



COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Eric Carpenter, City Manager
DATE: June 25, 2025
TITLE: REFERRAL TO THE PLANNING BOARD – INCREASED DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE USES.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) refer the attached draft ordinance to the Planning Board.

BACKGROUND/HISTORY

On February 26, 2025, at the request of Commissioner David Suarez, the City Commission referred a discussion item pertaining to increased distance separation requirements for tobacco and vape stores (C4 K) to the LUSC. On May 8, 2025, the LUSC discussed the item and recommended that the City Commission refer an ordinance to the Planning Board, in accordance with the draft text contained in the LUSC memorandum.

ANALYSIS

The following are the applicable definitions in Chapter 1 of the Land Development Regulations of the City Code (LDRs), pertaining to tobacco and vape stores:

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

The sale of tobacco and vape products, city wide, is regulated under Chapter 7 of the LDRs, pursuant to Section 7.5.5.9, as follows:

7.5.5.9 TOBACCO/VAPE DEALERS

a. Intent. It is the intent of this division to limit 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 in areas where the city encourages tourism, and to minimize the negative implications that these types of businesses may portray to the city's visitors seeking a unique vacation destination.

b. Locations prohibiting the sale of tobacco and vape products.

1. *Prohibited locations. Tobacco/vape dealers are prohibited in the following locations:*
 - A. *Within 500 feet of any property used as a public or private, elementary, middle, or*

secondary school. The minimum distance separation requirement shall be determined by measuring a straight line from the main entrance or exit of the establishment which contains the tobacco/vape dealer to the nearest point of the property line of the school.

B. In those specific areas that have been identified within the underlying zoning district regulations in Articles 2, 3 or 4 of chapter 7 - the Zoning Districts and Regulations in the Land Development Regulations.

C. Notwithstanding the foregoing, the prohibitions of this section shall not be applicable to medical cannabis treatment centers permitted pursuant to section 7.5.5.8.

2. Distance separation. No tobacco/vape dealer shall be located within 1,200 feet of another tobacco/vape dealer.

3. 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.

4. [Variances.] Variances from the requirements of this section shall be prohibited.

At the direction of the LUSC on May 8, 2025, the attached ordinance amendment has been drafted, and the following is a summary of the key provisions of the proposed ordinance:

1. An authorization section is included, to clarify that in addition to obtaining applicable licenses from the State, the Certificate of Use for the subject property shall be updated to expressly contain the sale of tobacco and vape products.
2. The distance separation requirements for locations engaging in the sale of tobacco and vape products has been modified as follows:
 - a. The distance separation from any property used as a public or private, elementary, middle, or secondary school has been increased from 500 feet to 1000 feet.
 - b. A new distance separation of 250 feet is required from any property located in a residential (RS, RM, RPS or TH) zoning district.
 - c. A new distance separation of 500 feet is required from any property containing public parks, libraries, playgrounds, daycares, and houses of worship.
 - d. The distance separation between tobacco/vape dealers has been increase from 1,200 feet to 1,500 feet.

Attached are maps of the north and south portions of the City that show all State licensed tobacco/nicotine product retailers. These maps also include the current 1,200-foot buffers around existing establishments and the current 500-foot buffer around schools. Under the current requirements, no additional tabaco/vape dealers would likely be permitted, with a few minor exceptions along Collins Avenue in mid-beach where they could be an accessory use. However, should existing establishments close, the proposed regulations would provide a larger buffer.

The Administration is supportive of the ordinance as it provides additional protections to children and residents, as well as individuals frequenting public gathering locations such as parks and houses of worship.

APPLICATION FEE WAIVER

The subject amendment is proposed on a comprehensive basis, and not on behalf of a private applicant or third party. Pursuant to section 2.4.1.c of the Land Development Regulations of the City Code, amendments to the City Code require the payment of the applicable fees in section 2.2.3.5, 2.2.3.6, and appendix A to the City Code. These fees may be waived by a five-sevenths (5/7ths) vote of the City Commission, based upon one or more of the following circumstances:

1. The City Commission determines that the proposed amendment is necessary due to a change in federal or state law, or to implement best practices in urban planning, or based on circumstances unique to the proposed amendment.

2. Upon the written recommendation of the City Manager acknowledging a documented financial hardship of a property owner(s) or developer(s).

3. If requested, in writing, by a non-profit organization, neighborhood association, or homeowner's association for property owned by any such organization or association, so long as the request demonstrates that a public purpose is achieved by enacting the applicable amendment.

Should this proposal be referred to the Planning Board, the Administration recommends that the City Commission determine that the proposed amendment is necessary based on circumstances unique to the proposed amendment and waive the applicable fees.

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected

Does this Ordinance require a Business Impact Estimate? (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:

See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends the following:

1. The City Commission refer the attached draft ordinance to the Planning Board.
2. In accordance with section 2.4.1.c.1 of the LDRs, the City Commission waive the applicable fees based on circumstances unique to the proposed amendment.

Applicable Area

Citywide

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner David Suarez

Co-sponsor(s)

Condensed Title

Ref: PB - Increased Distance Separation Requirements for Tobacco & Vape Uses. (Suarez) PL

Previous Action (For City Clerk Use Only)