF THE PLACENTIA MUNICIPAL CODE TO ESTABLISH REGULATIONS FOR OPERATION, PERMITTING AND/OR LICENSING OF ALL NEW ELECTRONIC CIGARETTE RETAILERS, ELECTRONIC CIGARETTE BARS/LOUNGES, VAPOR BARS/LOUNGES, WITHIN THE CITY OF PLACENTIA

CITY ATTORNEY'S SUMMARY

This Ordinance adds a new Chapter 23.91 to Title 23 of the Placentia Municipal Code pertaining to the establishment and regulation of electronic cigarette retail stores, electronic cigarette bars/lounges, vapor bars/lounges. Chapter 23.91 will impose a use permit requirement on electronic cigarette retailers and limit such uses to specified zones in the City. Chapter 23.91 will prohibit electronic cigarette bars/lounges, vapor bars/lounges, throughout the City.

**A. Recitals.**

1. Pursuant to Article XI, § 5 of the California Constitution and the City Charter, the City of Placentia may make and enforce all regulations and ordinances in respect to municipal affairs.

2. The stated purpose of the Placentia Zoning Ordinance (Title 23 of the Placentia Municipal Code) is to promote the growth of the City in an orderly manner and to promote and protect the public health, safety and general welfare by means of the zoning or districting plan as a part of the master plan and consists of the establishment of various districts, including all the territory within the boundaries of the City, within which the use of land and buildings, the space of buildings, and the height and bulk of buildings are regulated.

3. The City has recently received inquiries regarding the possible establishment of electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges within the City. Several existing businesses in the City are already advertising the sale of electronic cigarettes. Retail sales of electronic cigarettes, and establishment/operation of electronic

cigarette bars/lounges, vapor bars/lounges are not currently addressed by the Zoning Code. In the absence of specific standards and zoning regulations pertaining to electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges, it is difficult to regulate such uses and establishments, and, as such, such uses require a commitment of police and code enforcement resources that is greater than other regulated retail establishments.

4. Electronic cigarette retailers, electronic cigarette bars/lounges, vapor bars/lounges are typically adults-only uses in commercial settings and may not be appropriate in all zoning districts or near uses where minors and other sensitive receptors are present.

5. If the use and sale of electronic cigarettes and electronic cigarette bars/lounges, vapor bars/lounges are established and allowed without appropriate review and regulation, such land uses could have potential adverse secondary effects on surrounding neighborhoods and result in significant irreversible damage and change to the neighborhood and community character.

6. The use and sale of electronic cigarettes and electronic cigarette bars/lounges, vapor bars/lounges without appropriate review and regulation, before the City can adopt regulations, presents a current and immediate threat to the public health, safety and welfare. The negative health impacts related to tobacco use have been well-chronicled and studies show an increase in the use of electronic cigarettes by youth. Although the long-term health effects of using electronic cigarettes are still unknown, initial studies have found carcinogens and toxic chemicals in electronic cigarette vapors. Moreover, the United States Food and Drug Administration recently announced that it was undertaking proposed rulemaking studies pertaining to electronic cigarettes and their use.

7. The current Zoning Code does not provide guidance for reviewing and permitting the establishment of electronic cigarette retail stores, electronic cigarette bars/lounges, vapor bars/lounges.

8. The City of Placentia has a substantial interest in promoting the public health, safety, and welfare of the community. The adoption of this zoning amendment will not be detrimental to the health, safety, or general welfare of the

community, nor will it be injurious to the property or improvements within the neighborhoods affected or within the City. In fact, this zoning amendment will enhance public safety and allow for more orderly development and establishment of businesses within the City.

9. The proposed zoning amendment is consistent with the General Plan in that it will allow the City to undertake a careful review of potential new businesses in the City.

10. The City of Placentia recognizes the need to develop reasonable criteria to guide the establishment and operation of tobacco shops and closely related businesses.

11. The Planning Commission conducted and concluded a duly noticed public hearing on this Ordinance on September 9, 2014 which hearing was continued to October 14, 2014. and voted to recommend the City Council adopt this Ordinance.

12. The City Council conducted, and concluded, a duly noticed public hearing on this Ordinance at its \_\_\_\_\_, 2014 meeting.

13. All legal prerequisites to the adoption of this Ordinance have occurred.

**B. Ordinance.**

NOW, THEREFORE, the City Council of the City of Placentia does hereby find, determine and ordain as follows:

Section 1. In all respects, as set forth in the Recitals, Part A., of this Ordinance.

Section 2. A new Chapter 23.91 is hereby added to Title 23 of the Placentia Municipal Code, to read, in words and figures, as follows:

**"Chapter 23.91**

**"Electronic Cigarette Retailers**

"Sections:

**"23.91.010. Definitions**

**"23.91.020. Use Permit Required**

- "23.91.030. Locational Criteria**
- "23.91.040. Security Requirements**
- "23.91.050. Electronic Smoking Lounges**
- "23.91.010. Definitions**

**"23.91.010. Definitions.** "For purposes of this Chapter, the following definitions shall apply:

"'Electronic cigarette' means an electronic and/or battery-operated device, the use of which may resemble smoking, that can be used to deliver an inhaled dose of nicotine or other substances and said term includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor cigarette or any other product name or descriptor. The term does not include any medical inhaler prescribed by a licensed physician.

"'Electronic cigarette retailer' means any establishment, structure, facility, vehicle, stand or cart that devotes any floor space or display area to the sale, display, marketing, bartering, trading or exchange of electronic cigarettes as the same are defined herein.

"'Electronic cigarette bar/lounge' and 'vapor bar/lounge' mean any facility, building, structure or location, whether fixed or mobile, where customers smoke electronic cigarettes or other device utilizing a heating element that vaporizes a liquid solution that releases nicotine or other substances.

"23.91.020. Use Permit Required.

"An electronic cigarette retailer may only operate in the Neighborhood Commercial Zone (C-1), Community Commercial Zone (C-2), Town Center Zone (T-C), and Specific Plan SP-7 Zone with a Use Permit.

**"23.91.030. Locational Criteria**

"(a). No electronic cigarette retailer shall be permitted within 1,000 feet of a public or private school established for academic education of children

or minors under the age of 18 years old.

"(b). No electronic cigarette retailer shall be permitted within 1,000 feet of a public park.

"(c). No electronic cigarette retailer shall be permitted within 1,000 feet of an existing tobacco or E-cigarette/vaporizer business.

"(d). No electronic cigarette retailer shall be permitted within 1,000 feet of a licensed child care center.

**"23.91.040 Security Requirements.**

"(a). Applicant shall provide a security plan subject to the review and approval of the Police Department.

"(b). In order to minimize the sale of electronic cigarettes to minors and curb other potential crimes, all employees of the petitioner who sell or serve E-cigarette/vaporizer products shall be required to complete a training program in alcoholic beverage compliance, crime prevention techniques, and the handling of violence. The applicant must provide the City of Placentia Police Department Administrative Services Lieutenant a copy of completed Alcohol Management Program (AMP), and a certificate of completion from an ABC LEAD program within six (6) months of the premises receiving a use permit to operate.

**"23.91.050. Electronic Smoking Lounges.**

"No electronic cigarette bar/lounge, vapor bar/lounge, or similar operation shall be allowed within any zone in the City."

Section 3. The phrase "Electronic Cigarette Retailer" shall be added to §§ 23.27.040, 23.33.040, 23.36.040 and 23.107.050 (Zoning Regulations) of the Placentia Municipal Code as a land use that requires a Use Permit (UP).

SECTION 4. Environmental Review. The City Council finds that this ordinance is exempt from environmental review under

the California Environmental Quality Act ("CEQA"), California Public Resources Code § 21065, et. seq., based on the finding that this ordinance is not a "project" within the meaning of § 15378 of the State CEQA Guidelines, because it has no potential to result in physical change in the environment, directly or ultimately. Additionally, adoption of this Resolution is exempt from CEQA pursuant to State CEQA Guidelines 14 CCR §§ 15061(b)(3) and 15306..

SECTION 5. Severability. The City Council declares that, should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

SECTION 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
COTT W. NELSON,  
MAYOR

ATTEST:

\_\_\_\_\_  
PATRICK J. MELIA,  
City Clerk

STATE OF CALIFORNIA  
COUNTY OF ORANGE

I, PATRICK J. MELIA, City Clerk of the City of Placentia, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council held on the \_\_\_\_ day of

\_\_\_\_\_, 2014 and was finally adopted at a regular meeting held on the \_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES: COUNCILMEMBERS:  
NOES: COUNCILMEMBERS:  
ABSENT: COUNCILMEMBERS:  
ABSTAIN: COUNCILMEMBERS:

\_\_\_\_\_  
PATRICK J. MELIA,  
CITY CLERK

APPROVED AS TO FORM

\_\_\_\_\_  
ANDREW V. ARCZYNSKI,  
CITY ATTORNEY

## U.S. State and Local Laws Regulating Use of Electronic Cigarettes *As of April 1, 2014*

The following list includes states and municipalities with laws currently in effect that regulate where electronic cigarette use (e-cigarettes) is prohibited. E-cigarettes are battery-powered devices that are designed to mimic cigarettes by vaporizing a nicotine-laced liquid that is inhaled by the user. The use of e-cigarettes in workplaces and public places is a significant public health concern, not only because of their unregulated constituents and the potential health impact of the vapor on users and bystanders, but also because e-cigarette use causes public confusion as to where smoking is allowed, resulting in compliance problems with smokefree laws.

Most local and state smokefree laws were enacted before e-cigarettes were on the market, so while such laws do not explicitly mention e-cigarettes, it should not be assumed that their use is permitted. Existing smokefree laws are often interpreted to prohibit e-cigarette use in their smokefree provisions.

NOTE: In the 100% Smokefree Venues column, the following abbreviations are used: W=non-hospitality workplaces; R=restaurants; B=bars; G=gambling facilities.

For more information, please visit [ANR's e-cigarettes page](#).

### State Laws Regulating Use of E-cigarettes

#### State Laws Restricting E-cigarette Use in 100% Smokefree Venues

Other state laws that do not explicitly address e-cigarettes might be interpreted as prohibiting the use of e-cigarettes in existing smokefree provisions.

State	Use of E-cigarettes Prohibited	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	Permitted In:
1. North Dakota	Yes	WRBG	No	
2. New Jersey	Yes	WRB	No	
3. Utah	Yes	WRB	Yes	Retailers that sell e-cigarettes, until 7/1/17.

## State Laws Regulating E-cigarette Use in Other Venues

State	Use of E-cigarettes Prohibited	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. Arkansas	Yes	Use of e-cigarettes prohibited on school district property.	No	
2. Colorado	Yes	Definition of tobacco product for purposes of prohibition of use on school property amended to include e-cigarettes, unless approved by FDA as cessation devices.	No	
3. Delaware	Yes	Tobacco use, including use of e-cigarettes and hookahs, prohibited in all State workplaces, including all buildings, facilities, indoor and outdoor spaces and surrounding grounds, as well as parking lots and state vehicles operated on State workplace property.	No	
4. Hawaii	Yes	Use of e-cigarettes prohibited on all Dept. of Health property where smoking is prohibited.	No	
5. Kansas	Yes	Tobacco use, including use of e-cigarettes, prohibited on all Dept. of Corrections property and grounds, by both employees and inmates. Per opinion of Attorney General, Indoor Clean Air Act of 2010 does not apply to e-cigarettes.	Partial	All places where smoking is prohibited per 3/12/10 law, including workplaces, restaurants, bars, gambling facilities, and public places generally.
6. Maryland	Yes	Smoking, including use of e-cigarettes prohibited on MARC commuter rail system trains.	No	
7. New Hampshire	Yes	Use of e-cigarettes prohibited in public educational facilities and on grounds thereof.	No	
8. Oklahoma	Yes	Tobacco use, including use of e-cigarettes, prohibited in all Dept. of Corrections facilities, including vehicles and grounds.	No	

State	Use of E-cigarettes Prohibited	Prohibited In:	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
9. Oregon	Yes	State agency employees prohibited from using tobacco products, including e-cigarettes, in State agency buildings and on State agency grounds adjacent to buildings.	No	
10. South Dakota	Yes	Tobacco use, including use of e-cigarettes, prohibited in Dept. of Corrections facilities and on grounds thereof, by both employees and inmates.	No	

## Local Laws Regulating Use of E-cigarettes

### Laws Restricting E-cigarette Use in 100% Smokefree Venues

**Note:** The jurisdiction(s) affected by county-level laws vary widely. Look for a plus symbol (+) next to each county with a law that includes both incorporated and unincorporated areas. A county without a symbol means that the county law covers unincorporated areas only.

State	Name	Use of E-cigarettes Prohibited	If Partial, Prohibited In:	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
1. AK	Palmer	Yes		WRB	No	
2. AL	Anniston	Yes		WRBG	No	
3. AL	Bessemer	Yes		WRG	No	
4. AL	Clay	Yes		WRBG	No	
5. AL	Creola	Yes		WRBG	No	
6. AL	Fultondale	Yes		WRBG	No	
7. AL	Midfield	Yes		WRBG	No	
8. AL	Monroeville	Yes		WRBG	No	
9. AL	Troy	Yes		WRBG	No	
10. AL	Vestavia Hills	Yes		WRBG	No	
11. CA	Arcata	Yes		WRB	No	
12. CA	Campbell	Yes		RBG	No	
13. CA	Carlsbad	Yes		RBG	No	

State	Name	Use of E-cigarettes Prohibited	If Partial, Prohibited In:	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
14. CA	Contra Costa County	Yes		WRBG	No	
15. CA	Eureka	Yes		WRBG	No	
16. CA	Fairfax	Yes		WRBG	No	
17. CA	Marin County	Partial	Use of e-cigarettes prohibited everywhere that smoking is prohibited, except in individual apartment units in multi-unit residences.	WRB	Partial	Individual apartment units in multi-unit residences.
18. CA	Mill Valley	Yes		WRB	No	
19. CA	Morgan Hill	Yes		WRB	No	
20. CA	Mountain View	Yes		WRB	No	
21. CA	Petaluma	Yes		W	No	
22. CA	Santa Clara County	Yes		WRB	No	
23. CA	Sebastopol	Yes		WRBG	No	
24. CA	Tiburon	Yes		WRB	No	
25. CA	Union City	Yes		WRB	No	
26. CA	Walnut Creek	Yes		RBG	No	
27. FL	Clay County	Yes		WR	No	
28. GA	Chatham County	Yes		WRBG	No	
29. GA	DeKalb County	Yes		W	No	
30. GA	Savannah	Yes		WRBG	No	
31. ID	Ketchum	Yes		WRBG	No	
32. IN	Indianapolis/Marion County* (except the cities of Beech Grove, Lawrence, Southport, and Speedway) Pops Excluded	Yes		WRB	No	
33. KY	Bardstown	Yes		WRBG	No	
34. KY	Glasgow	Yes		RBG	No	

State	Name	Use of E-cigarettes Prohibited	If Partial, Prohibited In:	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
35. KY	Kenton County <sup>+</sup>	Yes		W	No	
36. KY	Madison County <sup>+</sup>	Yes		WRBG	No	
37. KY	Manchester	Yes		WRBG	No	
38. LA	Monroe	Yes		WRBG	No	
39. LA	Ouachita Parish	Yes		WRBG	No	
40. LA	West Monroe	Yes		WRBG	No	
41. MA	Acton	Yes		WRBG	No	
42. MA	Amherst	Yes		WRBG	No	
43. MA	Arlington	Yes		WRBG	No	
44. MA	Athol	Yes		WRBG	No	
45. MA	Auburn	Yes		WRBG	No	
46. MA	Barre	Yes		WRBG	No	
47. MA	Boston	Yes		WRB	No	
48. MA	Bourne	Yes		WRB	No	
49. MA	Buckland	Yes		WRBG	No	
50. MA	Burlington	Yes		WRBG	No	
51. MA	Deerfield	Yes		WRBG	No	
52. MA	Dighton	Yes		WRBG	No	
53. MA	Foxborough	Yes		WRBG	No	
54. MA	Gardner	Yes		WRBG	No	
55. MA	Gill	Yes		WRBG	No	
56. MA	Grafton	Yes		WRBG	No	
57. MA	Great Barrington	Yes		WRBG	No	
58. MA	Hatfield	Partial	Use of e-cigarettes prohibited everywhere that smoking is prohibited, except for smoking bars and hotels/motels.	WRBG	Partial	Smoking bars and hotels/motels.
59. MA	Haverhill	Yes		WRBG	No	
60. MA	Lee	Yes		WRBG	No	
61. MA	Lenox	Yes		WRBG	No	
62. MA	Marblehead	Yes		WRBG	No	
63. MA	Montague	Yes		WRBG	No	
64. MA	Needham	Yes		WRB	No	

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65. MA	New Bedford	Yes		WRB	No	
66. MA	North Attleborough	Yes		WRBG	No	
67. MA	Northampton	Yes		WRB	No	
68. MA	Orleans	Yes		WRBG	No	
69. MA	Oxford	Yes		WRBG	No	
70. MA	Pittsfield	Yes		WRBG	No	
71. MA	Salem	Yes		WRBG	No	
72. MA	Saugus	Yes		WRBG	No	
73. MA	Sharon	Yes		WRBG	No	
74. MA	Shelburne	Yes		WRB	No	
75. MA	South Hadley	Yes		WRBG	No	
76. MA	Stockbridge	Yes		WRBG	No	
77. MA	Taunton	Yes		WRBG	No	
78. MA	Townsend	Yes		WRBG	No	
79. MA	Wendell	Yes		WRBG	No	
80. MA	Westminster	Yes		WRBG	No	
81. MA	Westport	Yes		WRBG	No	
82. MA	Westwood	Yes		WRBG	No	
83. MA	Whately	Yes		WRBG	No	
84. MA	Winchester	Yes		WRBG	No	
85. MN	Duluth	Yes		WRBG	No	
86. MN	Ely	Yes		WRBG	No	
87. MN	Hermantown	Yes		WRB	No	
88. MO	Creve Coeur	Yes		WRB	No	
89. MO	Jefferson City	Yes		WRBG	No	
90. MO	Washington	Yes		WRBG	No	
91. MS	Anguilla	Yes		WRBG	No	
92. MS	Arcola	Yes		WRBG	No	
93. MS	Baldwyn	Yes		WRBG	No	
94. MS	Bassfield	Yes		WRBG	No	
95. MS	Bruce	Yes		WRBG	No	
96. MS	Byram	Yes		WRBG	No	
97. MS	Calhoun City	Yes		WRBG	No	
98. MS	Centreville	Yes		WRBG	No	

State	Name	Use of E-cigarettes Prohibited	If Partial, Prohibited In:	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
99. MS	Coahoma County	Yes		WRB	No	
100. MS	Duncan	Yes		WRBG	No	
101. MS	Durant	Yes		WRBG	No	
102. MS	Ethel	Yes		WRBG	No	
103. MS	Farmington	Yes		WRBG	No	
104. MS	Flowood	Yes		WRG	No	
105. MS	Forest	Yes		WRBG	No	
106. MS	Friars Point	Yes		WRBG	No	
107. MS	Georgetown	Yes		WRBG	No	
108. MS	Magee	Yes		WRBG	No	
109. MS	Monticello	Yes		RBG	No	
110. MS	Moorhead	Yes		WRBG	No	
111. MS	New Augusta	Yes		WRBG	No	
112. MS	Plantersville	Yes		WRBG	No	
113. MS	Prentiss	Yes		WRBG	No	
114. MS	Rolling Fork	Yes		WRBG	No	
115. MS	Sumner	Yes		WRBG	No	
116. MS	Walnut	Yes		WRBG	No	
117. MS	Wesson	Yes		WRBG	No	
118. MS	Woodville	Yes		WRBG	No	
119. ND	Bismarck	Yes		WRB	No	
120. ND	Walhalla	Yes		WRBG	No	
121. NY	Cattaraugus County	Yes		RBG	No	
122. NY	Suffolk County <sup>+</sup>	Yes		WRB	No	
123. SC	Estill	Yes		WRBG	No	
124. SC	Yemassee	Yes		WRB	No	
125. TX	Lufkin	Yes		WRBG	No	
126. TX	San Angelo	Yes		WRB	No	
127. TX	San Marcos	Yes		WRB	No	
128. WA	King County <sup>+</sup>	Yes		WRBG	No	
129. WV	Calhoun County <sup>+</sup>	Yes		WRBG	No	
130. WV	Greenbrier County <sup>+</sup>	Yes		WRBG	No	
131. WV	Lewis County <sup>+</sup>	Yes		WRBG	No	

State	Name	Use of E-cigarettes Prohibited	If Partial, Prohibited In:	100% Smokefree Venues in Which Use of E-cigarettes Prohibited	Use of E-cigarettes Specifically Permitted	If Partial, Permitted In:
132. WV	Marshall County <sup>+</sup>	Yes		W	No	
133. WV	Pleasants County <sup>+</sup>	Yes		WRBG	No	
134. WV	Randolph County <sup>+</sup>	Yes		WRBG	No	
135. WV	Ritchie County <sup>+</sup>	Yes		WRBG	No	
136. WV	Roane County <sup>+</sup>	Yes		WRBG	No	
137. WV	Taylor County	Yes		WRBG	No	
138. WV	Wirt County <sup>+</sup>	Yes		WRBG	No	
139. WV	Wood County <sup>+</sup>	Yes		WRBG	No	

<sup>+</sup>Law pertains to both incorporated and unincorporated areas of county.

**Laws Currently in Effect**

**State Laws Restricting E-cigarette Use in 100% Smokefree Venues: 3**

**State Laws Restricting E-cigarette Use in Other Venues: 10**

**Local Laws Restricting E-cigarette Use in 100% Smokefree Venues: 139**

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## **Electronic (e-) Cigarettes and Secondhand Aerosol**

*"If you are around somebody who is using e-cigarettes, you are breathing an aerosol of exhaled nicotine, ultra-fine particles, volatile organic compounds, and other toxins,"* Dr. Stanton Glantz, Director for the Center for Tobacco Control Research and Education at the University of California, San Francisco.

### **Current Legislative Landscape**

- As of January 2, 2014, **108 municipalities and three states include e-cigarettes** as products that are prohibited from use in smokefree environments.

### **Constituents of Secondhand Aerosol**

E-cigarettes do not just emit "harmless water vapor." **Secondhand e-cigarette aerosol (incorrectly called vapor by the industry) contains nicotine, ultrafine particles and low levels of toxins** that are known to cause cancer.

- E-cigarette aerosol is made up of a high concentration of ultrafine particles, and the particle concentration is higher than in conventional tobacco cigarette smoke.<sup>1</sup>
- Exposure to fine and ultrafine particles may exacerbate respiratory ailments like asthma, and constrict arteries which could trigger a heart attack.<sup>2</sup>
- At least 10 chemicals identified in e-cigarette aerosol are on California's Proposition 65 list of carcinogens and reproductive toxins, also known as the Safe Drinking Water and Toxic Enforcement Act of 1986. The compounds that have already been identified in mainstream (MS) or secondhand (SS) e-cigarette aerosol include: **Acetaldehyde (MS), Benzene (SS), Cadmium (MS), Formaldehyde (MS,SS), Isoprene (SS), Lead (MS), Nickel (MS), Nicotine (MS, SS), N-Nitrosornicotine (MS, SS), Toluene (MS, SS)**.<sup>3,4</sup>
- **E-cigarettes contain and emit propylene glycol**, a chemical that is used as a base in e-cigarette solution and is one of the primary components in the aerosol emitted by e-cigarettes.
  - Short term exposure causes eye, throat, and airway irritation.<sup>5</sup>
  - Long term inhalation exposure can result in children developing asthma.<sup>6</sup>
- Even though propylene glycol is FDA approved for use in some products, the inhalation of vaporized nicotine in propylene glycol is not. Some studies show that heating propylene glycol changes its chemical composition, producing small amounts of propylene oxide, a known carcinogen.<sup>7</sup>
- There are **metals in e-cigarette aerosol, including chromium, nickel, and tin nanoparticles**.<sup>8</sup>
- FDA scientists found detectable levels of carcinogenic tobacco-specific nitrosamines in e-cigarette aerosol.<sup>9</sup>

- People exposed to e-cigarette aerosol absorb nicotine (measured as cotinine), with one study showing levels comparable to passive smokers.<sup>10</sup>
- **Diethylene Glycol**, a poisonous organic compound, was also detected in e-cigarette aerosol.<sup>11</sup>
- **Exhaled e-cigarette aerosol contained propylene glycol, glycerol, flavorings, and nicotine, along with acetone, formaldehyde, acetaldehyde, propanal, diacetyl, and triacetyl.**<sup>12</sup>
- Many of the elements identified in the aerosol are known to **cause respiratory distress and disease**. The aerosol contained particles >1 µm comprised of tin, silver, iron, nickel, aluminum, and silicate and nanoparticles (<100 nm) of tin, chromium and nickel. The concentrations of nine of eleven elements in e-cigarette aerosol were higher than or equal to the corresponding concentrations in conventional cigarette smoke.<sup>13</sup>
- E-cigarettes cause exposure to different chemicals than found in conventional cigarettes and there is a need for risk evaluation for both primary and passive exposure to the aerosol in smokers and nonsmokers.<sup>14</sup>
- Short term use of e-cigarettes has been shown to increase respiratory resistance and impair lung function, which may result in difficulty breathing.<sup>15</sup>
- Overall, e-cigarettes are a new source of **Volatile Organic Compounds (VOCs) and ultrafine/fine particles in the indoor environment**, thus resulting in "passive vaping."<sup>16</sup>

E-cigarette aerosol is a new source of pollution and toxins being emitted into the environment. We do not know the long-term health effects of e-cigarette use and although the industry marketing of the product implies that these products are harmless, the aerosol that e-cigarettes emit is not purely water vapor.

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