

**ORDINANCE NO. 2016- 03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON AMENDING TITLE 19 OF THE AMERICAN CANYON MUNICIPAL CODE TO PROHIBIT DEVELOPMENT, ESTABLISHMENT AND OPERATION OF NEW SMALL-FORMAT AND LARGE - SCALE TOBACCO RETAILERS AND ALL NEW E-CIGARETTE RETAILERS, ELECTRONIC CIGARETTE LOUNGES, VAPOR BARS, AND HOOKAH BARS WITHIN THE CITY OF AMERICAN CANYON**

**WHEREAS**, the City of American Canyon ("City") seeks to ensure that the City's zoning laws are consistent with the goals, policies, and standards set forth in the City General Plan; and

**WHEREAS**, the potential for Small-Format and Large - Scale Tobacco Retailers and all new E- Cigarette Retailers, Electronic Cigarette Lounges, Vapor Bars, and Hookah Bars within the City of American Canyon present unique challenges for local government, in that the American Canyon Municipal Code does not currently define or regulate said uses. In the absence of specific standards and zoning regulations pertaining to tobacco retailers, electronic cigarettes retailers, vapor bars/lounges and hookah bars/lounges, it is difficult to regulate these establishments, and, as such, these uses require a commitment of police and code enforcement resources that is typically greater than other regulated retail establishments; and

**WHEREAS**, the establishment and operation of new small- format tobacco retailers, electronic cigarette retailers, electronic cigarette lounges, vapor bars/lounges or hookah bars/lounges are necessary because the negative health impacts related to tobacco use have been known for some time, and studies show an increase in the use of electronic cigarettes by youth. Although the long -term health effects of using electronic cigarettes are still unknown, initial studies have found carcinogens and toxic chemicals in the electronic cigarette vapors, including ingredients used to make anti-freeze. Studies have also shown that sales of tobacco and tobacco-related products to youth are typically not occurring at the larger retailers with only ancillary tobacco sales; and

**WHEREAS**, tobacco retailers, electronic cigarette retailers, electronic cigarette lounges, vapor bars/lounges and hookah bars/lounges may create undesirable effects on surrounding commercial establishments, residential areas, and on those who participate in such activities; and

**WHEREAS**, the City's Zoning Ordinance is silent about tobacco retailers, vapor bars/lounges, electronic cigarette lounges, electronic cigarette retailers and hookah bars/lounges and, as such, does not address the impacts related to the location and manner of development, establishment, and operation of these establishments in relation to public health, safety, and welfare concerns, including, but not limited to, the impacts these businesses may have on surrounding uses and sensitive receptors, such as children, the infirm and the elderly; and

**WHEREAS**, the proposed Municipal Code amendments would provide new use definitions and modify the Commercial and Industrial zoning districts list of permitted commercial uses to prohibit Small-Format and Large - Scale Tobacco Retailers and all new E- Cigarette Retailers, Electronic Cigarette Lounges, Vapor Bars, and Hookah Bars within the City of American Canyon; and

**WHEREAS**, on December 17, 2015, City of American Canyon Planning Commission considered the proposed ordinance and unanimously recommended its approval; and

**WHEREAS**, a duly-noticed public hearing was held by the City of American Canyon City Council on January 19, 2016 on the subject application, at which time all those in attendance were given the opportunity to speak on this proposal; and

**WHEREAS**, the City Council has considered all of the written and oral testimony presented at the public hearing in making its decision.

**NOW, THEREFORE, BE IT ORDAINED**, by the City Council of the City of American Canyon to amend Title 19 of the Municipal Code as follows:

**SECTION 1: Municipal Code Section 19.05.050 Commercial classifications amendments.**

The following definitions are added to Municipal Code section 19.05.050 Commercial classifications.

“Electronic Cigarette” or “E-Cigarette” means a device that is capable of providing an inhalable dose of nicotine. Electronic Cigarette does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease.

“Imitation Tobacco Product” means any edible non-tobacco product designed to resemble a tobacco product or any non-edible, non-tobacco product designed to resemble a tobacco product. An example of an imitation tobacco product includes, but is not limited to non-nicotine fruit or candy flavored liquids used in an electronic cigarette.

“Tobacco Product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“Tobacco Paraphernalia” means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco products.

“Tobacco Retailer, Large-Scale” is a store equal or greater than 10,000 square feet that devotes more than five (5) percent of their floor areas to the sale, display, sale and storage of any combination of the following products: tobacco products, tobacco paraphernalia, imitation tobacco product, electronic cigarettes, and devices capable of providing an inhalable dose of nicotine.

“Tobacco Retailer, Small-Format” shall mean any room, store, building, or other place less than 10,000 square feet in which fifty percent or more of the transactions involve the sale of any combination of the following products: tobacco products, tobacco paraphernalia, imitation tobacco product, electronic cigarettes, and devices capable of providing an inhalable dose of nicotine.

“Hookah Bar” or “Hookah Lounge” means any facility, building, structure or location, where customers share tobacco or a similar smoking product from an individual or communal hookah placed throughout the establishment.

“Vapor bar” or “vapor lounge” (also referred to as “smoking device bar” or “electronic smoking device lounge”) means any facility, building, structure or location where customers use an electronic

smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance within the establishment.

**SECTION 2: Municipal Code Section 19.11.040 Permitted Use amendments.**

The following amendments are approved to the Commercial uses permitted in the Commercial zoning districts (Municipal Code section 19.11.040).

**Table 1  
Permitted and Conditionally Permitted Uses<sup>1</sup>  
Community Commercial and Neighborhood Commercial Districts**

Use Classification	Zoning District		Related Provision
	CN	CC	
<b>Commercial</b>			
Adult-entertainment business	-	P	
Animal sales and services			
Boarding kennel	-	C	
Grooming	P	P	
Medical care	P	P	
Retail sales	P	P	
Bank, savings and loan	P	P	
Bookstores	P	P	
Building materials and services	-	C	
Catering	P	P	
Check cashing business	-	-	
Coin dealer	P	P	
Commercial printing	-	P	
Limited printing	P	P	
Communication services	-	P	
Drugstores	P	P	
Eating and drinking establishments	P	P	
Adjacent to residential use or zoning district	C	C	
Entertainment, indoor	C	P	
Amusement center	C	C	
Gaming	-	C	
Food sales	P	P	
Funeral and interment services	-	C	
Use Classification	Zoning District		Related Provision
<b>Commercial (cont'd)</b>			
Gas stations and automobile service facilities	C	C	
Grocery and drug stores	P	P	
Health services	P	P	
Hookah Bar	-	-	
Household good sales	P	P	
Laboratory	-	P	
Lodging services	-	P	
Long-term care facility	-	P	
Maintenance and repair services	-	P	
Mini-storage/public storage facility	-	-	

Nursery	P	P	
Offices, business and professional	P	P	
On-premises liquor consumption	-	C	
Tasting room	-	C	
Outdoor sales and displays	-	P	
Overnight accommodations, lodging services	-	P	GP Policy 1.15
Pawnshops	-	-	
Payday lending business	-	-	
Personal improvement services	C	C	
Night use	P	P	
Personal services	P	P	
Precious metal exchange	-	-	
Professional and medical offices	P	P	
Public safety facility	C	P	
Recycling collection center	P	P	
Restaurant and delicatessens	C	C	
Retail food sales	C	C	
Convenience store	P	P	
Liquor store	C	P	
Retail sales	P	P	
Limited	-	-	
Visitor oriented	P	P	
Tobacco Retailer, Large-Scale	-	-	
Tobacco Retailer, Small-Format	-	-	
Vapor Bar	-	-	
Vehicle/equipment sales	-	-	
Automobile rental	-	C	
Automobile washing	-	C	
Service stations	C	C	
Vehicle/equipment repair and service	-	C	GP Policy 1.15
Vehicle/equipment leasing and rental	-	C	GP Policy 1.15
Wholesaling, commercial	-	P	GP Policy 1.15
Video rental	P	P	

- 1 Permitted and conditionally permitted uses on parcels located within a designated Napa County Airport compatibility zone may be restricted or prohibited subject to the requirements of the policies related to airport compatibility in the American Canyon general plan and the Napa County Airport land use compatibility plan. Restrictions may include the requirement for recordation of overflight or avigation easements.

**SECTION 3: Municipal Code Section 19.14.050 Use amendments.**

The following amendments are approved to the Commercial uses permitted in the Industrial zoning districts (Municipal Code section 19.14.050).

**Table 19.14.050  
PERMITTED AND CONDITIONALLY  
PERMITTED USES<sup>1</sup>  
INDUSTRIAL DISTRICTS**

Use Classifications	Zoning District		Related Provisions
	LI	GI	
Use Classifications	Zoning District		Related Provisions
	LI	GI	
<b>Commercial</b>			
Adult-entertainment business	-	P	
Ambulance services	P	P	
Animal retails sales	-	-	
- Boarding kennel	-	-	
- Grooming	-	-	
- Medical care	-	-	
- Retail sales	-	-	
Bank, savings and loan	C	-	GP Policy 1.22.2
- Drive-up service	C	-	GP Policy 1.22.2
- Walk-up service	C	-	GP Policy 1.22.2
Bookstore	P	P	
Building materials and services	C	P	GP Policy 1.22.6
Catering	P	P	
Commercial printing	P	P	
- Limited printing	C	C	
Communication services	P	P	
Drugstores	P	P	
Eating and drinking establishments	C	C	
Entertainment, indoor	-	-	
- Amusement center	-	-	
- Gaming	-	-	
Food sales	C	C	
Funeral and interment services	-	-	
Health services	-	-	
Hookah Bar	-	-	
Laboratory	P	P	
Lodging services	-	-	
- Bed and breakfast inns	-	-	
Long-term care facility	-	-	
Maintenance and repair services	P	P	GP Policy 1.22.6
Nursery	-	-	
Use Classifications	Zoning District		Related Provisions
	LI	GI	
Offices, business and professional	P	C	GP Policy 1.22.1
On-premises liquor consumption	-	-	GP Policy 1.22.2
- Tasting room	C	C	
Outdoor sales and displays	C	-	
Overnight accommodations, lodging services	-	-	
Pawnshops	-	-	
- Adjacent to residential district	-	-	
Personal improvement services	C	C	GP Policy 1.22.2
- Adjacent to residential district	C	-	
Personal services	-	-	

Professional and medical offices	P	P	
Recycling collection center	C	C	GP Policy 1.22.2
Restaurant	C	C	
- Night use	C	-	
Restaurant, take-out	C	-	
- Night use	C	-	
Retail commercial	C	-	
Retail food sales	-	-	
- Convenience store	-	-	
- Liquor store	-	-	
Retail sales	C	C	GP Policy 1.22.2
- Limited	-	-	
- Visitor-oriented	-	-	
Tobacco Retailer, Large-Scale	-	-	
Tobacco Retailer, Small-Format	-	-	
Vapor Bar	-	-	
Vehicle/equipment sales and service	-	-	
- Automobile rental	C	-	GP Policy 1.22.6
- Automobile washing	-	C	GP Policy 1.22.6
- Service station	-	-	
- Vehicle/equipment repair	-	P	GP Policy 1.22.6
<b>Use Classifications</b>	<b>Zoning District</b>		<b>Related Provisions</b>
	<b>LI</b>	<b>GI</b>	
- Vehicle/equipment sales, lease and rentals	C	C	GP Policy 1.22.6
Video rental	-	-	
Wholesale, commercial	C	P	
<b>Industrial</b>			
Hazardous use	-	C	
Industry, general	-	P	
Industry, limited	P	P	
Mineral extraction	-	C	GP Policy 8.15.3—8.17.3
Recycling center	-	C	
Research and development	P	P	
Storage tank(s)	C	C	
Vehicle/equipment services			
- Vehicle/equipment repair	-	P	
- Vehicle storage	-	C	
Wholesaling, distribution and storage			
- Small scale	C	P	
- Trucking terminal	-	P	
<b>Recreational</b>			
Campground	-	-	
Marina	-	-	
Recreational facilities, private	-	-	
Recreational facilities, public	-	-	
Recreation and sports, indoor	P	P	
Recreation and sports, outdoor	-	-	
Recreation, passive	-	-	
Recreational vehicle park	-	-	

Staging area	-	-	
<b>Public and Quasi-Public</b>			
Ambulance service	P	P	
Animal shelter	C	C	
Antenna	P	P	
- Commercial	-	-	
Cemetery	-	-	
Charitable uses	-	-	
Club, lodge	-	-	
Community center	-	-	
Conference center	-	-	

**SECTION 4:** Any provision of the American Canyon Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

**SECTION 5:** Severability. If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 6:** Effective Date. This Ordinance shall become effective thirty (30) days following adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 19<sup>th</sup> day of January, 2016, by the following vote:

AYES: Councilmembers Joseph, Leary, Ramos, Vice Mayor Bennett and Mayor Garcia  
 NOES: None  
 ABSTAIN: None  
 ABSENT: None

The foregoing Ordinance was adopted at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 2<sup>nd</sup> day of February, 2016 by the following vote:

AYES: Council Member Joseph, Leary, Ramos, Vice Mayor Bennett, and Mayor Garcia  
NOES: None  
ABSTAIN: None  
ABSENT: None



Leon Garcia, Mayor

ATTEST:



Cherri Walton, CMC, Deputy City Clerk

APPROVED AS TO FORM:



William D. Ross, City Attorney