

TOWN OF FAIRVIEW, TEXAS

ORDINANCE NO. 2023- 02

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, AMENDING ORDINANCE NO. 2014-9-11B AND APPENDIX 2 OF THE CPDD ESTABLISHING A DEFINITION FOR CIGAR BAR/LOUNGE AND ADDING A SPECIFIC USE TYPE TO GENERAL USE CATEGORIES OF RETAIL (GENERAL); PROVIDING A SAVING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a public hearing was held before the Town of Fairview Planning and Zoning Commission and heretofore made a recommendation concerning the zoning; and

WHEREAS, notice of a public hearing before the Town Council (“Town Council”) was published in a newspaper of general circulation in the Town of Fairview at least sixteen (16) days before such hearing; and

WHEREAS, the Town Council has held a public hearing and finds that the zoning herein effectuated furthers the purpose of zoning in the town and that it is in the public interest to approve said zoning described herein;

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS:

Section 1. The Town Council hereby approves and adopts amendments to Town of Fairview Ordinance No. 2014-9-11B, by amending Exhibit B (CPDD Commercial Planned Development District) to said ordinance as follows:

A. CPDD Appendix 2 (Land Use), Commercial Uses, shall be amendment to include the following additional use type:

General Use Categories	Specific Use Types	Neighborhood General/Neighborhood Edge	Urban Transition	Urban Village	Use-Specific Regulations
Retail (General)	Cigar Bar/Cigar Lounge*			MajW	

MajW – Major Warrant

*Specific land use types defined in Appendix 2.2 – Land Use Definitions

B. CPDD Appendix 2: Land Use, Section 2.2 Land Use Definitions; Commercial Uses shall be amended to add a new definition as follows:

Cigar Bar or Cigar Lounge: For all purposes relating to permissible land uses, including requests for warrants, and enforcement of town regulations prohibiting smoking in public areas, a "cigar bar" or "cigar lounge" is strictly limited to those establishments as to which

the operators seek to allow smoking by customers and that are cigar-themed and focused, as evidenced by the following: (1) clearly states in its name and marketing that it is a "cigar bar" or "cigar lounge," (2) derives at least thirty-three (33) percent of its gross revenue from the on-site sale of cigars, (3) maintains an on-site walk-in humidor for the intent of resale of cigar products; (4) posts outdoor signage notifying the public that entry will result in exposure to secondhand tobacco smoke, and (5) provides an independent ventilation system and must be separated from any adjoining non-smoking areas by an impermeable wall and ceiling. A "cigar bar" or "cigar lounge" shall not include any establishment which undertakes the retail offering of tobacco products as a means to circumvent any other town regulation. Unless otherwise specified by town regulation, undefined terms relating to a cigar bar or cigar lounge shall be construed according to the definitions in use by the United States Centers for Disease Control and Prevention (CDC), but the terms of town regulations shall control to the extent of any conflict.

Section 2. The sections, paragraphs, sentences, phrases, clauses and words of this ordinance are severable, and if any section, paragraph, sentence, phrase, clause or word in this ordinance or application thereof to any person, firm or corporation, or to any circumstance is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance, and the Town Council hereby declares that it would have adopted such remaining portions of this ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 3. It shall be a Class C misdemeanor to violate any provision of this ordinance or the regulations adopted hereunder. The amount to be paid upon conviction shall not exceed the amount set forth and as applicable in the Fairview Code or in said regulations, or the highest amount allowed by law, whichever is lower. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

Section 4. This ordinance amendment shall take effect upon passage and publication, and it is accordingly so ordained.

PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, TEXAS, THIS 3rd DAY OF JANUARY 2023.




Ricardo Doi, Mayor Pro Tem
Town of Fairview

ATTEST:


Tenitrus Bethel, Town Secretary

APPROVED AS TO FORM:


Clark McCoy, Town Attorney

