

**ORDINANCE NO. 2010-
AN ORDINANCE OF THE LEMOORE CITY COUNCIL
AMENDING CHAPTER 3 OF THE CITY ZONING ORDINANCE –
(ALSO KNOWN AS TITLE 9, CHAPTER 3 OF THE LEMOORE MUNICIPAL CODE)
ADDING SECTION 9-3-13 PERTAINING TO HOOKAH ESTABLISHMENTS**

The City Council of the City of Lemoore does ordain as follows:

Section 1. A new index reference shall be added below item 9-3-13 as follows:

9-3-13: Hookah Establishments/ Parlors/ Bars / Lounges

Section 2. The introductory paragraph of Section 9-3-1 of the Lemoore Municipal Code is amended to read as follows:

9-3-1: ADDITION OF PERMITTED USES: Upon application or on its own initiative, the planning commission may add a use to the list of permitted uses prescribed in chapters 5 through 13 of this title, if the commission makes the following findings:.....

Section 3. Hookah Establishments is hereby added to the list of Conditional Uses in Sections 9-9A-4 (of the Central Commercial Zone District), 9-9C-4 (of the Highway Commercial Zone District), 9-10A-4 (of the Light Industrial District), 9-10B-4 (of the Heavy Industrial Zone District), and future Mixed Use District.

Section 4. Section 9-3-13 is added to the Lemoore Municipal Code, as follows:

9-3-13: HOOKAH ESTABLISHMENTS/ PARLORS/ BARS / LOUNGES:

- A. Findings: The City agrees with the World Health Organization and finds that using a waterpipe to smoke tobacco poses a serious potential health hazard to smokers and others exposed to the smoke emitted and is not a safe alternative to cigarette smoking. A typical one-hour-long waterpipe smoking session involves inhaling one hundred to two hundred times the volume of smoke inhaled with a single cigarette. Even after it has been passed through water, the smoke produced by a waterpipe contains high levels of toxic compounds, including carbon monoxide, heavy metals and cancer-causing chemicals. Commonly used heat sources that are applied to burn the tobacco, such as wood cinders or charcoal, are likely to increase the health risks because when such fuels are combusted and produce their own toxicants, including high levels of carbon monoxide, metals and cancer-causing chemicals. Pregnant women and fetuses are particularly vulnerable when exposed either actively or involuntarily to the waterpipe smoke toxicants and secondhand smoke is a mixture of tobacco smoke in addition to smoke from the fuel therefore posing a serious risk for nonsmokers. There is no proof that any device or accessory can make waterpipe smoking safer. Sharing a waterpipe mouthpiece poses a serious risk of transmission of communicable diseases, including tuberculosis and hepatitis. Waterpipe tobacco is often sweetened and flavored, making it very appealing; the sweet smell and taste of the smoke may explain why some people, particularly young people who otherwise would not use tobacco, begin to use waterpipes.
- B. Purpose: Because hookah establishments exacerbate an inherently dangerous behavior of tobacco use; diminish the protection of children from exposure to smoking and tobacco (while they increase the potential for minors to associate smoking and tobacco with a healthy lifestyle); weaken the protection of the public from smoking and tobacco-related

pollution; have had adverse secondary effects on surrounding properties, including but not limited to lowering property values and introducing incompatible land uses to existing neighborhoods; this chapter is necessary in order to serve the public health, safety, and welfare of residents and businesses within the city.

- C. Definition: “hookah establishment or hookah parlor or hookah bar or hookah lounge” terms can be used interchangeably and refers to any facility or location whose business operation, whether as its primary use or as an ancillary use, is devoted to the on-premises smoking of tobacco or other substances through one or more pipes (commonly known as a hookah, waterpipe, shisha or narghile) designed with a tube passing through an urn of water that cools the smoke as it is drawn through it, including but not limited to establishments known variously as hookah bars, hookah lounges or hookah cafes.
- D. Application: The applicant for a Hookah use shall submit a conditional use permit application on a city form, prescribed by the planning commission, along with the applicable fees to the planning department for processing following the below requirements and, to the extent not in conflict with the below requirements, the process identified under Chapter 15, Article B.
- E. Permissible locations: A hookah establishment may only operate in the following city zone districts and prohibited in all other city zone districts: HC -Highway Commercial, CC -Central Commercial, ML -Light Industrial, MH -Heavy Industrial, and future Mixed Use subject to the following:
1. A maximum of two shall be allowed to operate in the city.
 2. Use shall not be permitted to operate within one thousand feet of any public or private pre-school, elementary school, middle school, junior high school or high school.
 3. Use shall not be permitted within one thousand feet of any park or recreational area (as defined in Section 7-11-3 of the Municipal Code).
 4. Use shall not be permitted within one thousand feet of another hookah.
 5. Use shall not be permitted within five hundred feet of a residential use.
- F. Operational requirements:
1. Hookah establishments shall be in compliance with all state laws pertaining to smoking in the workplace and places of public accommodation and pertaining to the sale or furnishing of tobacco products to minors including but not limited to California Labor Code Section 6404.5 and California Penal Code Section 308.
 2. A person or entity seeking to own or operate a hookah establishment must receive a permit from the city, to be issued and renewed yearly by the chief of police. The chief of police shall review each application, conduct a background investigation which is deemed reasonable by the chief of police in assessing each application, and maintain a record of any person or entity who has received such a permit.
 3. Uniformed security guard(s) shall be provided, as deemed necessary by the Chief of Police or his or her designee should the business cause an unusually high amount of calls for service to the Police Department.
 4. All hookah establishments shall conspicuously post in at least one location visible from the outside of the hookah establishment and one location visible within the hookah establishment signs approved by the County of Kings environmental health department advising that products smoked at the hookah establishments are tobacco products and warning of the potential adverse health consequences attributed to the smoking of the products offered at the hookah establishment. Additionally, hookah establishments shall make literature designated by the County of Kings environmental health department relating to hookah use easily available to hookah establishment customers at one or more visible locations in the business.

5. Persons under the age of eighteen years shall be prohibited from entering, working at or patronizing hookah establishments and hookah establishment owners and operators shall be prohibited from personally soliciting persons under the age of eighteen years to patronize a hookah establishment.
 6. A hookah establishment shall offer only waterpipe tobacco smoking equipment and accommodations and shall be prohibited from offering any other products or services to its customers, including but not limited to food and beverage service.
 7. A hookah establishment owner or operator shall not permit any person obviously under the influence of any intoxicating drug or beverage to enter or patronize a hookah establishment.
 8. Hookah establishments shall provide adequate ventilation for the smoke and heating of coals in accordance with all requirements imposed by the building and fire departments, or as otherwise required by state or federal law as well as this code. At a minimum, the ventilation system shall also assure that smoke from the hookah establishment is incapable of migrating into any other portion of the building hosting the hookah establishment or into any other building in the vicinity of the hookah establishment.
 9. The use shall be permitted to operate seven days a week between the hours of 11:00 a.m. and midnight and shall be prohibited from operating at all other times.
 10. No admittance fee, cover charge or requirement of any charge or minimum payment as a condition of entry to a hookah establishment shall be permitted.
 11. The interior of the hookah establishment shall be maintained with adequate illumination to make the conduct of patrons within the premises readily discernible to persons with normal visual acuity.
 12. No window coverings shall prevent visibility of the interior of the hookah establishment from outside the premises during operating hours. Any proposed window tint shall be approved in advance by the police department.
 13. The maximum occupancy level for a hookah establishment shall be established by the fire department.
 14. Parking shall be provided according to the standard of one parking space for every two hundred square feet of hookah establishment floor area.
 15. The hookah establishment owner or operator shall prohibit loitering by persons outside the hookah establishment either on the premises or within fifty feet of the premises.
 16. At a minimum, the permit shall condition the hookah establishment's operation upon compliance with all of the requirements of this chapter. In addition, the permit shall impose additional conditions which in the discretion of the chief of police are necessary to assure compatibility with other land uses in the vicinity or in the same building.
- G. Denial of Hookah Establishment Permit Application: The chief of police or Planning Commission may deny an application for a hookah establishment permit if the applicant has been convicted of a felony, is under the age of twenty-one, has made a false statement in the application for a permit, or the application on its face indicates that the proposed hookah establishment cannot be operated in accordance with the requirements of this chapter, including but not limited to the requirement that only two hookah establishments shall be allowed to operate in the city.
- H. Revocation of Hookah Establishment Permit: A hookah establishment permit may be revoked if the owner or operator of the hookah establishment violates any requirement of this chapter, the owner or operator of the hookah establishment is convicted of a felony, the hookah establishment is not in compliance with one or more of the conditions of its hookah establishment permit.

- I. Applicability: The provisions of this Section shall be applicable to all persons wanting to have a hookah use as part of their establishment after the effective date of the ordinance enacting this Section. Those existing as of the effective date of the ordinance shall have twelve (12) months after the effective date to comply with the provisions of this Section.

Section 5. This Ordinance shall take effect thirty (30) days after its adoption.

Section 6. The City Clerk is authorized and directed to cause this Ordinance or a summary of this Ordinance to be published once in a newspaper of general circulation published and circulated in the City of Lemoore, within fifteen (15) days after its adoption. If a summary of this Ordinance is published, then the City Clerk shall cause a certified copy of the full text of the proposed Ordinance to be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which the Ordinance is adopted and again after the meeting at which the Ordinance is adopted. The summaries shall be approved by the City Attorney. The City Clerk is further directed to cause this Ordinance to be codified after its adoption.

The foregoing Ordinance was introduced at a Regular Meeting of the City Council of the City of Lemoore held on the _____ day of , 2010 and was passed and adopted at a Regular Meeting of the City Council held on the _____ day of , 2010, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

John F. Murray, Mayor

ATTEST:

Nanci C.O. Lima, CMC
City Clerk