



DEPARTMENT OF
**PLANNING AND
DEVELOPMENT
REVIEW**

STAFF REPORT

ORDINANCE: ORD. 2025-157

PURPOSE: To amend City Code for the purpose of establishing "retail sales of tobacco and hemp" as a defined use in the City's zoning ordinance and regulating where such uses can occur.

COUNCIL DISTRICT: Citywide

RECOMMENDATION: Approval

CONDITIONS: None

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Overview

The ordinance defines "retail sales of tobacco and hemp" to mean any business, establishment, or use that sells, offers, or distributes electronic smoking devices and retail tobacco products, as such terms are defined in § 18.2-371.2 Code of Virginia; or hemp products and hemp products intended for smoking, as such terms are defined in § 3.2-4112 Code of Virginia; and where one (1) or more of the following apply:

- 1) ten percent or more of the usable floor area is dedicated to the sale, offering, or distribution of such materials;
- 2) ten percent or more of the total area used to display merchandise, or ten percent or more of the total area used to otherwise promote merchandise, is dedicated to the sale, offering, or distribution of such materials;
- 3) ten percent or more of the total permitted sign area on the lot refers to such materials;
- 4) ten percent or more of inventory is comprised of such materials; or
- 5) in any one month, ten percent or more of gross revenue is derived from the sale, offering, or distribution of such materials.

Where will such uses be allowed?

The ordinance allows such uses through a conditional use permit in the UB, UB-2, B-2, B-3, B-4, B-5, B-6, RF-1, RF-2, CM, DCC, RP, M-1, and M-2 zoning districts, upon conditions that they:

- 1) Shall be located no less than one thousand (1,000) feet from any lot in a R or RO zoning district; and

- 2) Shall be located no less than one thousand (1,000) feet from any lot containing a child day center; public or private pre-, elementary, middle, or high school; park; public library; or church or other place of worship; and
- 3) Shall be located no less than one thousand (1,000) feet from any other lot containing such use; and
- 4) Drive-up facilities shall not be permitted in conjunction with such use; and
- 5) Any sale, offering, or distribution of electronic smoking devices or retail tobacco products as such terms are defined in § 18.2-371.2 Code of Virginia, or of hemp products or hemp products intended for smoking as such terms are defined in § 3.2-4112 Code of Virginia, shall only take place within the interior of a building or structure; and
- 6) Such use shall not take place at any time between the hours of 9:00 p.m. and 9:00 a.m

Health, Safety, and Welfare Concerns

This ordinance aligns with zoning ordinance provisions that strictly regulate uses for health, safety, and welfare purposes, including adult uses, lodginghouses, nightclubs, and retail sales of liquor. A core function of the zoning ordinance is to regulate the use of land in a manner that promotes health, safety, and general welfare. A wide body of research shows that the number and density of tobacco, nicotine, and hemp product retailers in a community correlates with negative public health outcomes, including higher rates of smoking among youth, higher rates of cigarettes smoked per day, and lower rates of successful cessation ([Lange, Hoefges, and Ribisl 2017](#), [Ackerman et al. 2016](#)).

Digging deeper, the research finds that among adults who become daily smokers, nearly all first use of cigarettes occurs by eighteen years of age. Adolescents who smoke are at high risk for long-term addiction because their brains are still developing. This long-term addiction results in tremendous personal, social, and financial costs of tobacco-related illnesses.

Children are especially vulnerable to advertising; the more they are exposed to it, the more likely they are to be influenced by it. Given that manufacturers allocate 90% of cigarette advertising and 70% of smokeless tobacco advertising to point-of-sale, regulating the location of retail sales of tobacco regarding locations where youth may be present is warranted.

Why the 10% threshold?

The Pareto Principle often applies to commercial uses, in which 80% of the revenue of such use is derived from the sales of just 20% of the total products or services offered. If we seek to regulate establishments that are commercially viable because of retail sales of tobacco and hemp, then we should set a threshold for the usable floor area, area used to display or promote merchandise, permitted sign area on the lot, inventory, or gross revenue related to retail sales of tobacco and hemp below 20%. A threshold of 10% does this.