

MIAMI BEACH

PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: July 28, 2025

FROM: Thomas R. Mooney, AICP  For TRM
Planning Director

SUBJECT: **PB25-0777. Increase Distance Separation Requirements for Tobacco and Vape Stores**

RECOMMENDATION

Transmit the proposed ordinance amendment to the Mayor and City Commission (City Commission) with a favorable recommendation.

NOTE: Considering potential conflicts with SB 180, which was adopted by the Florida Legislature and recently signed into law by the Governor, the proposed ordinance will require additional review by the City Attorneys office, prior to any future action by the City Commission.

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 Land Use and Sustainability Committee (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.

On June 25, 2025, at the request of Commissioner David Suarez, the City Commission referred the proposed ordinance to the Planning Board (C4 C).

REVIEW CRITERIA

Pursuant to Section 2.4.2 of the Resiliency Code, in reviewing a request for an amendment to these land development regulations (LDRs), the board shall consider the following when applicable:

1. **Whether the proposed change is consistent and compatible with the comprehensive plan and any applicable neighborhood or redevelopment plans.**

Consistent – The proposed change does not affect the goals, objectives, and policies of the Comprehensive Plan.

2. **Whether the proposed change would create an isolated district unrelated to adjacent or nearby districts.**

Not Applicable

3. **Whether the change suggested is out of scale with the needs of the neighborhood or the city.**

Consistent - The proposed change is not out of scale with the needs of the neighborhood.

4. **Whether the proposed change would tax the existing load on public facilities and infrastructure.**

Consistent – The proposed ordinance will not affect the load on public facilities and infrastructure.

5. **Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change.**

Not Applicable - The proposed amendment does not modify district boundaries.

6. **Whether changed or changing conditions make the passage of the proposed change necessary.**

Consistent – The need to further protect the health and welfare of young residents, as well as protect the atmosphere of important areas of the City makes passage of the proposed changes necessary.

7. **Whether the proposed change will adversely influence living conditions in the neighborhood.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

8. **Whether the proposed change will create or excessively increase traffic congestion beyond the levels of service as set forth in the comprehensive plan or otherwise affect public safety.**

Consistent – The proposed ordinance amendment will not adversely affect living conditions in the neighborhood.

9. **Whether the proposed change will seriously reduce light and air to adjacent areas.**

Consistent – The proposed change will not reduce light and air to adjacent areas.

10. **Whether the proposed change will adversely affect property values in the adjacent area.**

Consistent – The proposed change should not adversely affect property values in the adjacent areas.

11. **Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations.**

Consistent – The proposed change should not be a deterrent to the improvement or development of properties in the City.

12. **Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.**

Not Applicable

13. Whether it is impossible to find other adequate sites in the city for the proposed use in a district already permitting such use.

Not Applicable

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 7.1.2.4 of the LDRs establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

(1) Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.

Consistent – The proposal does affect areas that are vulnerable to the impacts of sea level rise in the long term, but has no impact on sea level rise.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal will not affect the resiliency of the City with respect to sea level rise.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal does not diminish and is compatible with the City's sea level rise mitigation and resiliency efforts.

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.*

The attached ordinance amends the distance separation requirements for tobacco and vape uses. 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

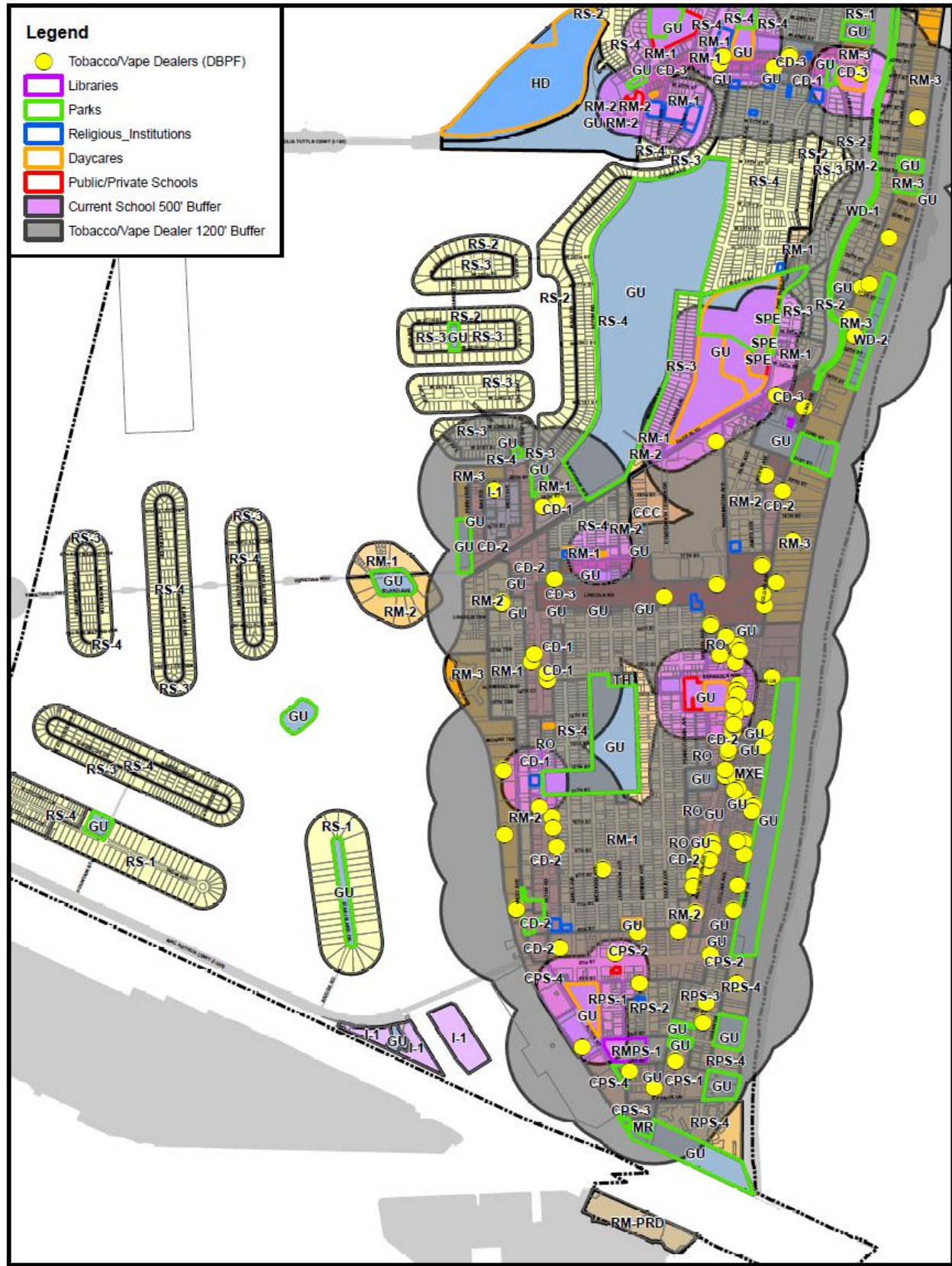
existing establishments and the current 500-foot buffer around schools. Under the current requirements, few, if any, additional tobacco/vape dealers would likely be permitted, except along Collins Avenue in mid-beach where they could potentially be an accessory use. However, should any of the existing establishments close, the proposed regulations would provide a larger buffer.

Staff 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. Notwithstanding, certain provisions of the proposed ordinance may conflict with SB 180, which was adopted by the Florida Legislature and recently signed into law by the Governor. As such, if the proposed ordinance is transmitted by the Planning Board, additional review by the City Attorney's office will be required, prior to any future action by the City Commission.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board transmit the proposed ordinance to the City Commission with a favorable recommendation.





Increased Distance Separation Requirements for Tobacco and Vape Uses

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 V, ENTITLED “SUPPLEMENTARY DISTRICT REGULATIONS,” SECTION 7.5.5, ENTITLED “SPECIALIZED USE REGULATIONS,” TO MODIFY AND INCREASE THE MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE DEALERS; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission seeks to increase minimum distance separation requirements for tobacco and vape dealers; and

WHEREAS, increasing distance separation requirements for tobacco and vape dealers further limits access and exposure of tobacco and vaping products to children and adolescents; and

WHEREAS, increasing distance separation requirements for tobacco and vape dealers further limits the proliferation of tobacco, vaping, and smoking device product dealers in areas where the city encourages tourism; and

WHEREAS, increasing the distance separation requirements for tobacco and vape dealers reduces the negative impacts that these businesses have the city's residents and visitors; 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 V, entitled “Supplementary District Regulations,” is hereby amended as follows:

CHAPTER 7 - ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE V. – SUPPLEMENTARY DISTRICT REGULATIONS

* * *

7.5.5 SPECIALIZED USE REGULATIONS

* * *

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 ~~4,200~~ 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.

SECTION 2. REPEALER.

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

SECTION 3. 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 4. SEVERABILITY.

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

SECTION 5. 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

F:\PLAN\PLB\2025\07-28-2025 Special Meeting\ORD PB25-0777. Increase Distance for Tobacco and Vape Stores\PB25-0777. Increase Distance Separation Requirements for Tobacco and Vape Uses - PB ORD - 7-28-2025.docx