

ORDINANCE #2023- 20

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, APPROVING TEXT AMENDMENTS TO THE CITY OF DORAL LAND DEVELOPMENT CODE BY AMENDING DIVISION 4 “SPECIAL DEVELOPMENT REGULATIONS FOR CERTAIN USES” OF ARTICLE III “SPECIAL SETBACKS AND USES” OF CHAPTER 74, “MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS,” OF THE CITY OF DORAL LAND DEVELOPMENT CODE TO CREATE DISTANCE REQUIREMENTS AND OTHER REGULATIONS RELATED TO TOBACCO/VAPE SHOPS; PROVIDING FOR DEFINITIONS; PROVIDING FOR INCORPORATION INTO THE CODE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the U.S. Center for Disease Control (“CDC”) indicates that 9 out of 10 smokers begin smoking before the age of 18; and

WHEREAS, those minors that smoke are at a greater risk of nicotine addiction, reduction in lung growth, reduced lung function, and early on-set of cardiovascular disease; and

WHEREAS, according to the CDC, most e-cigarettes contain nicotine which is highly addictive and can harm brain development, which continues into the early and mid-twenties; and

WHEREAS, the City of Doral (“City”) finds that it is in the best interest of the children of the City to manage their exposure of tobacco and vape-related products, by placing a minimum distance requirements between smoke shops and educational facilities; and

WHEREAS, the State of Florida has recently adopted a law restricting tobacco use to persons 21 age and over; and

WHEREAS, the deleterious effects of smoking is not unique to minors—according to the CDC, cigarette smoking causes about one of every five deaths in the

United States each year; and

WHEREAS, the establishment of regulating standards for locating stores that predominantly sell tobacco and e-cigarette related products are essential for protecting the health, safety and welfare of the City's youth and young adults; and

WHEREAS, the text amendments to the City's Land Development Code set forth herein establish a clear set of standards for the location of retail smoke shops within the City, as the term is defined therein, not only to protect the public health, safety, and welfare of its citizens, but also to avoid the clustering of smoke shops, with the intent of maintaining property values, protecting tax revenues, attracting business and industry, and encouraging conditions that make the City of Doral a thriving and welcoming place to invest; and

WHEREAS, on June 28, 2023, the City Council of the City at a properly advertised hearing (First Reading) received testimony and evidence related to the proposed text amendment to the City's Land Development Code as required by state law and local ordinances; and

WHEREAS, the Mayor and City Council finds that the adoption of the text amendment to the City's Land Development Code is in the best interest of the health, safety and welfare of the residents and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL:

Section 1. **Recitals.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a part of this Ordinance upon adoption hereof.

Section 2. **Amending Code.** Chapter 74, Division IV of the Code of Ordinances of the City of Doral is hereby amended to read as follows:

Chapter 74 – MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS
ARTICLE III. – SPECIAL SETBACKS AND USES

DIVISION 4. - SPECIAL DEVELOPMENT REGULATIONS FOR CERTAIN USES

Sec. 74-170. TOBACCO/VAPE DEALERS

(a) Intent. It is the intent of this section to manage access and exposure of tobacco and vaping products to children and adolescents due to their addictive nature and damaging effects on health. It is also the intent to limit the proliferation of tobacco, vaping, and smoking device product dealers throughout the city and to minimize the negative implications that these types of businesses may portray to the city's image.

(b) Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Retail tobacco products dealer means the holder of a retail tobacco products dealer permit that is authorized to sell tobacco products.

Retail smoking devices dealer means any retail establishment that sells smoking devices.

Retail tobacco products dealer permit means a permit issued by the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation, or successor agency, pursuant to F.S. § 569.003, as amended, that authorizes the sale of tobacco products.

Retail vape products dealer means any retail establishment that sells vapor-generating electronic devices and components, parts, and accessories for such products.

Smoking devices means any of the following devices:

- (1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic smoking pipes, with or without screens, permanent screens, or punctured metal bowls.
- (2) Water pipes;
- (3) Carburetion tubes and devices;
- (4) Chamber pipes;
- (5) Carburetor pipes;
- (6) Electric pipes;
- (7) Air-driven pipes;
- (8) Chillums;
- (9) Vape pens, dab pens, and dab rigs;
- (10) e-hookahs
- (11) E-cigs;
- (12) Tanks;
- (13) Mods;
- (14) Pod-Mods;
- (15) Electronic nicotine delivery systems (ENDS);
- (16) Bong; or
- (17) Ice pipes or chillers.

Tobacco/vape dealer means a commercial establishment wherein the primary use is as a dedicated ~~that is a~~ retail tobacco products dealer, retail vape products dealer, or retail smoking device dealer. As used herein, primary use shall mean that 20% or more of the floor space of the business is dedicated to any combination of uses as a retail tobacco products dealer, retail vape products dealer, or retail smoking device dealer. This definition shall exclude a cigar/hookah bar, grocery stores, gas stations, and convenience stores.

(c) Location restrictions. Tobacco/vape dealers shall comply with the following distance restrictions, as applicable:

1. Distance from education facilities. No tobacco/vape dealers shall be located less than ~~2,500~~ ~~2,640~~ 2,500 feet from an education facility. For purposes of this section, an education facility is defined as any building or structure used by a public, private or charter school in which the education of children in grades kindergarten through 12th grade takes place. Post-secondary education facilities, such as colleges, universities and trade schools, are exempt from this spacing requirement.
2. Distance from places of worship. No tobacco/vape dealers shall be located less than ~~2,500~~ ~~2,640~~ 2,500 feet from a place of worship.
3. Distance separation. No tobacco/vape dealer shall be located within 1,200 feet of another tobacco/vape dealer.
4. Measurement methodology. For purposes of measuring the spacing requirements, the distance shall be measured by following the shortest roadway path from the front door of the proposed tobacco/vape dealer to the nearest point on the property boundary line on which the education facility, place of worship, or existing tobacco/vape dealer is located.
5. Determination of minimum distance separation. When a distance separation is required, a scaled survey drawn by a registered land surveyor shall be submitted attesting to the separation of the uses in question. This requirement may be waived upon the written certification by the planning director or designee that the minimum distance separation has been properly satisfied.

Section 3. **Severability.** If any section, subsection, sentence, clause, phrase, work or amount of this ordinance shall be declared unconstitutional or invalid by competent authority, then the remainder of the ordinance shall not be affected thereby and shall remain in full force and effect.

CODING: Additions to existing text are shown by underline, changes to existing text on second reading are shown by double underline, and deletions are shown as ~~strike through~~.

Section 4. Repeal of Conflicting Provisions. All ordinances or parts of ordinances or resolutions of the County Code made inconsistent or in conflict herewith shall be and they are hereby repealed in their entirety as there is conflict or inconsistency.

Section 5. Inclusion in Code. It is the intention of the Mayor and City Council and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the City of Doral Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

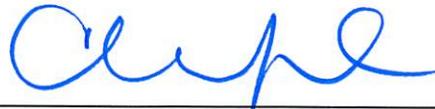
Section 6. Effective Date. This Ordinance shall become upon adoption on second reading.

The foregoing Ordinance was offered by Councilmember Puig-Corve who moved its adoption. The motion was seconded by Vice Mayor Pineyro upon being put to a vote, the vote was as follows:

Mayor Christi Fraga	Yes
Vice Mayor Rafael Pineyro	Yes
Councilwoman Digna Cabral	Yes
Councilwoman Maureen Porras	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED on FIRST READING this 28 day of June, 2023.

PASSED AND ADOPTED on SECOND READING this 23 day of August, 2023.



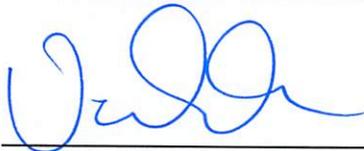
CHRISTI FRAGA, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



VALERIE VICENTE, ESQ. for
NABORS, GIBLIN & NICKERSON, P.A.
CITY ATTORNEY