

**ORDINANCE NO. 2016-\_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF MEADOWS PLACE, TEXAS, PROVIDING RULES AND REGULATIONS GOVERNING THE LOCATION AND USE OF HOOKAH BARS, HOOKAH LOUNGES, AND RETAIL ELECTRONIC SMOKING DEVICE STORES WITHIN THE TERRITORIAL LIMITS OF THE CITY OF MEADOWS PLACE, TEXAS; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City of Meadows Place, Texas ("City"), is authorized by Chapter 211 of the Texas Local Government to promulgate rules and regulations governing regulation of land use, structures, businesses and related activities; and

**WHEREAS**, the City Council of the City of Meadows Place, Texas ("City Council"), finds that the rules and regulations governing land use, structures, businesses, and related activities within the territorial limits of the City and the City's extraterritorial jurisdiction promotes the health, safety, morals, and general welfare of the City; and

**WHEREAS**, the City Council further finds that the rules and regulations governing land use, structures, businesses, and related activities within the territorial limits of the City and the City's extraterritorial jurisdiction promotes the safe, orderly, and healthful development of the City; and

**WHEREAS**, the City Council further finds that the location of hookah bars, hookah lounges, and retail Electronic Smoking Device stores should be regulated to promote the health, safety, morals, and general welfare of the City; and

**WHEREAS**, the City Council further finds that the regulation of hookah bars, hookah lounges, and retail Electronic Smoking Device stores is consistent with the City's comprehensive plan; and

**WHEREAS**, the City Council held a public hearing prior to the adoption of this Ordinance, in which any person desiring to comment on this Ordinance was allowed to speak and the City Council considered all comments;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MEADOWS PLACE, TEXAS:**

**Section 1.** The facts and recitations contained in the preamble to this Ordinance are hereby found to be true and correct and incorporated herein for all purposes.

**Section 2.** The City of Meadows Place Code of Ordinances, Chapter 153 – Zoning, Section 153.016 – Definitions, is hereby amended by adding the following definitions in the appropriate places to maintain the definitions in alphabetical order:

**ELECTRONIC SMOKING DEVICE.** An electronic, mechanical heating element or battery operated device that delivers nicotine or other substances for inhalation. This term shall include every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah or any other product name or descriptor. The term does not include a prescription medical device unrelated to the cessation of smoking.

**HOOKAH BAR.** An establishment that has a permit or license to sell alcoholic beverages pursuant to the Texas Alcoholic Beverage Code and (a) generates more than fifty (50) percent of its quarterly gross revenue from the sale of alcoholic beverages for consumption on the premises by customers; (b) generates 30 percent or more of its quarterly gross revenue from the sale of Shisha for consumption on the premises by customers and the sale of accessories used for smoking Shisha (not any other tobacco products); and (c) does not allow individuals under the age of 21 to enter the premises.

**HOOKAH LOUNGE.** An establishment that derives more than fifty (50) percent of its quarterly gross revenue from the sale of Shisha for consumption on the premises by customers and the sale of accessories used for smoking Shisha. A Hookah Lounge does not allow individuals under the age of 18 to enter the premises, and does not have a permit or license to sell alcoholic beverages, but may serve food and nonalcoholic beverages for consumption on the premises by customers.

**RETAIL ELECTRONIC SMOKING DEVICE STORE.** Any commercial establishment that derives more than fifty (50) percent of its annual gross receipts from the sale of Electronic Smoking Devices and accessories.

**SHISHA.** Flavored tobacco smoked in a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store, usually mixed with molasses or honey and often fruit pulp or dried fruits.

**Section 3.** The City of Meadows Place Code of Ordinances, Chapter 153 - Zoning, is amended by adding a new Section 153.082 – Hookah Bars, Hookah Lounges, and Retail Electronic Smoking Device Stores, to read as follows:

(A) *Location of Hookah Bars, Hookah Lounges, and Retail Electronic Smoking Device Stores.* All structures housing a Hookah Bar, Hookah Lounge, and Retail Electronic Smoking Device Store (as defined in 153.016 of this Code of Ordinances) shall be located as follows:

- (1) At least one thousand feet (1,000') from the property boundary line of any residentially zoned lot or any lot used for church, park, or hospital purposes;
- (2) At least one thousand feet (1,000') of another structure housing a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store; and

- (3) At least two thousand five hundred feet (2,500') from any lot used for school purposes.

Measurements are to be in a straight line in all directions from the structure housing the Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store to the nearest property line on any lot in any residentially zoned district, any lot used for church, school, or hospital purposes, any park, or any structure housing a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store.

The measurements for a structure shall be taken from the furthest point that a structure extends in any direction, including overhanging roofs and all other projections or portions of said structure.

Should a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store be located in conjunction with other buildings in a manner where the Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store is clearly separated from other portions of the structure (for example, in a shopping center), the Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store's measurements shall be taken from the boundaries of the space in which the store is housed or confined (not the entire shopping center, motel, or structure).

Should a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store be located in conjunction with other buildings in a manner where the store is situated above the ground level of a multi-story structure and is clearly separate from other activities within the structure (for example, on an upper level of an office tower or hotel), the Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store's measurements shall be taken from the entry to that portion of the structure housing the store, thence to the nearest point of egress (elevator or stairs), thence to the nearest ground floor exit, thence in a straight line to the nearest point on any lot in a residential district, or any lot or tract used for church, school, hospital or park purposes, and any structure housing a Hookah Bar.

- (B) *Site Plan*. Each applicant for a Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store's must submit a Site Plan setting out the dimensions and locations for such store. The applicant shall sign a certified and notarized statement attached to the Site Plan that the proposed Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store complies with the requirements set forth herein above. It shall be the duty of the applicant to prepare the Site Plan and to assure compliance with the distance requirements.

- (C) *Amortization.* A Hookah Bar, Hookah Lounge, or Retail Electronic Smoking Device Store in operation prior to the effective date of this ordinance which does not conform to the regulations pertaining to Hookah Bars, Hookah Lounges, or Retail Electronic Smoking Device Stores shall be considered to be a non-conforming use that may continue for four (4) months from the effective date of this ordinance.

**Section 4.** The City of Meadows Place Code of Ordinances, Chapter 153 – Zoning, Section 153.094(B)(2) – C-1 Light Commercial District, is hereby deleted in its entirety and replaced with the following:

- (2) *Specific uses.*
  - (a) Recreational and entertainment uses:
    - 1. Amusement, commercial indoor;
    - 2. Art gallery or museum;
    - 3. Athletic, swimming or tennis club and/or facilities;
    - 4. Private club; and
    - 5. Theater, indoor.
  - (b) Educational, institutional and special uses:
    - 1. Hospital, acute care;
    - 2. Kindergarten, nursery and/or day care center; and
    - 3. School, business or trade.
  - (c) Facilities for drive-in banking.
  - (d) Transportation, automobile and related uses:
    - 1. Auto or motorcycle sales;
    - 2. Auto parts sales; and
    - 3. Automobile service stations.
  - (e) Smoking paraphernalia establishments.
  - (f) Restaurants with drive-thru service.
  - (g) Hookah Bars, Hookah Lounges, and Retail Electronic Smoking Device Stores.

**Section 5.** The City of Meadows Place Code of Ordinances, Chapter 153 – Zoning, Section 153.095(B)(2) – C-2 Commercial District, is hereby deleted in its entirety and replaced with the following:

- (2) *Specific uses.*
  - (a) Educational, institutional and special uses:
    - 1. Hospital, acute care;
    - 2. Kindergarten, nursery and/or day care center;
    - 3. School, business or trade; and
    - 4. Churches.
  - (b) Facilities for drive-in banking.
  - (c) Transportation, automobile and related uses:

1. Auto or motorcycle sales;
  2. Auto parts sales;
  3. Automobile service stations; and
  4. Automobile services.
- (d) Restaurants with drive-thru service;
- (e) Electronic assemblers;
- (f) Wholesale sales;
- (g) Distribution;
- (h) Smoking paraphernalia establishments; and
- (i) Hookah Bars, Hookah Lounges, and Retail Electronic Smoking Device Stores.

**Section 6.** The City of Meadows Place Code of Ordinances, Chapter 153 – Zoning, Section 153.096(B)(2) – C-3 Special Commercial District, is hereby deleted in its entirety and replaced with the following:

- (2) *Specific uses.*
- (a) Educational, institutional and special uses:
1. Hospital, acute care; and
  2. School, business or trade.
- (b) Transportation, automobile and related uses:
1. Auto or motorcycle sales; and
  2. Auto parts sales;
- (c) Restaurants in conjunction with automobile service station uses;
- (d) Smoking paraphernalia establishments; and
- (e) Hookah Bars, Hookah Lounges, and Retail Electronic Smoking Device Stores.

**Section 7.** *Penalty.*

Any person who violates or causes, allows, or permits another to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any such violation of this Ordinance shall constitute a separate offense. Each day on which any such violation of this Ordinance occurs shall constitute a separate offense.

**Section 8.** *Severability.*

In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Meadows Place, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any

part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

**Section 7.**     *Effective Date.*

Effective when published as required by state law.

**PASSED, APPROVED, and ADOPTED** this, the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Charles D. Jessup IV, Mayor

**ATTEST:**

\_\_\_\_\_  
Courtney Rutherford, City Secretary

SAMPLE