

R5 AE DISTANCE SEPARATION EXEMPTION FOR TOBACCO AND VAPE USES IN
NORTH BEACH

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 III, ENTITLED "OVERLAY DISTRICTS," SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT," TO MODIFY REQUIREMENTS FOR TOBACCO AND VAPE DEALERS; BY AMENDING ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," TO MODIFY THE MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE DEALERS IN NORTH BEACH; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

Applicable Area:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: April 22, 2026 11:15 a.m. First Reading Public Hearing

TITLE: DISTANCE SEPARATION EXEMPTION FOR TOBACCO AND VAPE USES IN NORTH BEACH
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 III, ENTITLED "OVERLAY DISTRICTS," SECTION 7.3.10, ENTITLED "NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT," TO MODIFY REQUIREMENTS FOR TOBACCO AND VAPE DEALERS; BY AMENDING ARTICLE V, ENTITLED "SUPPLEMENTARY DISTRICT REGULATIONS," SECTION 7.5.5, ENTITLED "SPECIALIZED USE REGULATIONS," TO MODIFY THE MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE DEALERS IN NORTH BEACH; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) not approve the subject ordinance at First Reading.

BACKGROUND/HISTORY

On February 3, 2025, at the request of former Commissioner Kristen Rosen Gonzalez, the City Commission referred a discussion item pertaining to distance separation requirements for tobacco and vape sales in North Beach (C4 Z) to the Land Use and Sustainability Committee (LUSC). On March 11, 2025, the LUSC discussed and continued the item to the April 15, 2025 meeting with direction to staff to prepare draft text amendments for narrow exceptions to the current distance separation requirements for tobacco and vape uses within convenience stores in North Beach, in accordance with the direction of the LUSC.

On April 15, 2025, the item was deferred to a future LUSC meeting, with no discussion. 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, the City Commission referred a draft ordinance to the Planning Board (C4 B). Commissioner Laura Dominguez is the sponsor of the item.

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 above noted definitions do not distinguish between stand-alone establishments, such as smoke shops, and retail stores that sell tobacco and vape products as an accessory component, like a convenience store or supermarket.

Additionally, the sale of tobacco and vape products, city wide and in North Beach, is regulated under Chapter 7 of the LDRs, pursuant to Sections 7.5.5.9 and 7.3.10, 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.

7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT

Tobacco/vape dealers are prohibited in the overlay district, and there shall be no variances allowed from the provisions of this section.

At the direction of the LUSC on May 8, 2025, an ordinance amendment was drafted that created a narrow exception for tobacco and vape uses in North Beach, as part of the operation of a convenience store. In the initial draft of the proposed ordinance, a tobacco/vape dealer operating within a convenience store would be exempt from the minimum distance separation requirements from another tobacco/vape use if the following thresholds were met:

1. The convenience store is in a CD-2 zoning district fronting Collins Avenue, between 65th and

67th Streets.

2. No more than five (5%) percent of the floor area of the convenience store contains tobacco, vape or smoking device products,

The North Beach use regulations have also been amended to allow for tobacco/vape dealers operating as part of a convenience store that comply with the aforementioned thresholds.

The current definitions for tobacco and vape entities were drafted broadly to apply to all types of tobacco and vape product dealers. The reason for this was to ensure that these products are adequately controlled and do not become easily accessible to children and minors. In this regard, it is important to re-emphasize the following intent of the current tobacco and vape product regulations:

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.

The limited exception proposed in the attached draft ordinance is intended to minimize the negative impacts of tobacco and vape sales within the identified commercial area of Collins Avenue between 65th and 67th Streets in North Beach.

PLANNING BOARD REVIEW

On September 9, 2025, the Planning Board held a public hearing and transmitted the proposed ordinance to the City Commission with an unfavorable recommendation (7-0).

SUMMARY/UPDATE

On September 17, 2025, First Reading of the subject ordinance was deferred to the October 29, 2025, City Commission meeting, with no discussion. The October 29, 2025, City Commission meeting was postponed, and the ordinance was moved to the December 17, 2025, City Commission meeting. On November 17, 2025, Commissioner Laura Dominguez became the new sponsor for the proposed ordinance.

On December 17, 2025, the City Commission discussed the proposed ordinance at First Reading and referred the proposal back to the LUSC for additional discussion. On March 24, 2026, the LUSC discussed the proposed ordinance and sent it back to the City Commission with no recommendation. The LUSC also suggested that if the proposal were to move forward, that a three (3) year sunset provision be included, requiring the owner and operator of a property eligible for the proposed distance separation exemption voluntarily proffer and execute a restrictive covenant affirming that all sales of tobacco, vape or smoking device products at the property cease and discontinue no later than June 1, 2029. The draft ordinance for First Reading has been updated with this sunset provision.

Notwithstanding this proposed sunset provision, the Administration continues to have concerns with an LDR amendment that relaxes the current distance separation requirements for tobacco and vape uses, even in a limited area. In this regard, there is the strong potential for an unintended precedent to be set, which could encourage future requests for limited exceptions to the distance separation requirements for tobacco and vape sales. As such, the Administration does not recommend that the LDRs be amended as proposed, and that the City Commission not approve the proposed ordinance at First Reading.

FISCAL IMPACT STATEMENT

No Fiscal Impact Expected

Does this Ordinance require a Business Impact Estimate? Yes
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

Not Applicable

CONCLUSION

The Administration recommends the following:

1. The City Commission not approve the ordinance at First Reading.
2. Should the ordinance be approved at First Reading, pursuant to Section 2.3.2 of the LDRs, the City Commission waive the annual zoning cycle restriction for the subject LDR amendment and schedule Second Reading of the ordinance for May 20, 2026.

Applicable Area

North Beach

Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Planning

Sponsor(s)

Commissioner Laura Dominguez

Co-sponsor(s)

Condensed Title

11:15 a.m. 1st Rdg, Distance Separation Exemp-Tobacco/Vape Uses in NB. (LD) PL 5/7

Previous Action (For City Clerk Use Only)

Continued from 9/17/2025 - R5 D

Distance Separation Exemption for Tobacco and Vape Uses in North Beach

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 III, ENTITLED “OVERLAY DISTRICTS,” SECTION 7.3.10, ENTITLED “NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT,” TO MODIFY REQUIREMENTS FOR TOBACCO AND VAPE DEALERS; BY AMENDING ARTICLE V, ENTITLED “SUPPLEMENTARY DISTRICT REGULATIONS,” SECTION 7.5.5, ENTITLED “SPECIALIZED USE REGULATIONS,” TO MODIFY THE MINIMUM DISTANCE SEPARATION REQUIREMENTS FOR TOBACCO AND VAPE DEALERS IN NORTH BEACH; AND PROVIDING FOR CODIFICATION, REPEALER, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City Commission seeks to provide for limited relief from minimum distance separation requirements for tobacco and vape dealers in North Beach; and

WHEREAS, tobacco and vape dealers that are incidental to a convenience store are likely to have less impact on an established area; and

WHEREAS, amending the distance separation requirements for tobacco and vape dealers associated with convenience stores would have a positive impact for small businesses; 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 III, entitled “Overlay Districts,” is hereby amended as follows:

CHAPTER 7. ZONING DISTRICTS AND REGULATIONS

* * *

ARTICLE III. OVERLAY DISTRICTS

* * *

7.3.10 NORTH BEACH COMMERCIAL CHARACTER OVERLAY DISTRICT

* * *

7.3.10.2 Compliance with regulations (North Beach Commercial Character Overlay District).

The following regulations shall apply to the overlay district. There shall be no variances allowed from the provisions of this section. All development regulations in the underlying zoning district and any other applicable overlay regulations shall apply, except as follows:

* * *

a. The following limitations shall apply to the commercial uses listed below:

* * *

11. Tobacco/vape dealers shall be prohibited in the overlay district. Notwithstanding the foregoing, a tobacco/vape dealer may be permitted in accordance with the requirements specified in Section 7.5.5.9.b if the following conditions are satisfied: ~~it is operating as part of a convenience store that is~~

A. The tobacco/vape dealer is operating as part of a convenience store located in a CD-2 zoning district fronting Collins Avenue, between 65th and 67th Streets; ¶

B. ~~where no~~ No more than 5 percent of the floor area of the convenience store contains tobacco, vape or smoking device products; and ~~and~~

C. The owner and operator of the property voluntarily proffer and execute a restrictive covenant running with the land and binding on all successors and assigns, in a form approved by the City Attorney, affirming that all sales of tobacco, vape or smoking device products at the property shall cease and discontinue no later than June 1, 2029. ~~may be permitted in accordance with the requirements specified in Section 7.5.5.9.b.~~

SECTION 2. 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

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- 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. Notwithstanding the foregoing, a tobacco/vape dealer may be permitted in accordance with the requirements specified in Section 7.5.5.9.b if the following conditions are satisfied: it is operating as part of a convenience store that is
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 - B. ~~where no~~ No more than 5 percent of the floor area of the convenience store contains tobacco, vape or smoking device products; and ~~and~~
 - C. The owner and operator of the property voluntarily proffer and execute a restrictive covenant running with the land and binding on all successors and assigns, in a form approved by the City Attorney, affirming that all sales of tobacco, vape or smoking device products at the property shall cease and discontinue no later than June 1, 2029. ~~may be permitted in accordance with the requirements specified in Section 7.5.5.9.b.~~
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 4. [Variances.] Variances from the requirements of this section shall be prohibited.

SECTION 3. REPEALER.

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

SECTION 4. 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 5. SEVERABILITY.

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

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect ten days following adoption.

PASSED AND ADOPTED this _____ day of _____, 2026.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

First Reading: April 22, 2026

Second Reading: May 20, 2026

Verified By: _____
Thomas R. Mooney, AICP
Planning Director

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney NK Date 4/15/2026