

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date: May 5, 2014
	Agenda Item No. 19 Roll Call No. <u>14-0692</u> Communication No. <u>14-210</u> Submitted by: Phillip Delafield, Community Development Director

AGENDA HEADING:

Set date of hearing regarding zoning code amendment to define tobacco store and to regulate the allowed location and operation of tobacco stores that sell alcoholic beverages for off premises consumption (May, 19, 2014).

SYNOPSIS:

The proposed ordinance defines a “tobacco store” as a business primarily engaged in the sale of tobacco and tobacco related products, provided that no more than 25% of the gross receipts from sales receipts are derived from the sale of alcoholic liquor, wine, or beer. All tobacco stores would require a conditional use permit from the Zoning Board of Adjustment and must comply with specified separation distances from a church, school, licensed daycare, or public park. The Plan and Zoning Commission is scheduled to hold a public hearing and make a recommendation regarding the proposed ordinance on May 1, 2014. Staff recommends that the City Council set a date of hearing for May 19, 2014.

FISCAL IMPACT: NONE

ADDITIONAL INFORMATION:

In addition to obtaining a conditional use permit from the Zoning Board of Adjustment, a “tobacco store” that sells alcoholic liquor may be located in a C-2 or less restrictive district provided they are at least 500 feet from a church, school, licensed daycare, or public park. A “tobacco store” that sells beer and wine (no liquor) may be located in a C-1 or less restrictive district provided they are at least 150 feet from a church, school, licensed daycare, or public park. The separation distances are not applicable in the C-3, C-3A, C-3B, C-3R and D-R districts.

Upon reasonable suspicion that any tobacco store derives more than 25% of its gross receipts from the sale of alcoholic liquor, wine, or beer the City can require the applicant to provide a statement prepared and verified by a certified public accountant identifying total dollar volume of all sales, and separately identifying the total dollar volume derived from sale of alcoholic beverages, from the sale of tobacco products and from the sale of all other merchandise and food exclusive of alcoholic beverages and tobacco products, from the business premises in the preceding six (6) months.

If the zoning enforcement officer determines at any time that the operation of such a business exhibits a pattern of violating the conditions set forth in the conditional use permit, the zoning enforcement

officer may apply to the board to reconsider the issuance of the conditional use permit for such business.

PREVIOUS COUNCIL ACTION(S):

Date: December 6, 2010

Roll Call Number: [10-2012](#) and [10-2013](#)

Action: [On](#) Zoning Text Amendments to revise the applicability of Conditional Use Permit requirements for businesses selling liquor, wine or beer, as amended to require existing businesses to comply with the 60%/40% requirements effective December 31, 2013. Moved by Hensley that this ordinance be considered and given second vote for passage. Motion Carried 7-0.

(A) Final consideration of ordinance above. ([Council Communication No. 10-733](#)) Moved by Hensley that the rule requiring that an ordinance must be considered and voted on for passage at two Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#14,980](#). Motion Carried 7-

BOARD/COMMISSION ACTION(S):

Board: Plan and Zoning Commission

Date: May 1, 2014

Resolution Number: 10-2014-5.01

Action: The Plan and Zoning Commission recommendation will be forwarded to the City Council prior to the May 19, 2014 public hearing.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

Public hearing and first reading of the ordinance on May 19, 2014. Second and third readings of the ordinance will be required unless waived by a 6/7 vote of the City Council.

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