

ORDINANCE No. 2024-07

AN ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AMENDING SECTION 74-170, "TOBACCO/VAPE DEALERS", OF CHAPTER 74 "MISCELLANEOUS AND SUPPLEMENTARY REGULATIONS" OF THE CITY OF DORAL LAND DEVELOPMENT CODE, TO INCLUDE HEMP AND CBD DEALERS FOR THE PURPOSES OF LOCATION/DISTANCE RESTRICTIONS AND TO ALSO INCLUDE MOVEABLE PLACES OF BUSINESSES; PROVIDING FOR A REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION INTO THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Mayor and the City Council of the City of Doral ("City") has a substantial interest in the public health, safety, and welfare of its residents and visitors; and

WHEREAS, on August 23, 2023, the City Council adopted Ordinance 2023-20, creating distance requirements and other regulations related to tobacco/vape shops; and

WHEREAS, the U.S. Food and Drug Administration (FDA) reported that in 2023 approximately 2.8 million high school and middle school students have used tobacco products in which e-cigarettes were the most popular form of ingesting tobacco; and

WHEREAS, in an October 2022 study, the Center for Disease Control (CDC) opined that youth use of tobacco products, in any form, is unsafe as such products contain nicotine which is highly addictive and can harm the developing adolescent brain and may increase the risk of future addiction to other drugs; and

WHEREAS, Florida law prohibits the sale of consumable hemp products to individuals under the age of twenty-one (21) years of age; and

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WHEREAS, retail tobacco/vape, smoking device, CBD and consumable hemp dealers are uses that may negatively affect the surrounding areas in which they are established; and

WHEREAS, in order to ensure that the intent and purpose of Ordinance 2023-20 can be implemented, it is necessary to further amend Chapter 74 of the City's Land Development Code to include CBD and consumable hemp dealers, as well as to include moveable places of business; and

WHEREAS, on January 24, 2024, the City Council of the City of Doral sitting as the Local Planning Agency (LPA) at a properly advertised hearing received testimony and evidence related to the proposed text amendment to Section 74-170, "Tabacco/Vape Dealers," of Chapter 74 "Miscellaneous and Supplementary Regulations" of the City Land Development Code to include Hemp and CBD Dealers for the purpose of location/distance restrictions and also include moveable places and businesses in the Land Development Code as required by state law and local ordinances; and

WHEREAS, on January 24, 2024, the City Council of the City of Doral at a properly advertised hearing (First Reading) received testimony and evidence related to the proposed text amendment to Section 74-170, "Tabacco/Vape Dealers," of Chapter 74 "Miscellaneous and Supplementary Regulations" of the City Land Development Code to include Hemp and CBD Dealers for the purpose of location/distance restrictions and also include moveable places and businesses in the Land Development Code as required by state law and local ordinances, including the analysis prepared by the City's Planning and Zoning Department, contained in the staff report dated January 24, 2024; and

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WHEREAS, on March 20, 2024, the City Council of the City of Doral at a properly advertised hearing (Second Reading) received testimony and evidence related to the proposed text amendment to Section 74-170, "Tabacco/Vape Dealers," of Chapter 74 "Miscellaneous and Supplementary Regulations" of the City Land Development Code to include Hemp and CBD Dealers for the purpose of location/distance restrictions and also include moveable places and businesses in the Land Development Code as required by state law and local ordinances, including the analysis prepared by the City's Planning and Zoning Department, contained in the staff report dated January 24, 2024; and

WHEREAS, the Mayor and City Council find that it is in the best interest of its residents, businesses, and visitors to limit the exposure of tobacco/vape, CBD and consumable hemp products from children and adolescents; and

WHEREAS, the Mayor and City Council of the City of Doral has determined that the following amendments promote and protect the general health, safety, and welfare of the residents of and visitors to the City of Doral.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2. Amendment to Chapter 74 of the City of Doral's Land Development Code. Section 74-170 of the City of Doral's Code of Ordinances is hereby amended as follows:

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Sec. 74-170 – Tobacco/vape/hemp for consumption/CBD dealers.

(a) Intent. It is the intent of this section to manage access and exposure of tobacco, ~~and vaping, consumable hemp and CBD~~ 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, consumable hemp and CBD~~ product dealers throughout the city and to minimize the negative implications that these types of businesses may portray to the city's image.

(b) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CBD means a cannabinoid extract that is derived from hemp and contains less than 0.3 percent THC (tetrahydrocannabinol), regardless of form.

Hemp means the plant Cannabis sativa L. and any part of that plant, including the seeds thereof, and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers thereof, whether growing or not, that has a total delta-9-tetrahydrocannabinol concentration that does not exceed 0.3 percent on a dry-weight basis, with the exception of hemp extract, which may not exceed 0.3 percent total delta-9-tetrahydrocannabinol on a wet-weight basis.

Hemp extract means a substance or compound intended for ingestion, containing more than trace amounts of a cannabinoid, or for inhalation which is derived from or contains hemp and which does not contain controlled substances.

Moveable Place of Business means any form of business that is operated out of a kiosk, truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address storefront or other permanent type of structure authorized for sales transactions.

Retail hemp or CBD dealer means the holder of a retail license to distribute hemp or CBD products for human consumption, including any fixed or moveable place of business.

Retail tobacco products dealer means the holder of a retail tobacco products dealer permit that is authorized to sell tobacco products, whether fixed or moveable.

Retail smoking devices dealer means any retail establishment that sells smoking devices, whether fixed or moveable.

Retail vape products dealer means any retail establishment, whether fixed or moveable, that sells vapor-generating electronic devices and components, parts, and accessories for such products.

Tobacco/vape/consumable hemp/CBD dealer means a commercial establishment wherein the primary use is as a dedicated retail tobacco products dealer, retail vape products dealer, ~~or~~ retail smoking device dealer, retail consumable hemp dealer, or retail CBD dealer. As used herein, primary use shall mean that 20 percent or more of the floor space of the business is dedicated to any combination of uses as a retail tobacco products dealer, retail vape products dealer, ~~or~~ retail smoking device dealer, retail consumable hemp dealer or retail CBD dealer. This definition shall exclude a cigar/hookah bar, grocery stores, gas stations, and convenience stores.

- (c) Location restrictions. Tobacco/vape/consumable hemp/CBD dealers, whether fixed or moveable, shall comply with the following distance restrictions, as applicable:
- (1) Distance from education facilities. No tobacco/vape/consumable hemp/CBD dealers, shall be located less than 2,500 feet from an education facility. For purposes of this section, an education facility is defined as any building or structure used by a public, private or charter school in which the education of children in grades kindergarten through 12th grade takes place. Post-secondary education facilities, such as colleges, universities and trade schools, are exempt from this spacing requirement.
 - (2) Distance from places of worship. No tobacco/vape/consumable hemp/CBD dealers shall be located less than 2,500 feet from a place of worship.
 - (3) Distance separation. No tobacco/vape/consumable hemp/CBD dealer shall be located within 1,200 feet of another tobacco/vape/consumable hemp/CBD dealer.

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- (4) Measurement methodology. For purposes of measuring the spacing requirements, the distance shall be measured by following the shortest roadway path from the front door of the proposed tobacco/vape/consumable hemp/CBD dealer to the nearest point on the property boundary line on which the education facility, place of worship, or existing tobacco/vape/consumable hemp/CBD dealer is located.

Section 3. Repealer. All ordinances, or parts of ordinances in conflict herewith be, and the same, are hereby repealed.

Section 4. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 5. Incorporation into the Code. It is the intention of the Mayor and the City Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Ordinances of the City of Doral; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word, as required.

Section 6. Effective Date. This Ordinance will become effective ten (10) days after adoption at second reading.

The foregoing Ordinance was offered by Vice Mayor Puig-Corve who moved its adoption.

The motion was seconded by Councilmember Pineyro upon being put to a vote, the vote was as follows:

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Mayor Christi Fraga	Yes
Vice Mayor Oscar Puig-Corve	Yes
Councilwoman Digna Cabral	Yes
Councilman Rafael Pineyro	Yes
Councilwoman Maureen Porras	Yes

PASSED AND ADOPTED on FIRST READING this 24 day of January, 2024.

PASSED AND ADOPTED on SECOND READING this 20 day of March, 2024.

CHRISTI FRAGA, MAYOR

ATTEST:

CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

GREENSPOON MARDER, LLP
INTERIM CITY ATTORNEY

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