

ORDINANCE 568

AN ORDINANCE PROVIDING AN AMENDMENT TO THE LOS FRESNOS CODE OF ORDINANCE CHAPTER 10-BUSINESSES, TO CREATE ARTICLE IX, DEFINING AND REGULATING THE SALE OF E-CIGARETTES, HEMP PRODUCTS AND LOCATIONS OF SMOKE LOUNGES, SMOKE/VAPE SHOPS, CBD/HEMP/CANNABIS SHOPS, PROVIDING REPEALER, SEVERABILITY, AND EFFECTIVE DATE.

This ordinance was introduced and submitted to the City Council for passage and adoption after the second reading of the Ordinance. After presentation and discussion of the Ordinance, a motion was made by _____ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by _____ and carried by the following voted:

Mayor Alejandro Flores	___	For	___	Against	___	Abstained
Councilmember Albert Escobedo	___	For	___	Against	___	Abstained
Councilmember Juan Munoz	___	For	___	Against	___	Abstained
Mayor Pro-Tem Gabriela Fernandez	___	For	___	Against	___	Abstained
Councilmember Luis Gonzalez	___	For	___	Against	___	Abstained
Councilmember Terry Vinson	___	For	___	Against	___	Abstained

WHEREAS, the City of Los Fresnos desires to implement regulations for the sale of E-cigarettes, Hemp products and locations of Smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops, defined herein, for the health, safety and general welfare of the City; and

WHEREAS, the City of Los Fresnos finds that adopting this ordinance promotes the health safety and wellbeing of Los Fresnos and is in the best interest of the citizens of Los Fresnos.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOS FRESNOS, TEXAS:

SECTION 1: Amendment of Chapter 10. Chapter 10 of the Los Fresnos Code of Ordinances is hereby amended to add the following Article IX Smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops:

Sec. 10-250 PURPOSE

It is the purpose of this article to regulate the sale of E-Cigarettes and location of smoke lounges, Smoke/Vape shops and tobacco stores businesses to promote the health, safety and general welfare of the city residents; to protect and preserve the quality, property values, and character of the city; to prevent the concentration of smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops and tobacco stores businesses within the city; and to minimize the potential negative impacts of smoke lounges, Smoke/Vape shops and tobacco stores businesses on residential areas, churches, schools, public areas or similar locations in which children may regularly gather.

Sec. 10-251 DEFINITIONS:

1. Cigarette means a roll for smoking: that is made of tobacco or tobacco mixed with another ingredient and wrapped or covered with a material other than tobacco; and that is not a cigar.

2. *E-cigarette* an electronic cigarette or any other device that simulates smoking by using a mechanical heating element, battery, or electronic circuit to deliver nicotine or other substances to the individual inhaling from the device; or A consumable liquid solution or other material aerosolized or vaporized during the use of an electronic cigarette or other device described by this subdivision.
 - a. The term “e-cigarette” does not include a prescription medical device unrelated to the cessation of smoking.
 - b. The term “e-cigarette” includes: A device described by this subdivision regardless of whether the device is manufactured, distributed, or sold as an e-cigarette, e-cigar, or e-pipe or under another product name or description; and A component, part, or accessory for the device, regardless of whether the component, part, or accessory is sold separately from the device.
3. Hemp means the plant *Cannabis sativa* L. and any part of that plant, including the seeds of the plant and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis.
4. CBD/HEMP/Cannabis Store means a store that sells products containing cannabidiol otherwise known as CBD, containing a tetrahydrocannabinol (THC) concentration of less than 0.3%; any product processed or manufactured for human consumption containing hemp; and/or any product containing cannabis.
5. Church means a facility that is owned by a religious organization and that is used primarily for religious services.
6. School means a private or public elementary or secondary school.
7. Family day care home child care setting provided in a private residence, typically by one caregiver, offering care for a small group of children, often six or fewer.
8. Child care facility as any place that provides care and supervision for children, often in a group setting, for periods less than 24 hours a day.
9. Youth center A youth center is a facility designed for young people (typically ages 6-17) to gather for various activities and programs, offering a safe and supervised environment for recreation, socialization, and skill development.
10. Public library means a non-profit institution that provides free access to books, materials, and services to the general public, often supported by local taxes
11. Recreational facility is a place or space dedicated to recreation, designed for activities like sports, games, or leisure. It can be an indoor or outdoor area, building, or site, administered by a public or private entity to serve the recreational needs of the community.
12. Smoke lounge a dedicated space, whether a room, building, or designated area, where smoking is permitted, often within a larger establishment or building where smoking might otherwise be restricted
13. Smoke/Vape shops A retail establishment engaged in the sale of smoking and vaping products and/or paraphernalia for the consumption of smoking related products.

Sec. 10-252 DISTANCE REGULATIONS:

Smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops and tobacco stores shall not be located within one thousand (1,000) feet, measured from closest point property line to property line, from school (public or private), family day care home, child care facility, youth center, community center, dance studio, public library, recreational facility, park, church or religious institution, hospital, medical clinics, or similar locations in which children may regularly gather.

Sec. 10-253 ADVERTISEMENT & SIGNAGE REGULATIONS

All Smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops and tobacco stores establishments must comply with most current advertng and signage regulations as set forth by applicable local, state and federal laws. Any changes to state and federal advertng and signage requirements must be adhered to immediately upon their effective date and continued operation shall be contingent upon ongoing compliance.

Sec. 10-254 PERMITS

All Smoke lounges, Smoke/Vape shops, CBD/HEMP/Cannabis shops and tobacco stores establishments must apply for a Certificate of Occupancy with the City of Los Fresnos Building Department. Proof they have complied with the most current state and federal laws and have been permitted by the following but not limited to:

- a) E-Cigarette Sales any person or business engaged in the retail sale of E-cigarettes must obtain the appropriate permit from the Texas Comptroller of Public Accounts.
- b) Hemp and CBD Product Sales any person or business engaged in the sale of consumable hemp products, including those containing cannabidiol (CBD), must obtain the appropriate license or registration from Texas Department of Agriculture (TDA).

Compliance with regulations of this Article shall be a condition of approval at the time an application for a Certificate of Occupancy is submitted.

SECTION 2. REPEALER All ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

SECTION 3. SEVERABILITY. In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction. It shall not effect, 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 Los Fresnos, Texas, declares that it would have passed.

SECTION 4. EFFECTIVE DATE. This Ordinance shall take effect after the final reading and when caption of Ordinance has been published in the official newspaper of the City.

INTRODUCED AND APPROVED on the first reading this ____ day of _____, 2025.

APPROVED AND PASSED on the second reading this ____ day of _____, 2025.

Mayor, Alejandro Flores

ATTEST:

City Secretary, Jacqueline Moya