

3. DISCUSS POSSIBLE LEGISLATION INCREASING DISTANCE REQUIREMENTS FOR VAPE/TOBACCO DEALERS TO PROTECT CHILDREN.

Applicable Area:

MIAMI BEACH

COMMITTEE MEMORANDUM

TO: Land Use and Sustainability Committee Members

FROM: Eric Carpenter, City Manager

DATE: May 8, 2025

TITLE: DISCUSS POSSIBLE LEGISLATION INCREASING DISTANCE REQUIREMENTS FOR VAPE/TOBACCO DEALERS TO PROTECT CHILDREN.

RECOMMENDATION

The Administration recommends that the Land Use and Sustainability Committee (LUSC) endorse the proposed amendments to the Land Development Regulations of the City Code (LDRs) and recommend that the Mayor and City Commission (City Commission) refer an 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.

ANALYSIS

As noted in the attached referral memorandum, the item sponsor has requested that the LUSC discuss the following modifications to the minimum distance separation requirements related to the retail sale of tobacco and vape products:

- Increasing the school buffer from 500 feet to 1,000 feet for public and private elementary, middle, and secondary schools.
- Establishing a new 500-foot buffer from public parks, libraries, playgrounds, daycares, and houses of worship.
- Adding a new 250-foot buffer from residentially zoned properties.
- Expanding the minimum distance between tobacco/vape dealers from 1,200 feet to 1,500 feet.

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.

The following is a draft amendment to Section 7.5.5.9, specific to the request of the sponsor:

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. *Authorization. All tobacco/vape dealers shall be required to obtain applicable licenses from the State. Additionally, prior to engaging in the sale of tobacco and vape products, the Certificate of Use for the subject property shall be updated to expressly contain the sale of tobacco and vape products.*

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

1. *Prohibited locations. Tobacco/vape dealers are prohibited in the following locations:*
 - A. *Within 500 ~~1000~~ feet of any property used as a public or private, elementary, middle, or secondary school.*
 - B. *Within 250 feet of any property located in a residential (RS, RM, RPS or TH) zoning district.*
 - C. *Within 500 feet of any property containing public parks, libraries, playgrounds, daycares, and houses of worship.*
 - D. *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.*
 - E. *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.*
 - F. *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~~ 1,500 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.*

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. With the current requirements, no additional tobacco/vape dealers would 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 text amendments drafted herein, as they provide additional protections to children and residents, as well as individuals frequenting public gathering locations such as parks and houses of worship. If there is consensus on the proposed text amendments, a separate referral by the City Commission to the Planning Board would be required.

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected

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 endorse the proposed amendments to the LDRs and recommend that the City Commission refer an ordinance to the Planning Board.

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

Discuss Possible Legislation Increasing Distance Requirements for Vape/Tobacco Dealers to
Protect Children.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Commissioner David Suarez
DATE: February 26, 2025
TITLE: REFERRAL TO THE LAND USE AND SUSTAINABILITY COMMITTEE TO DISCUSS POSSIBLE LEGISLATION INCREASING DISTANCE REQUIREMENTS FOR VAPE/TOBACCO DEALERS TO PROTECT CHILDREN.

RECOMMENDATION

N/A

BACKGROUND/HISTORY

N/A

ANALYSIS

Please place on the February 26, 2025 agenda a referral to the Land Use and Sustainability Committee to discuss possible legislation increasing distance requirements for vape/tobacco dealers to protect children.

Specifically, I would like the committee to discuss, with the aid of the City Administration and the City Attorney's Office, the following possible legislative items:

- Increasing the school buffer from 500 feet to 1,000 feet for public and private elementary, middle, and secondary schools.
- Establishing a new 500-foot buffer from public parks, libraries, playgrounds, daycares, and houses of worship.
- Adding a new 250-foot buffer from residentially zoned properties.
- Expanding the minimum distance between tobacco/vape dealers from 1,200 feet to 1,500 feet.

FISCAL IMPACT STATEMENT

N/A

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

N/A

CONCLUSION

N/A

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
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Department

Office of Commissioner David Suarez

Sponsor(s)

Commissioner David Suarez


Co-sponsor(s)

Condensed Title

Ref: LUSC - Legislation Increasing Distance Requirements for Vape/Tobacco Dealers, Protect Children. (Suarez)

Previous Action (For City Clerk Use Only)

Legend

-  Tobacco/Vape Dealers (DBPF)
-  Libraries
-  Parks
-  Religious_Institutions
-  Daycares
-  Public/Private Schools
-  Current School 500' Buffer
-  Tobacco/Vape Dealer 1200' Buffer



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-  Tobacco/Vape Dealers (DBPF)
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