

Ordinance of the City of Paterson, N.J.

No. 1 1st Reading No. 25-030

No. 2 Public Hearing
(2nd Rdg. & Final Passage)

Division Health

TITLE: ORDINANCE CREATING CHAPTER 421, ARTICLE III OF THE PATERSON CODE, TO BE ENTITLED "SMOKE SHOPS AND TOBACCO STORES"

SPONSORED BY: COUNCIL PRESIDENT DR. LILISA MIMMS & COUNCIL VICE-PRESIDENT MARITZA DAVILA

CO-SPONSORED BY: COUNCILMAN MR. FORID UDDIN, COUNCILMAN LUIS VELEZ, COUNCILWOMAN RUBY N. COTTON & COUNCILMAN ALEX MENDEZ

COUNCILPERSON COUNCILWOMAN Dr. Lilisa Mimms. Moved the Following Ordinance:

Date DECEMBER 16, 2025
Date to Mayor DECEMBER 17, 2025
Date Returned DECEMBER 17, 2025
Date Submitted to Council NOVEMBER 12, 2025

Factual Contents Certified to By _____

Title ORDINANCE Date 11/12/2025

Approved As To Form and Legality on Basis of Facts Set Forth _____

FORID UDDIN
COUNCILMAN

Date 11/12/25

WHEREAS, regarding the direct harm caused by smoking and vaping, the Municipal Council has already set forth findings at length, see Ord. No. 15-078, adopted October 27, 2015, after which subsequent studies have confirmed and broadened those findings; and

WHEREAS, additionally, pipes, hookahs, and e-cigarettes can also be used for the consumption of illegal or unlicensed drugs; and

WHEREAS, additionally, the sale of tobacco and related products in the City of Paterson has on numerous occasions been accompanied by the sale of illegal or unlicensed drugs, as well as issues of noise and secondhand smoke affecting nearby residents; and

WHEREAS, in the City of Paterson, the goals of the Mayor's Wellness Campaign include developing public strategies to prevent initiation of smoking and tobacco use among youth, promote smoking cessation, and eliminate exposure to secondhand smoke; and

WHEREAS, the Paterson Code does not currently address general sales or licensing for conventional tobacco or e-cigarettes, although the Code already prohibits smoking in parks and similar areas, see Paterson Code Ch. 421, Art. I, §§ 421-1 to -5, as well as tobacco sale and distribution to persons under 21, see Paterson Code Ch. 421, Art. II, §§ 421-6 to -9, as well as public cannabis consumption in the same locations where alcohol cannot be publicly consumed, see Paterson Code Ch. 113, Art. II, §§ 113-21 to -24; and

WHEREAS, State law regarding a "tax license" for tobacco sales expressly provides that other licenses for such sales may be required by law, see N.J.S.A. 54:40A-6; see also N.J.S.A. 40:52-1(g) (creating general municipal authority to regulate and license local businesses); Sparroween, LLC v. Tp. of W. Caldwell, 452 N.J. Super. 329, 334, 337 (App. Div. 2017) (noting local retail tobacco licensing practice); and

WHEREAS, since the Division of Health foresees the need for complete and careful inspections of Smoke Shops and Tobacco Stores to verify full compliance with applicable State and Local laws, an annual fee of twelve hundred dollars (\$1,200) is established below, to cover such inspection expenses, where it is expected that the inspections will require a level of completeness and care no less than that of a restaurant inspection, compare Paterson Code § 231-3 (as amended, 2025) (setting restaurant inspection fee of twelve hundred dollars (\$1,200), depending on the size of the restaurant); and

WHEREAS, the Municipal Council hereby finds that the provisions set forth below constitute a reasonable means of regulating smoke shops and tobacco stores in the City of Paterson.

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF PATERSON as follows:

SECTION I: Chapter 421, Article III of the Paterson Code shall be hereby created, entitled "Smoke Shops and Tobacco Stores" to state as follows:

§ 421-10 Definitions

CIGAR

A tobacco product that: (1) is not a cigarette and (2) is a roll of tobacco wrapped in leaf tobacco or any substance containing tobacco.

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CIGARETTE

A product that: (i) is a tobacco product, and (ii) meets the definition of the term "cigarette" in section 3(1) of the Federal Cigarette Labeling and Advertising Act, or includes tobacco in any form that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

COMPONENT OR PART

Any software or assembly of materials intended or reasonably expected to alter or affect the electronic smoking device's performance, composition, characteristics, and ingredients.

CHARACTERIZING FLAVOR

A distinguishable flavor, taste, or aroma, including, but not limited to, any fruit, candy, chocolate, vanilla, honey, cocoa, wintergreen, dessert, alcoholic beverage, herb or spice flavoring, that is imparted prior to or during consumption by an electronic smoking device, tobacco product, or other related product, including electronic liquid, or any smoke, aerosol, or vapor emanating from that device or product. An electronic smoking device, any cartridge, or other component of the device or other related product, including liquid nicotine, shall be deemed to have a characterizing flavor if the device, cartridge, component, or related product is advertised or marketed as having or producing any such distinguishable flavor, taste or aroma, or is distinguishable by an ordinary consumer either prior to, or during, its consumption. No tobacco product shall be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information.

E-CIGARETTES

Also known as e-cigs, e-hookahs, mods, vape pens, vapes, tank systems and electronic nicotine delivery systems is a device used to deliver aerosolized or vaporized nicotine to a person inhaling from the device.

ELECTRONIC SMOKING DEVICE

Defined above in §421-6.

ELECTRONIC SMOKING DEVICE PARAPHERNALIA

Cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device batteries, Electronic Smoking Device chargers, and any other item specifically designed for the preparation, charging, or use of Electronic Smoking Devices.

FLAVORED SMOKING PRODUCT

Any product marketed or otherwise intended for inhalation consumption by a person which has a Characterizing Flavor.

NEW JERSEY SMOKE-FREE AIR ACT

N.J.S.A. 26:3D-55 et seq.

LICENSE YEAR

A calendar year commencing on January 1 and ending on December 31.

MANUFACTURER

Any person, including any repacker and/or relabeler, who manufactures, fabricates, assembles, processes, or labels a finished tobacco product.

NICOTINE

Defined above in §421-6.

NRT

Nicotine Replacement Therapy, including but not limited to patches, gum, lozenges, inhalers and nasal sprays.

OWNER

The owner or owners of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm, corporation, or other entity directly or indirectly in control of a premises.

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PERSON

Defined above in §421-6.

RETAILER

Any person who sells tobacco products to individuals for personal consumption, or who operates a facility where vending machines or self-service displays are permitted.

SMOKING PARAPHERNALIA

Any paraphernalia, equipment, device, or instrument other than a lighter or matches that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of a tobacco product or smoking product as defined herein.

SMOKING PRODUCT

Any product intended or marketed for inhalation consumption by means of smoking paraphernalia, except tobacco products as herein defined. The term "smoking product" does not include drugs, devices or combination products approved for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

SMOKE SHOP

Any premises that displays, sells, distributes, delivers, offers, furnishes, or markets smoking products or smoking paraphernalia and meets one or more of the following conditions: 1) has visible exterior signage that references smoking, or any tobacco product, smoking product, or smoking paraphernalia, 2) has visible interior signage that references smoking, or any tobacco product, smoking product, or smoking paraphernalia, or has displays of smoking products or smoking paraphernalia measuring a total of ten or more linear feet, or 3) has retail sales of smoking products or smoking paraphernalia of more than \$1,000 in any calendar month of the year.

TOBACCO PRODUCT

Any product that is made from or derived from tobacco, or that contains nicotine, that is intended for human consumption whether smoked, heated, chewed, absorbed, dissolved, inhaled or ingested by any other means such as E-cigarettes, cigars, pipe tobacco, chewing tobacco, snuff or snus; any vapor product and any component, part, or accessory of a product containing, made of, or derived from tobacco or nicotine or a vapor product or electronic smoking device whether or not they contain nicotine. Tobacco product includes, but not limited to, filters, rolling papers, blunt or hemp wraps, hookahs and pipes.

TOBACCO PARAPHERNALIA

Any paraphernalia, equipment, device, or instrument other than a lighter or matches that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined herein. Tobacco Paraphernalia shall include but is not limited to pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, electronic smoking devices, vaporizers, and hookahs.

TOBACCO STORE

Any premises that displays, sells, distributes, delivers, offers, furnishes, or markets tobacco, tobacco products, other smoking products, or smoking.

§ 421-11 Requirements for Licenses; No Additional Licenses After Initial Issuance

- A. All Tobacco Stores and Smoke Shops shall obtain a license prior to engaging in retail distribution of Tobacco Products, Smoking Products, or Smoking Paraphernalia. Upon the issuance of a license, such use may thereafter be continued for a period not to exceed one year, at which time the Smoke Shop or Tobacco Store shall renew its license.
- B. All Smoke Shops and Tobacco Stores currently in operation at the time this ordinance takes effect shall be required to submit an application for the appropriate Smoke Shop or Tobacco Store license within sixty (60) days of the effective date of this ordinance, and to obtain such license within one hundred eighty (180) days of the effective date of this ordinance.

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C. Consistent with the said requirement to apply for a license within sixty (60) days of the effective date of this ordinance, and to obtain such license within one hundred eighty (180) days of the effective date of this ordinance, no further such applications from any applicants anywhere within the City of Paterson shall be accepted after those sixty (60) days have elapsed, at any future date, thus barring applications for any added licenses in future months and years after those sixty (60) days have elapsed, with only renewals to be permitted thereafter, not new licenses.

D. Every Smoke shop shall offer for sale at least one form of Nicotine Replacement Therapy (NRT) product.

§ 421-12 License Application

A. An applicant for Smoke Shop or Tobacco Store license shall file an application with the issuing authority upon forms provided by the license issuing authority.

B. The application shall contain the following

- a. The applicant's trade name and telephone number
- b. The address of the applicant's place of business and its mailing address, if different;
- c. The names, residences and contact information of all persons financially interested in the business, and the nature and extent of this interest
- d. Any other information which the issuing authority finds reasonably necessary to enforce this Chapter.

C. All business establishments must hold a valid Business Certificate to be verified annually as active.

D. All establishments incorporated out-of-state must hold a current Certificate of Authority to do business in New Jersey, to be verified annually.

E. All establishments must provide proof of establishment address via Lease or Deed of establishment.

F. All licenses issued shall be posted in a visible location that can be viewed by all patrons entering the establishment.

G. Every entrance door of a Smoke or Vape Shop and any commercial establishment selling smoke and vape products shall have posted at eye-level height 21+ age requirement signage as required by the State of N.J.

H. There shall be no other signs or signage advertising vapes, electronic cigarette or cigarette products or tobacco facing the outside of the building or on any outside facing walls, doors, or windows.

§ 421-13 License

A. Every establishment selling or offering for sale E-cigarettes, components, related products, or any smoking paraphernalia shall obtain a license that allows for such an operation within the City of Paterson, from the City of Paterson Division of Health. The licensing authority is the City of Paterson Division of Health.

B. A license fee of twelve hundred dollars (\$1,200.00) shall be paid to the Paterson Division of Health for an annual retailer license before any license is issued. A wholesaler license annual fee shall be twenty-four hundred (\$2,400) and a manufacturer license shall be thirty-six hundred (\$3,600.00). All licenses issued shall expire on December 31st of each calendar year. A license is only good for a fixed brick and mortar facility.

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- C. Licenses pursuant to this Ordinance are non-transferable and non-assignable by sale or otherwise.
- D. There will be a grace period for the month of January every year for the renewal of license. Any establishment renewing their license after January 31st will incur a late fee of one hundred dollars (\$100.00) per month, for each month late, in addition to the regular annual license fees.
- E. Any establishment that has not renewed an annual license after June 30th and continues to sell E-cigarettes and smoking paraphernalia will be subjected to closure by the Health Officer or designee. After closure, a reopening fee of six hundred dollars (\$600.00) in addition to all late fees and annual license fee will be charged.
- F. All licensed businesses must comply with the provisions of N.J.S.A. 2A:170-51.9 et seq. governing child resistant containers.
- G. If an establishment already offers food for sale as governed and defined by Paterson Code Ch. 231 and is applying for a license to sell E-cigarettes, components, related products and any smoking paraphernalia, or is already a store licensed to sell e-cigarettes, components, related products and any smoking paraphernalia and wants to sell food items, there shall be a surcharge of three hundred dollars (\$300.00) on top of other license fees required.

§ 421-14 Prohibitions.

It shall be unlawful for any person or entity to:

- 1. No person, business, retailer, wholesaler or other forms of sale shall engage in the sale of E-cigarettes, components, related products and any smoking paraphernalia in the City of Paterson without a license issued by the Paterson Division of Health. Only fixed brick & mortar business establishments shall be licensed.
- 2. Sell, or offer for sale, or distribute, any electronic smoking device which delivers a Flavored Smoking Product or sell, offer for sale, or distribute, any Flavored Smoking Product inclusive of menthol. There shall be a rebuttable presumption that a tobacco product is a Flavored Smoking Product if the manufacturer of said product, or any person, agent or employee acting in the course of their agency or employment with the manufacturer, has made any statement or claim or disseminated any advertisement or notice directed at consumers or to the general public regarding said product, which indicates that said tobacco product has or produces a taste or smell other than tobacco. Examples of such statement, claim, advertisement or notice shall include, but shall not be limited to images on the product's labeling or packaging which are used to convey that the product has or produces a taste or smell other than tobacco.
- 3. No person or business shall engage in the sale of cigarettes, cigars, E-cigarettes, related products and any smoking paraphernalia in the City of Paterson without having a warning sign plainly visible at the point of purchase with the following or similar wording:

The Sale of Cigarettes, E-cigarettes or components, Tobacco Products, Related Smoking Products and Smoking Paraphernalia to Persons Under the Age of 21 Years is Strictly Prohibited by Law and Subjected to Penalties. Photo Identification is Required.
- 4. The sale of cannabis, or operation of a cannabis business, is prohibited, unless specifically authorized under State Law, and under Paterson Code Chapter 445, entitled "Cannabis."

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5. A commercial establishment engaging in the sale of tobacco or vapor products is prohibited from promoting or accepting special offers, coupons, or price reduction promotions per New Jersey State Law P.L. 2019 c. 396.
 6. No person, business, retailer or wholesaler shall sell or offer for sale cigarettes or other tobacco or smoking products not in original packaging provided by the manufacturer and with all required health warnings.
 7. No person or business shall give, distribute or engage in the sale of cigarettes, cigars, E-cigarettes, related products and any smoking paraphernalia in the City of Paterson to any person under the age of twenty-one.
 8. Owners of all licensed businesses and their employees must read and get acquainted with this ordinance and maintain a signed document on premises that attest to the comprehension of the ordinance by all employees. This document will be presented at the time of inspection to the city official performing the inspection.
 9. The use of vending machines or other means of self-service merchandising of cigarettes, E-cigarettes, cigars, smoking products and paraphernalia within the City of Paterson is strictly prohibited by law and subjected to penalties.
 10. It is unlawful for any person or business to distribute free E-cigarettes, tobacco products and all smoking products and paraphernalia as promotional items or for sampling to anyone below the age of 21 years.
 11. Those individuals or businesses that are engaged in the sale of E-cigarettes and Electronic Nicotine Delivery Systems must keep on file and on premises all receipts, invoices and records of all purchases made for the past and current calendar year with proper contact information on the wholesaler in order to verify and track the source of products offered for sale.
 12. To permit any smoking, vaping, consuming or sampling of electronic delivery devices or refill products within the facility or allow any smoking in violation of the New Jersey Smoke-Free Air Act N.J.S.A. 26:D-55 et seq.
 13. To knowingly lease a commercial premises to, or otherwise allow the use of such premises by, an unlicensed seller who uses or intends to use such commercial premises to distribute, sell or offer smoke product(s), tobacco paraphernalia or tobacco product(s) or illicit cannabis. It shall be an affirmative defense to a violation of this subsection that the owner of the commercial premises has commenced a proceeding to evict such unlicensed seller.
- § 421-15 Inspections**
- A. All individuals, vehicles, place of business, businesses, or establishments that engage in the selling (wholesale and retail), manufacturing or giving of E-cigarettes, tobacco products and smoking paraphernalia will be subjected to unannounced inspections at a frequency as deemed necessary by the Health Officer or designee. Any product offered for sale without valid and reliable proof of source such as the wholesaler or supply chain will be confiscated and destroyed by the Health Officer or designee.
 - B. All adulterated products or products that have been tampered with or modified from the manufacturer's approved formulation offered for sale or for free will be confiscated, the license to operate will be revoked, and summons issued.

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§ 421-16 Enforcement & Penalties

- A. This Ordinance will be enforced by City of Paterson Health Officer, Registered Environmental Health Specialist, or other designee, and can also be enforced by the Paterson Police.
- B. It is a violation of this Ordinance unlawful for anyone to hinder, obstruct, abuse verbally or physically such a person enforcing the Ordinance, who has given proper identification.
- C. Full access to all locations of the establishment must be granted to the Health Officer or his designee, and, in the instance of failure to comply after a warrant is duly issued, a summons will be issued.
- D. In the event a business incurred on 3 separate inspections consecutive violations of the same nature, the Health Officer or designee may order the temporary or permanent closure of the establishment followed by a hearing to be heard at the Health Department by the Health Officer or designee to determine if or when the business may reopen.

E. During the time of license suspension, vape/smoke shops must cease sale and close the establishment or portion of the establishment and must remove all vape and e-cigarette products from store shelves and public view until the assigned suspension has ended and conditions have been made satisfactory per notice from the Health Department.

F. Any owner, occupant or responsible person who is not in full compliance with this article or who otherwise violates any provision of this article or rules and regulations issued hereunder shall be subject to a fine of not more than \$2,000.00, imprisonment in the county/municipal jail for a term not exceeding 90 days, or a period of community service not exceeding 90 days, or any combination thereof as determined by the Municipal Court Judge for each prohibition. The said penalties are the maximum permitted under New Jersey law, N.J.S.A. 40:49-5, but if the said statutory maximums are raised, then this Ordinance shall be deemed amended to conform to the amended statutory maximums.

G. Every day that a violation continues shall constitute a separate and distinct offense and shall be subject to imposition of a separate penalty for each day of the violation as the Court may determine.

H. The prohibitions and fines in this section shall supplement any and all other civil and/or criminal penalties allowed by law, ordinance, code, or regulation.

SECTION II: All Ordinances or portions of Ordinances inconsistent herewith are hereby repealed to the extent of their inconsistency only.

SECTION III: If any part of this Ordinance shall be declared to be invalid or inoperative, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

SECTION IV: The City Clerk shall have this Ordinance codified and incorporated in the official copies of the Code of Paterson.

SECTION V: This Ordinance shall take effect upon passage, approval and publication as required by law.

SECTION VI: The City Clerk and the Corporation Counsel may change any chapter numbers, article numbers and section numbers if codification of this Ordinance reveals a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

SECTION VII: The City Clerk and the Corporation Counsel may correct any clerical errors in the printing, publication and codification of this Ordinance, provided both concur with the

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correction being made and both certify in writing to the Municipal Council as to the specifics of the clerical correction no later than seven (7) days before the correction is made, or, where a legal deadline for publication applies, no later than the date of the next Regular Meeting. The said certifications shall also be prominently posted no later than the date of the next Regular Meeting, and thereafter shall be annexed to the corrected original Ordinance and retained by the City Clerk.

STATEMENT OF PURPOSE

The purpose of this Ordinance is to regulate the potentially-harmful effects of smoke shops and tobacco shops, which can impact health and quality of life of the residents of the City of Paterson. The stated penalties and fines are to assist the City of Paterson in regulating smoke shops and tobacco shops, and the harms associated with such entities.

Z:\documents\Ben-David Seigman\Legal Matters Without Files\Hookah, Indoor Smoking, & Vaping\Vaping\ord smoke shop, 10.28.25; PP RS BD OC (with added sponsorship).capping, 421-16 correction.docx

SECONDED BY COUNCILPERSON COUNCILMAN ALEX MENDEZ/COUNCILMAN LUIS VELLEZ

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RECORD OF COUNCIL VOTE ON FINAL PASSAGE	AYE	NAY	ABSTAIN	ABSENT
1. COTTON, RUBY N.	X			
2. DAVILA, MARITZA	X			
3. JACKSON, MICHAEL	X			
4. KHALIQUE, SHAHIN	X			
5. MENDEZ, ALEX	X			
6. MIMMS, LILISA	X			
7. OMAR, IBRAHIM	X			
8. UDDIN, MD FORID				X
9. VELEZ, LUIS	X			

Adopted on first reading at a meeting of the Council of the City of Paterson, N.J., on November 12, 2025. Adopted on second and final reading after hearing on DECEMBER 16, 2025.

Approved By <u>ANDREW SAYEGH</u>	Reconsidered By Council	Over Ride Vote	<input type="checkbox"/> Aye	<input type="checkbox"/> Nay
Mayor		Date		

Dr. Lilisa Mimms Council President
Phyllis Riley Deputy City Clerk