

Distance Separation Exemption for Tobacco and Vape Uses in North Beach

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING THE RESILIENCY CODE OF THE CITY OF MIAMI BEACH, BY AMENDING CHAPTER 7, ENTITLED “ZONING DISTRICTS AND REGULATIONS,” BY AMENDING ARTICLE III, ENTITLED “OVERLAY DISTRICTS,” SECTION 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICTS,” TO MODIFY REQUIREMENTS FOR TOBACCO AND VAPE DEALERS; BY AMENDING ARTICLE V, ENTITLED “SUPPLEMENTARY DISTRICT REGULATIONS,” SECTION 7.5.5, ENTITLED “SPECIALIZED USE REGULATIONS,” TO MODIFY THE MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE DEALERS IN NORTH BEACH; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission seeks to provide for limited relief from minimum distance separation requirements for tobacco and vape dealers in North Beach; and

WHEREAS, tobacco and vape dealers that are incidental to a convenience store are likely to have less impact on an established area; and

WHEREAS, amending the distance separation requirements for tobacco and vape dealers associated with convenience stores would have a positive impact for small businesses; and

WHEREAS, the amendments set forth below are necessary to accomplish all of the above objectives.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. Chapter 7 of the Miami Beach Resiliency Code, entitled “Zoning Districts and Regulations,” Article III, entitled “Overlay Districts,” is hereby amended as follows:

CHAPTER 7 - ZONING DISTRICTS AND REGULATIONS

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ARTICLE III. – OVERLAY DISTRICTS

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7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT

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7.3.10.2 Compliance with regulations (North Beach Commercial Character Overlay District).

The following regulations shall apply to the overlay district. There shall be no variances allowed from the provisions of this section. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

* * *

a. The following limitations shall apply to the commercial uses listed below:

* * *

xi. Tobacco/vape dealers shall be prohibited in the overlay district. Notwithstanding the foregoing, a tobacco/vape dealer operating as part of a convenience store that is i. located in a CD-2 zoning district fronting Collins Avenue, between 65th and 67th Streets, and ii. where no more than 5 percent of the floor area of the convenience store contains tobacco, vape or smoking device products, may be permitted in accordance with the requirements specified in Section 7.5.5.9.b

SECTION 2. Chapter 7 of the Miami Beach Resiliency Code, entitled “Zoning Districts and Regulations,” Article V, entitled “Supplementary District Regulations,” is hereby amended as follows:

CHAPTER 7 - ZONING DISTRICTS AND REGULATIONS

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ARTICLE V. – SUPPLEMENTARY DISTRICT REGULATIONS

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7.5.5 SPECIALIZED USE REGULATIONS

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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. Notwithstanding the foregoing, a tobacco/vape dealer operating within a convenience store that is i. located in a CD-2 zoning district fronting Collins Avenue, between 65th and 67th Streets, and ii. where no more than 5 percent of the floor area of the convenience store contains tobacco, vape or smoking device products, shall be exempt from the distance separation requirement 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.

SECTION 3. REPEALER.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith are hereby repealed.

SECTION 4. CODIFICATION.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 5. SEVERABILITY.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2025.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

First Reading: _____, 2025
Second Reading: _____, 2025

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

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