



# City of San Antonio

## Agenda Memorandum

**File Number:**

---

**Agenda Item Number:** 36

**Agenda Date:** October 31, 2024

**In Control:** City Council A Session

---

**DEPARTMENT:** Health Department

**DEPARTMENT HEAD:** Claude Jacob

**COUNCIL DISTRICTS IMPACTED:** Citywide

**SUBJECT:**

Ordinance amending Chapter 36 (Smoking) of the Municipal Code

**SUMMARY:**

This ordinance authorizes amendments to Chapter 36 (Smoking) of the Municipal Code (the “Smoke-Free Ordinance”) to incorporate Electronic Smoking Devices (ESD’s), also known as e-cigarettes or vapes into the definition of smoking.

**BACKGROUND INFORMATION:**

The San Antonio Metropolitan Health District (Metro Health) is the local public health agency with the responsibility for providing public health programs and services in San Antonio and Bexar County. Metro Health staff reviewed the Municipal Code, Chapter 36, titled “Smoking” and identified sections in the chapter in need of amendments to update the local ordinance to meet modern smoke-free standards. Sections of the Municipal Code need to incorporate Electronic Smoking Devices (ESD’s), also known as e-cigarettes or vapes, into the definition of smoking to align with best public health practices.

Metro Health discussed the proposed amendment with the Restaurant Association on June 17, 2024, and the Hotel Association on June 20, 2024. Both associations supported the change.

Electronic Smoking Devices (ESDs), vapes or e-cigarettes, first entered the market in 2014. This was four years after the City of San Antonio passed its original Smoke-Free Ordinance, Chapter 36. The current ordinance does not prohibit e-cigarettes or vaping indoors, and therefore does not protect establishment employees or patrons from exposure to the vapor, or secondhand substance that comes from e-cigarettes, which contains harmful toxic substances.

**Council Action History:**

The addition of Electronic Smoking Devices (ESDs) into Chapter 36 of the Municipal Code was first proposed during a briefing at a Community Health Committee meeting on August 22, 2024. During the meeting, City Councilmembers voiced support for this amendment.

**Implementation and Compliance:**

The overarching philosophy for implementation of this ordinance is education and partnership with businesses to achieve compliance with modernization of the Smoke-Free Ordinance.

**Enforcement Authority:**

Principal enforcement of the proposed modernized Smoke-Free Ordinance will continue to be conducted by Metro Health's Environmental Health Officers with education as the primary means to address concerns. Any person may register a complaint with the City of San Antonio by calling 311 to report violations of this ordinance. Metro Health's Environmental Health Officers currently follow-up on complaints made by the community through the 311 process. If fines for violations of the ordinance generate additional revenue, it will be deposited to the General Fund.

**ISSUE:**

The current Smoke-Free Ordinance, Chapter 36 (Smoking) of the City Code, was originally passed in 2010, prior to the introduction of ESDs into the market in 2014. The current ordinance does not prohibit e-cigarettes or vaping indoors, and therefore does not protect establishment employees or patrons from exposure to the vapor, or secondhand substance that comes from e-cigarettes, which contains harmful toxic substances.

The proposed revisions will restrict the use of ESDs in the same enclosed public spaces in the City of San Antonio where smoking is currently prohibited. This will update the local ordinance to meet modern smoke-free standards. Over 91 cities within Texas have already included ESDs in their smoke-free policies.

**ALTERNATIVES:**

If these changes to Chapter 36 of the Municipal Code are not approved, the ordinance and code will remain as is. The definition of smoking will not be revised to include electronic smoking devices (ESDs). Vaping ESD's will not be prohibited inside buildings in San Antonio and the benefit of fewer people being exposed to ESD vapor from tobacco and other substances will not ensue.

**FISCAL IMPACT:**

This ordinance amends Chapter 36 (Smoking) of the Municipal Code to prohibit the use of Electronic Smoking Devices (ESD's) in the same areas as smoking is currently prohibited. The proposed change would be effective January 1, 2025.

There will be no changes in fines. The same fine for smoking would apply to vaping. There will also be no changes in enforcement. Metro Health will continue to provide education first to remedy concerns. If fines for violations of the ordinance generate additional revenue, it will be deposited to the General Fund.

**RECOMMENDATION:**

Staff recommends amending Chapter 36 (Smoking) of the Municipal Code (the "Smoke-Free Ordinance") to incorporate Electronic Smoking Devices (ESD's), also known as e-cigarettes or vapes into the definition of smoking.