



City of Palmetto Agenda

City of Palmetto City Hall Commission Chambers

Meeting Date:
9-14-2026

Presenter/Department: Marisa J. Powers, Esq./Mark P. Barnebey, Esq., City Attorneys

Title: Ordinance 2026-15 (Smoke Shop Moratorium)

Background:

At a recent City Commission meeting, City Commission inquired as to whether the City could impose a moratorium on smoke shops to allow the City Planning Staff to evaluate what, if any, regulations should be added to the City's Code of Ordinance and Comprehensive Plan. As of the date of this meeting, the City has 3 smoke shops within the City limits. At a subsequent City Commission meeting, legal advised that the City could impose a temporary moratorium on smoke shops to allow City Planning Staff the opportunity to evaluate the City's current regulations and consider additional regulations, if any.

Moratorium:

The proposed ordinance establishes definitions and imposes a moratorium on Retail Smoke Shops, as defined, within the City limits. The moratorium period will allow City Planning Staff the necessary time to evaluate the City's current regulations relating to smoke shops and determine whether any additional regulations are necessary and in the City's best interest. Currently, no permit application is required by the City to operate a smoke shop and, unless, a modification is proposed to the premises, City Planning would not be on notice of an incoming smoke shop. The City would only be aware when an applicant applied for a local business tax or business tax receipt.

Alternatives:

When discussing the types of smoke shops to be subject to the moratorium, as well as, the locations within the City subject to the moratorium, City Commission requested alternative language to consider. The alternatives are as follows:

1. Definition of Types of Shops Subject to the Moratorium:
 - a. As drafted version applies to Retail Smoke Shops, which is a broad definition.
 - i. Alternative application:
 1. Definition applies to only vaping retail shops, vaping product, and vapor-generating electronic devices.

2. Definition applies to only those vaping retail shops whose sales of vaping products exceed 20 percent of their total monthly retail sales.

2. Location of Retail Shops Subject to the Moratorium:

- a. As drafted version places a moratorium on Retail Smoke Shops within the City limits.

- i. Alternative application:

1. Limit the moratorium to defined types of shops within a certain amount of feet of any public or private elementary, middle and secondary schools.
 - a. The City currently requires a conditional use permit for any facility with consumption of alcohol on premises, located in the appropriate zoning districts, if located within two hundred (200 hundred) feet of a residentially zoned or used property or school.
 - b. The City currently prohibits a licensed medical marijuana treatment center cultivating or processing facility from being located within five hundred (500) feet of the real property that comprises a public or private elementary school, middle school, or secondary school. (Section 6.26, City Zoning Code).
2. Limit the moratorium to defined types of shops within a certain amount of feet of any church.

Budgeted Amount:

0.00

Available Amount:

0.00

Expenditure Amount:

0.00

Is this expensed from Operating Budget?

- ☐ Capital Expense
☐ Non Capital Expense

Is this part of the CIP: Y/N

Cost and Funds Source Account Number and Name:

City Attorney Review: Y/N

Direction Requested/Potential Motion:

n/a

Staff Contact: Marisa J. Powers, Esquire/Mark P. Barnebey, Esq.

Attachments: Ordinance No. 2026-15

ORDINANCE NUMBER 2026 - 15

AN ORDINANCE OF THE CITY COMMISSION FOR THE CITY OF PALMETTO, FLORIDA IMPOSING A MORATORIUM ON THE ESTABLISHMENT OF RETAIL SMOKE SHOPS, SMOKING PRODUCTS, VAPING ACCESSORIES AND PRODUCTS, AND VAPOR-GENERATING ELECTRONIC DEVICES FROM EVERY ZONING DISTRICT IN THE CITY FOR A PERIOD OF 365 DAYS, UNLESS EXTENDED OR REPEALED; PROVIDING FOR FINDINGS OF FACT; PROVIDING PURPOSE; PROVIDING NOTICE OF PENDING ORDINANCE; PROVIDING DEFINITIONS; PROVIDING FOR BOUNDARIES SUBJECT TO THE MORATORIUM; IMPOSING TEMPORARY MORATORIUM; PROVIDING FOR SUBMISSION OF APPLICATION; PROVIDING PROCESS FOR EXTENSION; PROVIDING FOR ENFORCEMENT, PENALTY, AND INJUNCTIVE RELIEF; REPEALING LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Article VIII, Section 2 of the Florida Constitution provides that municipalities shall have governmental, corporate and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions and render municipal services; and,

WHEREAS, Chapter 166, Florida Statutes, the "Municipal Home Rule Powers Act," reinforces the authority granted under the Florida Constitution and authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law and to enact ordinances in furtherance thereof; and,

WHEREAS, the City Commission for the City of Palmetto, Florida (the "City Commission") determines that it is in the best interest of its residents, businesses and visitor to enact sufficient zoning regulations to ensure their health, safety and welfare; and

WHEREAS, the U.S. Food and Drug Administration (the "FDA") provides that tobacco and e-cigarettes deliver harmful chemicals and contain nicotine, which is highly addictive; and

WHEREAS, the FDA monitors the national usage rates for all tobacco products, including an annual youth survey, has seen a drastic increase in youth use of e-cigarette

products in recent years and due to what has been called an “epidemic” of youth use of these products, FDA has prioritized prevention efforts; and

WHEREAS, retail smoke shops which primarily sell vaping products and vapor-generating electronic devices are a newer and unique use which is not currently addressed by the City’s Zoning Code; and

WHEREAS, the City currently has three (3) retail smoke shops within City limits;

WHEREAS, there appears to be a rapid proliferation of retail smoke shops within Manatee County;

WHEREAS, the City Commission desires to enact a temporary moratorium on the establishment of retail smoke shops which will allow time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the City’s Zoning Code to address the impact on neighborhoods, youth access, and public spaces, including exploring whether retail smoke shops should be prohibited within a certain distance from schools and/or churches and whether such shops should be limited to certain zoning districts; and

WHEREAS, the City Commission of the City of Palmetto finds that adoption of this ordinance will further the health, safety and welfare of the citizens of the City of Palmetto.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, AS FOLLOWS:

1. Findings of Fact. The foregoing whereas clauses are hereby adopted as findings of fact.

2. Purpose. The purpose of this ordinance is to preserve the status quo and enable sufficient time to review, study, hold public hearings, and prepare and adopt amendments to the City’s Zoning Code, relating to the location of retail smoke shops, as defined in this ordinance. During the moratorium time period, the establishment of retail smoke shops shall not be permitted within any zoning district within the City limits. It is not the purpose of this ordinance to permanently deny development orders and permits for other uses that are permitted and that otherwise comply with all applicable codes, ordinances, regulations and policies.

3. Pending Ordinance. The City Commission recognizes that City staff intend to study and prepare amendments to the City’s Zoning Code that would result in the regulation of the location of retail smoke shops. These regulations, if adopted, will amend the City’s Zoning Code. All affected property and business owners are placed on notice with respect to these pending regulations and the action being taken by the appropriate departments within the City.

4. Definitions. The following definitions apply to the terms used in this ordinance:

- a. "Retail Smoke Shop" shall mean any place of business or commercial establishment which has more than 200 square feet of space dedicated to retail that specializes in products and accessories relating to smoking. Retail Smoke Shops refer to, but are not limited to, the sale of tobacco or different smokable herbs, vapor products, vapor-generating electronic devices, vaping fluids, tobacco products, water bong, pipes, collectible glass smoking devices, herb grinders, rolling papers, dab rigs, vaporizers and vaping accessories, stash jars, humidors, and storage necessities and lighters, and matches. This term shall exclude medical marijuana treatment center dispensing facility as defined in Section 3.2 of the City's Zoning Code.
- b. "Vaping Product" means a vapor-generating electronic device or any product used, or intended to be used, in a vapor-generating electronic device capable of producing vapor or aerosol containing nicotine or any other substance. This term shall also include components, parts, and accessories for a vapor-generating electronic device. This term shall be inclusive of the term "nicotine product" as used in Section 569.31(4), as it may be amended.
- c. "Vapor-Generating Electronic Device" means any product that employs an electronic, a chemical, or a mechanical means capable of producing vapor or aerosol from a vapor product containing nicotine or any other substance, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a solution or other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product. This term shall be inclusive of the term "nicotine dispensing device" as used in F.S. § 569.31(3), as it may be amended. This term specifically does not apply to any vapor producing device manufactured and intended for use as a medical device for the treatment of pulmonary or respiratory conditions or ailments.

5. Boundaries Subject to the Moratorium. This ordinance shall be applicable to all properties located within the boundaries of the City of Palmetto.

6. Temporary Moratorium Imposed. The City of Palmetto hereby imposes a temporary moratorium on the establishment of retail smoke shops in any zoning district within the City for a period of 365 days following the effective date of this ordinance or as extended pursuant to Section 8, or until the effective date of the ordinance adopting a Zoning Code amendment which provides for regulations of the location of retail smoke shops in any zoning district within the City, whichever occurs first.

7. Submittal of Applications. Beginning upon the effective date of this ordinance, an applicant for a local business tax or business tax receipt and/or an applicant for any development permit, development order or any other official City action which

would facilitate the establishment of a retail smoke shop shall be required to disclose its intention to establish a retail smoke shop in connection with its application. In the event that it is determined by the City that an applicant has failed to disclose its intent to establish a retail smoke shop, the City shall be authorized to enforce this ordinance by the methods set forth in Section 9.

8. Process for Extension. The moratorium period established by this ordinance may be extended upon approval by City Commission of the extension in accordance with applicable Florida Statutes.

9. Enforcement, Penalties, and Injunctive Relief. The City's code enforcement officers, law enforcement, or any other person authorized to enforce City ordinances in the City of Palmetto may enforce the provisions of this ordinance. Any enforcement action or legal remedy available under controlling state law including, but not limited to, prosecution as a misdemeanor with a fine not exceeding Five-Hundred Dollars (\$500.00) or by imprisonment for a term not exceeding sixty (60) days or by both fine and imprisonment, may be imposed as a penalty. Nothing contained herein shall prevent the City from taking such other lawful action in law and equity as may be necessary to remedy any violation of, or refusal to comply with, any part of this ordinance, including but not limited to:

- a. Code Enforcement action pursuant to City of Palmetto Code of Ordinances;
- b. Pursuit of injunctive and/or declaratory relief in a court of competent jurisdiction;
- c. Initiating an action to recover any and all damages that may result from a violation of, or a refusal to comply with, any part of this ordinance; or
- d. Utilizing any other action or enforcement method allowable by law.

If a permit is submitted that is subject to this ordinance, the City will not process any such permit during the pendency of the moratorium.

10. Repeal of Laws in Conflict. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

11. Severability. If any section, subsection, sentence, clause, phrase, or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not be construed to render the remaining provisions of this ordinance invalid or unconstitutional.

12. Effective Date. This ordinance shall take effect as provided for by law and by City Charter, Section 14, upon execution by the Mayor or, if disapproval occurs, upon reconsideration by the City Commission and passing of the Ordinance by at least four (4) votes.

PASSED AND DULY ADOPTED, BY THE CITY COMMISSION OF THE CITY OF PALMETTO, FLORIDA, with a quorum present and voting, in regular session assembled, this ____ day of _____, 2026.

CITY OF PALMETTO, FLORIDA,
BY AND THROUGH THE CITY
COMMISSION OF THE CITY OF
PALMETTO

By: _____
Daniel West
Mayor

ATTEST:

By: _____
James R. Freeman, City Clerk