

16. DISCUSS THE CURRENT REQUIREMENTS OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE (LDRS) APPLICABLE TO TOBACCO AND VAPE SALES, INCLUDING MINIMUM DISTANCE SEPARATION AND NORTH BEACH USE RESTRICTIONS, AND POTENTIAL DISTINCTIONS BETWEEN STANDALONE TOBACCO/VAPE SHOPS AND THE SALE OF THESE PRODUCTS AS AN INCIDENTAL OR ACCESSORY USE TO A GROCERY, CONVENIENCE STORE, OR OTHER SIMILAR RETAIL USE.

Applicable Area:

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: March 11, 2025

TITLE: DISCUSS THE CURRENT REQUIREMENTS OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE (LDRS) APPLICABLE TO TOBACCO AND VAPE SALES, INCLUDING MINIMUM DISTANCE SEPARATION AND NORTH BEACH USE RESTRICTIONS, AND POTENTIAL DISTINCTIONS BETWEEN STANDALONE TOBACCO/VAPE SHOPS AND THE SALE OF THESE PRODUCTS AS AN INCIDENTAL OR ACCESSORY USE TO A GROCERY, CONVENIENCE STORE, OR OTHER SIMILAR RETAIL USE.

RECOMMENDATION

The Administration recommends that the Land Use and Sustainability Committee (LUSC) discuss and conclude the item with an unfavorable recommendation.

BACKGROUND/HISTORY

On February 3, 2025, at the request of Commissioner Kristen Rosen Gonzalez, the Mayor and City Commission (City Commission) referred a discussion item pertaining to distance separation requirements for tobacco and vape sales in North Beach (C4 Z) to the LUSC.

ANALYSIS

As noted in the attached referral memorandum, the item sponsor has requested that the LUSC review the Land Development Regulations of the City Code (LDRs) applicable to retail establishments that sell tobacco and vape products, and discuss whether the Code should be amended to distinguish between standalone tobacco/vape shops, and the sale of tobacco or tobacco-related products as an incidental or accessory use to a grocery, convenience store, or other similar retail use. Additionally, the sponsor has requested that this discussion be limited to commercial areas in North Beach, and that any proposed amendments maintain or expand restrictions on both standalone and incidental/accessory sales near schools.

The following are the applicable definitions in Chapter 1 of the 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.

Currently the above noted definitions do not distinguish between stand-alone establishments, such as smoke shops, and retail stores that sell tobacco and vape products as an accessory component, such as a convenience store or supermarket. Additionally, the sale of tobacco and

vape products is regulated pursuant to Section 7.5.5.9 of the LDRs, 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.*

Finally, pursuant to the recently adopted LDR Amendment creating the North Beach Commercial Character Overlay District, future tobacco/vape dealers are prohibited in the overlay district, which covers all of North Beach.

The current definitions for tobacco and vape entities were drafted broadly to apply to all types of tobacco and vape product dealers. The reason for this was to ensure that these products are adequately controlled and do not become easily accessible to children and minors.

As such, the Administration does not recommend that the LDRs be amended to create a distinction between standalone tobacco/vape shops and those entities that sell tobacco/vape products as an incidental product. To this end, such an amendment could lead to a proliferation of tobacco and vape sales as an 'accessory' component of another commercial use.

In conclusion, the Administration does not recommend in favor of this proposal, even if it is limited to North Beach, as proposed. Should the LUSC recommend modifications to the LDRs to establish to allow for tobacco and vape sales as an accessory component in eligible establishments in North Beach, a separate referral by the City Commission to the Planning Board would be required.

FISCAL IMPACT STATEMENT

No Fiscal Impact

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

The Business Impact Estimate (BIE) was published on .

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

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends that the LUSC discuss and conclude the item with an unfavorable recommendation.

Applicable Area

North Beach

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 Kristen Rosen Gonzalez

Co-sponsor(s)

Condensed Title

Discuss The Current Requirements Of The Land Development Regulations Of The City Code (LDR) Applicable To Tobacco And Vape Sales, Including Minimum Distance Separation And North Beach Use Restrictions, And Potential Distinctions Between Standalone Tobacco/Vape Shops And The Sale Of These Products As An Incidental Or Accessory Use To A Grocery, Convenience Store, Or Other Similar Retail Use.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Commissioner Kristen Rosen Gonzalez

DATE: February 3, 2025

TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE - DISCUSS THE CURRENT REQUIREMENTS OF THE LAND DEVELOPMENT REGULATIONS OF THE CITY CODE (LDR) APPLICABLE TO TOBACCO AND VAPE SALES, INCLUDING MINIMUM DISTANCE SEPARATION AND NORTH BEACH USE RESTRICTIONS, AND POTENTIAL DISTINCTIONS BETWEEN STANDALONE TOBACCO/VAPE SHOPS AND THE SALE OF THESE PRODUCTS AS AN INCIDENTAL OR ACCESSORY USE TO A GROCERY, CONVENIENCE STORE, OR OTHER SIMILAR RETAIL USE.

RECOMMENDATION

BACKGROUND/HISTORY

Please place the above item on the February 3, 2025 City Commission meeting agenda as a referral to the Land Use and Sustainability Committee ("LUSC").

I would like the LUSC to review the Land Development Regulations applicable to retail establishments that sell tobacco and vape products, and discuss whether the Code should be amended to distinguish between standalone tobacco/vape shops, and the sale of tobacco or tobacco-related products as an incidental or accessory use to a grocery, convenience store, or other similar retail use.

Any proposed amendments should maintain or expand restrictions on both standalone and incidental/accessory sales near schools.

ANALYSIS

FISCAL IMPACT STATEMENT

NA

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-notice/>

FINANCIAL INFORMATION

CONCLUSION

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

Office of Commissioner Kristen Rosen Gonzalez

Sponsor(s)

Commissioner Kristen Rosen Gonzalez

Co-sponsor(s)

Condensed Title

Ref: LUSC - Current Tobacco Use Distance Separation and NB Restrictions. (Rosen Gonzalez)

Previous Action (For City Clerk Use Only)