

Ordinance No 2025-08 (Second Reading) Smoke Shop Regulations (Vice Mayor Daniela Jean)

DESCRIPTION:

A Zoning (text) Amendment Ordinance update Chapter XXIV Zoning and Land Development to define “smoke shop” as a distinctive retail land use and provide reasonable conditions to this use to limit the clustering and proliferation of these uses within the City of North Miami Beach.

BACKGROUND ANALYSIS:

Over the past few years, the number of retail shops selling primarily tobacco products including vaping products have proliferated in the City of North Miami Beach. This proliferation has resulted in negative community perception of these types of businesses. This community perception has been reinforced by the fact that these types of tobacco/vape retail establishments are not as visible in surrounding municipalities and the unincorporated county. Given this community perception, Community Development Department staff undertook a study of surrounding communities to understand how this type of retail establishment was regulated.

The study found that many adjacent communities regulate “smoke shop” retail establishments as a distinct land use with conditions which entail distance separation requirements from one established “smoke shop” to another proposed “smoke shop” and/or distance separation requirements from a proposed “smoke shop” to other pre-defined sensitive uses. These distance separation requirements are calibrated to the specific municipality as the size, location, and configuration of commercial areas available for retail uses. This calibration step is vital to ensure that the distance separation requirements individually or collectively create a condition where the use, which is otherwise legal under Florida Statute, is effectively prohibited.

Any local government regulation or set of regulations which would create a condition where an otherwise legally permissible use is effectively prohibited is subject to challenge in a court of law by any impacted business or property owner.

The Zoning Amendment Ordinance presented for consideration has been drafted based on best practices identified from adjacent municipalities and an analysis of the specific size, location, and configuration of mixed-use and commercial Zoning Districts within the City of North Miami Beach.

NOTE: This proposed ordinance does not nor is it intended to regulate in any way Medical Marijuana Dispensaries and Treatment Centers as defined by Section 381.986 Medical use of marijuana, Florida Statute.

STAFF FINDINGS:

The City of North Miami Beach Code of Ordinances classifies tobacco shops under the general retail use category. The retail use category is permitted by right in the following commercial and mixed-use Zoning Districts:

- B-1 Limited Business District

- B-2 General Business District
- B-3 Intensive Business District
- B-4 Distribution Business and Light Industrial District
- B-5 Distribution Business and Medium Industrial District
- Fulford Mixed-Use Town Center District (MU/TC)
- Mixed-Use Employment Center District (MU/EC)
- Mixed-Use Neighborhood Center District (MU/NC)
- Arch Creek Mixed-Use Corridor District (MU/C)
- Southern Mixed-Use Waterfront District (MU/SWF)
- Northern Mixed-Use Waterfront District (MU/NWF)
- Eastern Mixed-Use Waterfront District (MU/EFW)
- International Boulevard District (MU/IB)

Based on an analysis of adjacent municipalities, “tobacco shops” / “vape shops” / “smoke shops” are commonly defined as a distinctive type of retail use which carries specific conditions for approval. These conditions for approval generally entail distance separation requirements from one established “smoke shop” to another proposed “smoke shop” and/or distance separation requirements from a proposed “smoke shop” to other pre-defined sensitive uses. These distance separation requirements are calibrated to the specific municipality as the size, location, and configuration of commercial areas available for retail uses.

The wide array of distance separation requirements and lists of protected uses indicate that the individual municipalities’, calibrated their distance separation requirements based on the size, location, and configuration of the zoning districts where similar retail uses were permitted by right. A similar analysis has been performed for the City of North Miami Beach by staff.

Proposed revisions to City of North Miami Beach Code of Ordinances:

Chapter XXIV Zoning and Land Development, Article II. Definitions, Section 24-22 Definitions,

- Strike the term “tobacco shops” from the current definition term “Retail Uses (general retail)”
- Add and define “Retail smoke shop” as a distinctive use

Chapter XXIV Zoning and Land Development, Article V. Zoning Use Districts

- Specifically list Retail smoke shop under “Uses Permitted Conditionally” in the following Zoning Districts:
 - Sec. 24-53 - B-3 Intensive Business District.
 - Sec. 24-54 - B-4 Distribution and Light Industrial District.
 - Sec. 24-54.1 - B-5 Distribution and Medium Industrial District.
 - Sec. 24-58.1 – Fulford Mixed-Use Town Center District (MU/TC).
 - Sec. 24-58.2 - Mixed-Use Employment Center District (MU/EC).
 - Sec. 24-58.8 – International Boulevard District (MU/IB).

Retail smoke shop, conditions include:

- Distance separation requirements to prevent Clustering of business use:
 - 1,000 feet of any other existing retail smoke shop
- Protection of sensitive uses:
 - 1,000 feet of any school (elementary, middle, or secondary) public or private
 - 1,000 feet of any hospital
 - 500 feet of any government facility or park
 - 250 feet of residential zoning districts

RECOMMENDATION:

Move to approve Ordinance 2025-08 Smoke Shop Regulations, defining smoke shop as a distinctive retail use and establishing reasonable distance separation requirements to prevent use clustering and protect defined sensitive uses, by finding it consistent with the City of North Miami Beach Comprehensive Plan.

FISCAL/ BUDGETRAY IMPACT:

Proposed Ordinance 2025-08 Smoke Shop Regulations Zoning Amendment is not anticipated to have any substantive positive or negative fiscal impact on the budget of the City of North Miami Beach.