



City Council Report

Date: December 9, 2019
To: City Council
Through: Christopher J. Brady, City Manager
From: Natalie N. Lewis, Deputy City Manager
Subject: Update City Code to add vaping devices and vaping to be regulated under Chapter 11, Section 6 smoking regulations in public places (Citywide)

Purpose and Recommendation

Adopt Ordinance to introduce an update to Chapter 11, Section 6 of Mesa City Code to add vaping and use of vaping devices to existing citywide no-smoking regulations to prohibit use on city property, in public places, and in certain places of employment, including (but not limited to) bars, restaurants and grocery stores.

Background

Mesa prohibited smoking in enclosed City of Mesa facilities in 1986.

In 1996, the citizens of Mesa approved a ballot initiative, which expanded smoking prohibitions in all public places citywide and in certain places of employment, including bars and restaurants.

In 2006, Arizona Voters approved the Smoke-Free Arizona Act. This was in response to the Center for Disease Control and Prevention, the U.S. Surgeon General and other researchers documenting the health risks and health effects of both active and passive smoking, and the related public concerns about involuntary exposure to nicotine and chemicals from smoke.

In 2007, vaping devices entered the U.S. marketplace and by 2014 became a commonly used alternative tobacco and non-tobacco product nationwide. Vaping devices are battery-operated devices that people use to inhale an aerosol, which typically contains nicotine, flavorings and other chemicals. In many vaping devices, puffing activates the battery-powered heating device, which vaporizes the liquid in the cartridge or reservoir. The person then inhales the resulting aerosol or vapor (called 'vaping'). Some common nicknames for vaping devices are e-cigarettes (e-cigs), hookah pens, vapes, vape pens and mods (customizable, more powerful vaporizers). Today, there are more than 460 different vaping device brands on the market, and they resemble mechanical cigars or look like everyday household devices, including but not limited to thumb drives, lipsticks, medicine inhalers, cell phones and erasers.

In 2013, Arizona prohibited the furnishing or possessing of any tobacco or vapor products to or by someone under 18.

In 2019, national news began to be shared regarding deaths and lung-related injuries, likely linked to vaping. With the added media attention, citizens began

contacting the Mayor and City Council, expressing concern about vaping, the unknown long-term health impacts, second-hand vape/aerosol exposure in public places, and possible health effects for youth.

Discussion

While data collection is underway by federal agencies to discover the long-term health effects of vaping, the rising public concern seems to be due to:

- A growing understanding that vapors exhaled contain chemicals
- New information on deaths and illnesses that may be related to vaping
- The variability in type of substance and dose of product in vaping
- Increased use of vaping devices by youth.

Mesa's public-school districts have experienced a rise in youth using vaping products. A multi-year National Youth Tobacco Survey reports that the percentage of high-school aged students who vape has increased 78% between 2017 and 2018. While the school districts are pursuing their own policies and enforcement on their campuses, the districts have asked the City to strengthen enforcement policies and efforts to preserve public health and safety.

Other Arizona cities are implementing vaping regulations. A summary of city actions, as provided by the Arizona League of Cities and Towns, is provided below.

	Vape-free in public property, places, workplaces, bars and restaurants	Vaping ban only on public property	Higher age restrictions for sale of vaping products
Chandler	X		
Clarkdale	X		
Coconino County	X		
Cottonwood			X
Douglas			X
Flagstaff	X		
Gilbert	X		
Goodyear	X		X
Tempe	X		
Tucson	(ban in city limits)	(ban in city limits)	X

Based on community feedback, staff has been directed to add vaping/vaping devices to the City's smoke-free environment ordinance. This ordinance prohibits smoking in public facilities, public gathering spaces, certain places of employment, and in some businesses like restaurants and bars unless they have separately ventilated areas to allow for smoking/vaping. Like existing no-smoking laws, vaping in Mesa would continue to be allowed in places such as private residences, public housing dwelling (except in common areas), hotel rooms where smoking is allowed, private clubs, tobacco shops or in locations where vaping products are sold.

To provide ample time for the community to be informed of and adjust to the new ordinance and restrictions, staff would recommend making the new vaping rules effective six months after its official adoption by City Council, or June 9, 2020. During the six months, the City will work with the Chamber of Commerce and other stakeholders to provide a community information campaign to help inform residents and visitors of the pending change. In addition, and if approved by City Council, the City Manager or his designee would have the prerogative to delay, dismiss and work with building-code related hardship cases.

Alternatives

- (Recommended by staff) Amend Chapter 11, Section 6 of City Code to add a prohibition to use of vaping devices and vaping in public facilities, public places, certain places of employment, including bars, restaurants and grocery stores. And in order to allow ample public notification, cause the updated prohibitions to go into effect six months after City Council action. If approved by Council, this ordinance will come to Council for introduction on December 2 and adoption on December 9, 2019 and, if approved on December 9th, would go into effect on June 9, 2020.
- Offer other changes, updates and request staff to return for added Council consideration.
- Take no action.

Fiscal Impact

There is no anticipated fiscal impact to the City with this action, except perhaps to print no-smoking/no-vaping decals to distribute to Mesa businesses impacted by the update of this code.

Coordinated With

Prepared by the City Manager's office in coordination with Police, Development Services and reviewed by City Attorney's office.

Attachments:

- Proposed updates to Chapter 11, Section 6 of Mesa City Code
- Collection of recent articles reporting: 1) what is known about passive exposure to vapors; and 2) what is known about vaping and reports related to recent health concerns.