

**ORDINANCE NO. \_\_\_\_\_, SERIES 2020**

**AN ORDINANCE AMENDING SECTION 1.2.2 AND CREATING SECTION 4.3.24 OF THE LOUISVILLE METRO LAND DEVELOPMENT CODE (“LDC”) REGARDING SMOKING RETAIL STORES (CASE NO. 20-LDC-0003) *(AS AMENDED)*.**

**SPONSORED BY: COUNCIL MEMBER COAN**

**WHEREAS**, the Louisville Metro Planning Commission (“Planning Commission”) adopted a resolution on October 31, 2019 requesting that Planning and Design Services (“PDS”) research and proposed amendments to the LDC related to tobacco businesses and electronic smoking retail stores; and

**WHEREAS**, the Planning Committee of the Planning Commission reviewed PDS’s proposed amendments on May 15, 2020 and unanimously voted to send them to the full Planning Commission for a public hearing; and

**WHEREAS**, the Planning Commission held a public hearing on those amendments on August 20, 2020; and

**WHEREAS**, the Planning Commission considered the record and testimony relative to those amendments and recommended the approval of such amendments to the Legislative Council of the Louisville/Jefferson County Metro Government (“Council”); and

**WHEREAS**, the Council approves and accepts the recommendation of the Planning Commission as set forth in Planning Commission Resolution 20-LDC-0003.

**NOW THEREFORE BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:**

**SECTION I:** Chapter 1 of the LDC, Section 1.2.2 – Definitions is hereby amended to add the following definitions:

~~Smoking Retail Store – a store defined by Chapter 90 of the Louisville Metro Code of Ordinances (LMCO) as a Smoking Retail Store and required to obtain a retail license for sale of tobacco, tobacco products and/or electronic smoking devices in accordance with chapter 90 of the LMCO.~~

Smoking Retail Store – a store that primarily sells tobacco, tobacco products and/or electronic smoking devices. For the purposes of this definition primarily means that either store devotes 10 percent or more of floor area of the retail space and/or derives 51 percent or more of gross sales receipts from the sale of tobacco, tobacco products and/or electronic smoking devices.

Tobacco or Tobacco Products – any cigarette, cigar, snuff, smokeless tobacco product, smoking tobacco, chewing tobacco, and any kind or form of tobacco prepared in a manner suitable for chewing or smoking, or both, or any kind or form of tobacco that is suitable to be placed in a person’s mouth. The definition of Tobacco Products also includes Tobacco Paraphernalia. Tobacco or tobacco products excludes any tobacco product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for such an approved purpose.

Tobacco Paraphernalia – cigarette papers or wrappers, blunt wraps, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of tobacco products or any product containing or delivering nicotine or any other substance intended for human consumption. Tobacco Paraphernalia also includes any fitment, add-on, auxiliary or attachment type device that is designed to be utilized in conjunction with or during the usage of tobacco paraphernalia.

Electronic Smoking Device – any product containing or delivering nicotine, or any other substance intended for human consumption that can be used by a person in any manner or in any form for the purpose of inhaling vapor or aerosol from the product. The term includes any such device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor. Electronic Smoking Device also includes any fitment, add-on, auxiliary or attachment type device that is designed to be utilized in conjunction with or during the usage of an electronic smoking device.

**SECTION II:** Chapter 4 of the LDC, Part 3 – Permitted Uses with Standards, is hereby amended to add the following:

4.3.24 Smoking Retail Store

In the C-1, C-2, C-3, C-M, EZ-1, and PEC zoning districts, Smoking Retail Stores may be permitted in accordance with the following special standards:

- A. No Smoking Retail Store shall be located within one thousand (1,000) feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary):
1. Public or private early childhood, elementary, middle or high school
  2. Park
  3. Public playground
  4. Recreation (Use), Outdoor
  5. Community Center
  6. Day Care Center
  7. Athletic Facility, Indoor and Outdoor
  8. *Libraries*
  9. *Religious Buildings*
- B. No Smoking Retail Store shall be located within six hundred (600) feet of a site occupied by another Smoking Retail Store, as measured in a straight line from parcel boundary to parcel boundary. This separation requirement is eligible for a waiver in accordance with Chapter 11, Part 8 of the LDC.
- C. The hours of operation for a Smoking Retail Store shall be no earlier than six (6) A.M. and no later than ten (10) P.M., seven (7) days a week. The hours of operation requirement is eligible for a waiver in accordance with Chapter 11, Part 8 of the LDC.

**SECTION III:** This Ordinance shall take effect upon its passage and approval.

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Sonya Harward  
Metro Council Clerk

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David James  
President of the Council

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Greg Fischer  
Mayor

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Approval Date

**APPROVED AS TO FORM AND LEGALITY:**

Michael J. O'Connell  
Jefferson County Attorney

By: \_\_\_\_\_  
O-405-20 Amend LDC 1.2.2 and Create Section 4.3.24 Re Smoking Retail Stores Tier 3 Amend (TF)