

PLANNING COMMISSION STAFF REPORT

TO: Planning Commission
FROM: Jennifer Villasenor, Director of Community Development
BY: Joanna Cortez, Principal Planner

SUBJECT:

ZONING TEXT AMENDMENT NO. 25-001 (SMOKE/TOBACCO SHOP REGULATIONS)

REQUEST:

To amend four chapters of the Huntington Beach Zoning and Subdivision Ordinance to primarily introduce regulations for smoke/tobacco shops. The chapters to be amended are Chapter 204 (Use Classifications), Chapter 211 (C Commercial Districts), and Chapter 230 (Site Standards). Chapter 212 (I Industrial Districts) is also being amended to remove duplicate text.

LOCATION:

Citywide

APPLICANT:

City of Huntington Beach

PROPERTY OWNER:

Various

RECOMMENDATION:

That the Planning Commission take the following actions:

- A) Find the project exempt from additional environmental review pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because the request is a minor amendment to the zoning ordinance that does not change the development standards intensity or density.
- B) Recommend approval of Zoning Text Amendment (ZTA) No. 25-001 to the City Council with suggested findings (Attachment No. 1).

ALTERNATIVE ACTION(S):

- A) Recommend denial of Zoning Text Amendment No. 25-001 with findings for denial;
or
- B) Continue Zoning Text Amendment No. 25-001 and direct staff accordingly.

PROJECT PROPOSAL:

Background:

To reduce illegal sales of tobacco products to minors, California has passed policies to further regulate the sale of tobacco in the retail environment. Many cities and counties have passed additional policies to implement state laws and regulations. Some jurisdictions have placed restrictions on what retailers can and cannot sell and where retailers can be located in order to counter efforts to attract new (younger) customers. In an effort to prevent the proliferation and cluster of smoke or tobacco retailers, especially near youth populated areas, the City Council directed staff (Attachment No. 6) to draft the necessary amendments to the HBZSO to define and add regulations for smoke/tobacco shops within the City.

ZTA No. 25-001 represents a request to amend and update certain sections of the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to add regulations for these uses:

- Chapter 204 (Use Classifications)
- Chapter 211 (C Commercial Districts)
- Chapter 230 (Site Standards)

In addition to the proposed regulations, this ZTA also includes an amendment to Chapter 212 (I Industrial Districts) unrelated to smoke/tobacco shops. This portion of the ZTA will remove duplicative text within this chapter.

Draft City Council ordinances with legislative drafts of the amendments to each chapter are provided (Attachment Nos. 2-5). In the legislative drafts, **bold and underlined** indicates new text; ~~strikeout~~ indicates removal of text.

ISSUES AND ANALYSIS:

General Plan Conformance:

The proposed zoning text amendment is consistent with the goals and policies of the City's General Plan including:

Land Use Element:

Goal LU-1: New commercial, industrial, and residential development is coordinated to ensure that the land use pattern is consistent with the overall goals and needs of the community.

Policy LU-1(D): Ensure that new development projects are of compatible proportion, scale, and character to complement adjoining uses.

Policy LU-2(D): Maintain and protect residential neighborhoods by avoiding encroachment of incompatible land uses.

Goal LU-11: Commercial land uses provide goods and services to meet regional and local needs.

The proposed ZTA will define and regulate smoke/tobacco retail shops in a manner that will ensure new shops are compatible with surrounding uses. The proposed regulations will restrict smoke/tobacco shops to commercially zoned properties while prohibiting them in any primarily residentially zoned areas. Smoke/tobacco shops will be required to maintain a 500-foot separation from sensitive uses, such as hospitals and youth-oriented areas, as well as other smoke/tobacco shops. The proposed regulations will continue to allow tobacco/smoke shops to operate in designated areas of the city while meeting the community's desire of limiting the overexposure of this use to young people.

The proposed amendment to Chapter 212 will removed duplicative text only and does not propose any changes to the land use controls or development standards of that chapter.

Zoning Compliance:

Zoning Text Amendment

The following analysis provides a review of the proposed amendments in two sections consisting of an introduction of regulations for smoke/tobacco shops and minor language cleanup to delete duplicate information.

A. Smoke/Tobacco Shops

The HBZSO does not explicitly identify tobacco retailers (such as smoke/tobacco shops) within the land use tables in the City's zoning districts; therefore, these uses may be permitted as general retail uses which are allowed by right, with no additional regulations. The proposed ordinance regulates smoke/tobacco shops by amending three sections of the HBZSO, as discussed below.

Section 230.54 Smoke or Tobacco Shops

In effort to address the issues raised by the City Council such as concerns with high concentrations of smoke/tobacco shops adjacent to residential and youth populated area, a new code section was added to *Chapter 230 (Site Standards)* to introduce standards for smoke/tobacco retail shops. These standards include:

- Specifying the allowable locations/zones for shops (Commercial General and Commercial Visitor zones as well as applicable commercial areas within specific plans)
- Prohibiting use in locations zoned exclusively for residential uses
- 500-foot separation from youth-populated areas and sensitive uses (hospitals)
- 500-foot separation between other smoke/tobacco businesses to minimize an overconcentration

- Defining items applicable to smoke/tobacco shops such as “tobacco paraphernalia”, “tobacco product” and “youth-populated areas”
- Prohibiting smoking on premise
- Window and lighting standards for improved visibility
- Additional signage prohibiting minors
- Process for non-conforming shops

These new standards will continue to permit smoke/tobacco shops with regulations that ensure these uses are limited to commercial zones, away from residentially zoned areas. The proposed distance requirements will guarantee adequate separation from areas used by children and between other smoke/tobacco shops. Limiting the proximity of smoke/tobacco shops to youth-populated areas and similar retailers are place-based strategies recommended by health advocates to limit youth exposure to tobacco products.

The new definitions will provide guidance in identifying the allowable items that may be sold within smoke/tobacco shops. “Youth-populated areas” are also defined in this amendment to list the areas which have a 500-foot distance requirement from smoke/tobacco shops. Some of these areas include all PreK-12 schools, child-care facilities, libraries, and parks.

Windows and lighting standards have been added to ensure windows are not covered more than 20% and adequate lighting is available to see the interior of a store from the exterior.

Clear signage will be required to be posted in these shops to prohibit unaccompanied minors from entering these businesses. Smoking on the premises is also prohibited with this amendment.

Finally, non-conforming shops will be permitted to remain unless the smoke/tobacco shop changes use or is abandoned or discontinued for six months as described in *Chapter 236 (Nonconforming Uses and Structures)* of the HBZSO.

Section 204.10 Use Classifications

The use classification of Retail Sales has been amended to include a separate listing for smoke/tobacco shop for the purposes of identifying allowable land uses subject to the smoke/tobacco shop regulations proposed in this amendment.

Section 211.04 CO, CG, and CV Districts – Land Use Controls

The land use control table has been amended to reflect the areas where smoke/tobacco shops may be permitted subject to the new regulations.

B. Language Clarification and Cleanup

The following item is amended for cleanup purposes unrelated to smoke/tobacco shops.

Section 212.04 IG, IL, and RT Districts – Land Use Controls

The provisions listed after the land use control table of this section of the HBZSO have been deleted as they already exist in the following section of the code, *Section 212.05 Additional Provisions*.

Environmental Status:

ZTA No. 25-001 is categorically exempt pursuant to City Council Resolution No. 4501, Class 20, which supplements the California Environmental Quality Act because the request is a minor amendment to the zoning ordinance that does not change the development standards intensity or density.

Coastal Status:

The proposed amendment will be forwarded to the California Coastal Commission as a minor Local Coastal Program Amendment for certification.

Other Departments Concerns and Requirements:

The proposed amendments to the City’s existing ordinance were prepared with input from the City Attorney’s Office and the Code Enforcement Division.

Public Notification:

Legal notice was published in the Huntington Beach Wave on Wednesday, January 22, 2025, and notices were sent to individuals/organizations requesting notification (Planning Division’s Notification Matrix). In lieu of sending notices to all property owners within the City, a minimum 1/8 page advertisement was published. As of February 4, 2025, no communication regarding this request has been received.

SUMMARY:

Staff recommends that the Planning Commission recommend approval of Zoning Text Amendment No. 25-001 with suggested findings and forward to the City Council based on the following:

- It addresses a community need to prevent the proliferation and cluster of smoke/tobacco retailers, especially near youth populated areas;
- Cleans up the HBZSO to improve clarity; and
- Consistent with General Plan goals and policies.

ATTACHMENTS:

1. ~~Suggested Findings of Approval – ZTA No. 25-001~~
2. ~~HBZSO Chapter 204 (Use Classifications) – Draft Ordinance and Legislative Draft~~
3. ~~HBZSO Chapter 211 (C Commercial Districts) – Draft Ordinance and Legislative Draft~~
4. ~~HBZSO Chapter 212 (I Industrial Districts) – Draft Ordinance and Legislative Draft~~
5. ~~HBZSO Chapter 230 (Site Standards) – Draft Ordinance and Legislative Draft~~
6. ~~City Council H-Item dated September 3, 2024~~
7. ~~PowerPoint Presentation~~