

Ordinance No. 0-642-22

**AN ORDINANCE THAT AMENDS CHAPTER 7, BUSINESSES, OF THE CODE OF ORDINANCES
OF THE CITY OF JACKSONVILLE, ALABAMA
BY ADDING SECTIONS 7-204 – 7-209 (RESERVED) TO ARTICLE VIII – MOBILE FOOD VEHICLES AND BY
ADDING ARTICLE IX – SMOKE, TOBACCO AND VAPE STORES**

WHEREAS, the City of Jacksonville, Alabama has determined that it is in the best interest of the City to amend Chapter 7, Businesses, of The Code of Ordinances of the City of Jacksonville, Alabama by adding Sections 7-204 – 7-209 (Reserved) to Article VIII – Mobile Food Vehicles and by adding Article IX – Smoke, Tobacco and Vape Stores.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF JACKSONVILLE, ALABAMA:

SECTION I (a). Chapter 7 – Businesses, Article VIII – Mobile Food Vehicles, of The Code of Ordinances of the City of Jacksonville, Alabama is hereby amended to add the following:

Secs. 7-204 – 7-209. Reserved.

SECTION I (b). Chapter 7 – Businesses, of The Code of Ordinances of the City of Jacksonville, Alabama is hereby amended to add the following:

Article IX. - Smoke, Tobacco and Vape Stores

Sec. 7-210. – Purpose and Intent.

The general purpose and intent of these regulations are to provide separation, development and operational standards for smoke, tobacco and vape stores in the City of Jacksonville in order to mitigate the negative impacts associated with smoking and vaping uses and to serve the public health, safety, and welfare of residents and businesses within the city.

Sec. 7-211. – Applicability.

For the purposes of this Article, the standards of this Article apply to new establishments of smoke, tobacco and vape stores. An establishment is considered new when no previous smoke, tobacco or vape store existed at that location for a period of 60 consecutive days or greater. Any properly licensed smoke, tobacco or vape store legally operating at the effective date of this ordinance that is not in compliance with this Article shall be considered a legal nonconforming use.

Sec. 7-212. - Discontinuance and termination.

Any smoke, tobacco or vape store that voluntarily discontinues active operation for more than 60 consecutive days; does not maintain a valid city business license for more than 60 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.

Sec. 7- 213. – Definitions. When used in this Article, the following words and phrases will have the following meanings:

- (a) *Electronic cigarette (E-cigarette)*. An electronic or battery-operated device, whether or not such device is shaped like a cigarette, that uses an atomizer, aerosol or similar device that allows users to inhale nicotine vapor or flavored vapor, without fire, smoke or ash. An electronic cigarette includes but is not limited to any electronic nicotine delivery system, electronic vaping device, personal vaporizer, electronic pipe, electronic hookah, or vapor pen.
- (b) *Smoke, Tobacco or Vape Store*. Shall mean any retail premises dedicated to the display, sale, storage of vape or tobacco products, including electronic cigarettes and related accessories, offering, furnishing, or marketing of tobacco, tobacco products, vape or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke, tobacco or vape store” and shall not be subject to the restrictions in this Article.
- (c) *Tobacco product*. Includes any substance containing tobacco or derived from tobacco and any substance used in electronic cigarette and vaping devices including but not limited to cigarettes, cigars, e-juice, e-liquid, e-nicotine, smoke juice, pipe tobacco, rolling tobacco, hookah tobacco, snuff chewing tobacco, dipping tobacco, snus, nicotine gel, nicotine lollipops, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body.
- (d) *Vaping*. To inhale vapor from any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking.

Sec. 7 - 214. - Location requirements.

- (a) No smoke, tobacco or vape store established after the date of this Article shall be located within 2,500 linear feet of any other smoke, tobacco or vape store. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.
- (b) No smoke, tobacco or vape store shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.
- (c) No smoke, tobacco or vape store shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.
- (d) No smoke, tobacco or vape store shall be permitted if there exist a ratio of more than one smoke, tobacco or vape store for every 5,000 residents of the city.

Sec. 7- 215. – Development and operational standards.

- (a) Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices shall be kept and displayed in a secure and locked enclosure, which can only be accessed with the assistance of a clerk. Self-service displays of tobacco products and tobacco paraphernalia are prohibited.
- (b) Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices, and electronic cigarette and vaping accessories shall not be visible through storefront windows.
- (c) Smoke, tobacco or vape stores shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the shop. It shall be unlawful for a tobacco shop or vape shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.
- (d) New store operators shall submit a life safety plan floor plan prepared by a licensed registered architect with the State of Alabama.

Sec. 7-216. - Enforcement.

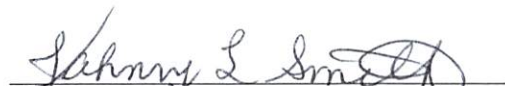
Any person violating any section of this Article may be subject to the provisions set forth in Section 1-6, General penalty; continuing violations, in the City's Code of Ordinances.


Secs. 7-217 - 7-226. Reserved.


SECTION II. The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional by a court of competent jurisdiction, then such ruling shall not affect any other paragraphs and sections, since the same would have been enacted by the municipal council without the incorporation of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION III. Effective upon adoption of this Ordinance to the extent that all other Ordinances or parts of Ordinances of the City of Jacksonville, Alabama conflicting herewith or inconsistent with the provisions in this Ordinance are hereby repealed to the extent of such conflict.

PASSED AND ADOPTED this the 22nd day of August, 2022.


Approved by Johnny L. Smith, Mayor


Council President Tony K. Taylor


Council Member Coty Galloway

ATTEST:




Brenda Long, City Clerk

ABSENT
Council Member Andrew Green

ABSENT
Council Member Terry Wilson


Council Member Sherry Laster