

**PLANNING COMMISSION  
RESOLUTION NO. 2025-33**

**A RESOLUTION RECOMMENDING TO THE CITY COUNCIL AN AMENDMENT  
TITLE 10 OF THE MODESTO MUNICIPAL CODE TO ADD CHAPTER 3, ARTICLE 8,  
“SMOKE SHOPS,” AMENDING TITLE 4 TO ADD CHAPTER 24, “SMOKE SHOPS,”  
ESTABLISHING REGULATIONS AND REQUIREMENTS FOR SMOKE SHOPS,  
INCLUDING LICENSING AND ENFORCEMENT, WITHIN THE CITY**

WHEREAS, the City of Modesto (“City”) is a municipal corporation duly organized as a Charter City under the constitution and laws of the State of California; and

WHEREAS, the City Council has broad discretion pursuant to Article II, Sections 200 and 201 of the City Charter; California Constitution Article XI, Section 5 and Section 7; and the general law of the state, including, but not limited to, the California Planning and Zoning Law (Gov. Code section 65000 et seq.), to legislate for public purposes and for the general welfare, including, but not limited to, matters of public health and safety; and

WHEREAS, the City protects the public health, safety, and welfare of the community through numerous avenues, including by establishing and enforcing zoning, licensing, and health and safety regulations on specified commercial activities; and

WHEREAS, over the last few years, the City has seen a proliferation of smoke shops within the City that continue to engage in illegal sales and activity; and

WHEREAS, the City is concerned about this proliferation of smoke shop businesses, locations of smoke shops, illegal sales and activity at smoke shops, and the harmful effects of tobacco on the health, safety, and welfare of City residents, especially youth; and

WHEREAS, the City has no specific regulations for smoke shops aimed at protecting minors, such as distance requirements from schools and/or youth-oriented areas; and

WHEREAS, smoke shops can be a target for theft and vandalism, as well as may be affiliated with the sale of illegal products and drug paraphernalia. Smoke shops have also been seen to encourage illegal activity; and

WHEREAS, within the last year, the Modesto Police Department conducted inspections at various tobacco retailers throughout the City, resulting in the seizure of marijuana/cannabis-infused items, illicit drugs, flavored tobacco products, illegal drug paraphernalia, and illegal gambling machines. These inspections also resulted in the arrest of several individuals involved in these illegal activities; and

WHEREAS on October 8, 2024, the City Council of the City of Modesto adopted Urgency Ordinance No.3785-C.S., imposing a forty-five (45) day moratorium on the establishment of new and the relocation or physical expansion of existing tobacco retailer businesses; and

WHEREAS, on November 12, 2024, the City subsequently extended the moratorium by 10 months and 15 days; and

WHEREAS, the City has further studied and analyzed the effects of smoke shop businesses; and

WHEREAS, the Modesto Police Department conducted inspections after the adoption of the October 8, 2024 moratorium and November 12, 2024 moratorium extension and continued to find illegal activities and items for sale; and

WHEREAS, smoke shop inspections have resulted in a variety of violations, including offering for sale flavored tobacco products and hemp/CBD products such as gummies and drinks, in violation of State law, and operating illegal gambling machines; and

WHEREAS, the City, through its police power, is authorized to regulate local zoning to promote public health, safety, and welfare; and

WHEREAS, the City, through its police power, is authorized to require the licensing of a specific class of business in order to promote public health, safety, and welfare; and

WHEREAS, staff recommends requiring a permit to sell tobacco products and smoke paraphernalia in the City, due to the potential to create significant negative effects on the community and surrounding properties; and

WHEREAS, staff additionally recommends amending the Zoning Code to prohibit the establishment of smoke shops within certain sensitive areas and locations; and

WHEREAS, a public hearing was held by the Planning Commission on June 2, 2025 the Chambers, 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered; and

WHEREAS, the Planning Commission desires to recommend that the City Council adopt the proposed amendments to the Municipal Code in order to regulate Smoke Shops.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission that it hereby finds and determines as follows:

1. The requested change will not be detrimental to the public health, safety, or welfare because it establishes reasonable regulations to address illegal activity currently occurring at smoke shops within the City and reduce the negative impacts caused by smoke shops.
2. The requested change will result in an orderly planned use of land because it limits new smoke shops to certain zoning districts which such uses are appropriate and compatible with other allowed uses, mandates separation between new smoke shops, and requires separation from other sensitive uses.
3. The requested change is in accordance with the community's objectives as set forth in the General Plan and any applicable specific plan(s) because the amend is consistent with, and furthers, the goals and policies of the General Plan.
4. The proposed Code text amendments are exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), which states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The City currently does not regulate the number, location or operating standards of smoke shops, and the proposed Ordinance would place limits on the number, location, and operating standards of smoke shops, which will limit their environmental impact in comparison to the status quo. Accordingly, it can be seen with certainty that there is no possibility that the proposed action may result in a significant effect on the environment, and the proposed revisions to the Municipal Code are exempt from further review under CEQA.

BE IT FURTHER RESOLVED by the Planning Commission that it recommends to the City Council that the proposed amendments to the Municipal Code, attached hereto as Exhibit A and incorporated herein, be approved.

The foregoing resolution was introduced at the regular meeting of the Planning Commission held on the 2<sup>nd</sup> , day of June, 2025, by Arroyo, who moved its adoption, which motion being duly seconded by Goriel was upon roll call carried and the resolution adopted by the following vote:

Ayes: Commissioners: Arroyo, Goriel, Huasemann, Russell, Shanks

Noes: Commissioners: None

Absent: Commissioners: Black, Grewal

Recused: Commissioners: None

BY ORDER OF THE PLANNING COMMISSION OF THE CITY OF  
MODESTO.

Signed copy on file in CEDD

Jessica Hill, Secretary