

CITY OF WATAUGA, TEXAS
ORDINANCE NO. 2023-009

AN ORDINANCE OF THE CITY OF WATAUGA, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF WATAUGA, TEXAS, BY AMENDING CHAPTER 115 (“ZONING”) TO AMEND SECTION 115-6 (“PERMITTED PRINCIPAL, ACCESSORY AND SPECIFIC USE PERMIT USES”) AND SECTION 115.85 (“PERMITTED USE TABLE”) TO INCLUDE A DEFINITION OF SMOKE SHOP AND SMOKE ROOM OR LOUNGE, TO AUTHORIZE SMOKE/VAPE/HOOKAH SHOPS AS A PERMISSIBLE USE IN DESIGNATED ZONING DISTRICTS, AND TO REQUIRE SPECIAL USE PERMITS IN DESIGNATED ZONING DISTRICTS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND DOLLARS (\$2,000.00); AND, PROVIDING AN EFFECTIVE DATE.

WHEREAS, the dangers posed by tobacco are not limited to cigarettes, pipes or other traditional forms of smoking, and new, unregulated high-tech smoking devices, commonly referred to as “electronic cigarettes” or “e-cigarettes” have recently become more available to consumers; and

WHEREAS, nicotine is a known neurotoxin that is also one of the most highly addictive substances available for public consumption; and

WHEREAS, e-cigarettes are entirely unregulated, there being no regulation by the federal government and no Texas statutes or regulations that in any way limit the production, distribution or use of e-cigarettes other than an often unenforceable ban on sales to minors; and

WHEREAS, the City has experienced a disproportionate proliferation of retail establishments that offer for sale e-cigarettes and nicotine delivery devices; and

WHEREAS, a significant danger to public health is posed by retail facilities, commonly referred to as vapor shops, where the primary business operation is the sale of electronic cigarettes and paraphernalia, and the city council, therefore, finds and determines that a need exists to discourage sales and distributions to persons under the age of twenty-one, and that locational requirements for sellers of e-cigarettes serves an important public interest in furtherance of the health, safety, and general welfare of the citizens of the City; and

WHEREAS, such amendments have been presented to the Planning and Zoning Commission of the City of Watauga as Planning and Zoning Case ORD.23-02 and the governing body of the City of Watauga, in compliance with the laws of the State of Texas and the ordinances of the City of Watauga, have given the requisite notices by publication and otherwise, and have held public hearings and afforded a full and fair hearing and where the governing body in the exercise of its legislative discretion has concluded that the Zoning Ordinance of the City of Watauga should be amended.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Watauga, Texas that:

I.

The above and foregoing premises are true and correct and are incorporated into the body of this Ordinance and made a part hereof for all purposes.

II.

Section 115-6 (“Permitted principal, accessory and specific use permit uses”) of Article I (“In General”) of Chapter 115 (“Zoning Chapter of the City of Watauga, Texas”) of the Code of Ordinances, Watauga, Texas, be and is hereby amended to add the definition of “Smoke Shop” and Smoke Room or Lounge following the definition of “Shoe repair” and preceding the definition of “Specialty and novelty establishment,” to read in its entirety as follows:

CHAPTER 115 - ZONING

...

ARTICLE I – IN GENERAL

...

Sec. 115-6. – Permitted principal, accessory and specific use permit uses.

Smoke Shop. A retail outlet specializing in the selling of electronic or non-electronic cigarette products, also known as a vape shop, which allows for on-site delivery of tobacco, tobacco accessories, electronic vaping devices and similar products to the customer.

Smoke room or lounge. A room which is specifically provided and furnished for onsite smoking, either electronic or non-electronic cigarette products. This definition shall include establishments known as hookah bars/lounges, tobacco bars, and similar establishments.

III.

The Permitted Use Table following subsection (b) of Section 115-85 of Article IV (“Table of Uses”) of Chapter 115 (“Zoning Chapter of the City of Watauga, Texas”) of the Code of Ordinances, Watauga, Texas, be and is hereby amended to add “Smoke/Vape/Hookah Shops or

Lounge” in the column entitled Land Use, following the row entitled “Shoe repair” and preceding the row entitled “Specialty and novelty establishment,” to identify Smoke/Vape/Hookah Shops or Lounge as a land use classification in the following districts and under the following conditions:

Land Use	SFA	SF6	D	MF	MH	LB	GB	C	I	CF	GU	Special Conditions
...												
Smoke/Vape/Hookah Shops or Lounge							S	S				2, 5, 7, 42
...												

- (2) A site plan in accordance with section 115-115, Site plan requirements, will only be required in districts which require a specific use permit.
- (5) All outdoor lighting, including parking lot lighting, shall be directional away from any property zoned or developed for residential uses.
- 7) Must provide screening and/or landscaping consisting of fences/walls, beams [berms], or a combination of such from any abutting residentially zoned property
- (42) May not be located within 2000 feet of a public school, or existing Smoke/Vape/Hookah Shop or Lounge. Distance shall be measured from property line to property line.

IV.

All provisions of the ordinances of the City of Watauga in conflict with the provisions of this ordinance be and the same are hereby repealed and all other provisions of the ordinances of the City of Watauga not in conflict with the provisions of this ordinance shall remain in full force and effect.

V.

Should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Comprehensive Zoning Ordinance or Code of Ordinances as a whole.

VI.

That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Code of Ordinances of the City of Watauga, as heretofore amended, and upon conviction shall be punished by a fine not to exceed the sum of Two Thousand (\$2,000.00) Dollars for each offense; and each and every day such violation shall continue shall be deemed to constitute a separate offense.

VII.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

PASSED AND ADOPTED by the City Council of the City of Watauga, Texas this the 8th day of May 2023.

APPROVED:

ARTHUR L. MINER, MAYOR

ATTEST:

LINDA PROSKEY, CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

DAVID M. BERMAN, CITY ATTORNEY
NICHOLS JACKSON LLP