

23-LDC-0002

Smoking Retail Store Land Development Code Amendments

Planning & Zoning Committee
June 11, 2024



BACKGROUND

- In July 2023, the Planning Commission directed staff to review the smoking retail store regulations and provide recommendations for improvement
- A smoking retail store is currently defined as a store that primarily sells tobacco, tobacco products, and/or electronic smoking devices (primarily means that the store a) devotes 10% or more of its the retail floor area to such products and/or b) derives 51% or more of its gross sales receipts from the sale of such products)
- The ordinance introducing the specific smoking retail store use became effective on November 3, 2020
- Not all cities with zoning authority adopted specific LDC regulations. St. Matthews and Middletown adopted regulations in their LDCs that are modeled after, but differ from, that in the Louisville Metro LDC
- In addition to the provisions in the LDC, there is a license requirement in the LMCO that applies to all businesses that sell tobacco products (some of which may not be classified as smoking retail stores)



EXISTING REGULATIONS

Currently, the Louisville Metro LDC:

- Provides a definition that distinguishes the use from other uses
- Identifies appropriate locations and levels of approval:
 - Permitted with special standards in C-1, C-2, C-3, C-M, EZ-1, and PEC
- Requires at least 1,000' separation between a store and schools; parks; public playgrounds; outdoor recreation uses; community centers; child or adult care centers; athletic facilities; libraries; and religious buildings (may not be waived)
- Requires at least 600' separation between a store and an existing store (may be waived)
- Limits hours of operation to between 6 AM and 10 PM (may be waived)



PROPOSED LDC AMENDMENTS

- Expand the definition to include other products that are customarily sold at stores but do not contain tobacco and are a public health concern
- Continue to allow in C-1, C-2, C-3, C-M, EZ-1, and PEC
- Further allow in M-1, M-2, and M-3, which may encourage businesses to locate in industrial areas that tend to be more isolated from the vulnerable populations
- Maintain the 1,000' separation requirement from the uses that can be adversely affected by stores
- Continue to not allow a waiver to the 1,000' requirement in C-1, C-2, C-3, and C-M, but allow a waiver on a case by case basis in an industrial zoning district (EZ-1, PEC, M-1, M-2, or M-3)
- Maintain the 600' separation requirement from other stores to deter overconcentration
- Add "Public" to "Community Center" and "Library" in the separated use list (currently there is not any available GIS data on private community centers and libraries, making this provision very difficult to determine compliance)
- Remove Adult Care Centers in the separated use list
- Place some responsibility on applicants to research and determine compliance with the separation requirements
- Affirm that smoking retail stores established prior to November 3, 2020 may have nonconforming rights
- Add a new set of standards related to the accessory sales smoking retail store products at a business not classified as a smoking retail store



PROPOSED LMCO AMENDMENTS

- Add a violation of “local” law as grounds to deny, suspend, or revoke a license
- Require payment of all outstanding fines and lines prior to issuance of a license
- Allow for revocation of a license after two substantiated complaints
- Require a business to self-report any violations within 30 days of the notice of violation or citation



OTHER PROPOSED IMPROVEMENTS

Other administrative improvements may include the following (for informational purposes only, Council action not required):

- Create an interactive map that can be used by the public to determine eligibility (staff has been already began work with Metro GIS on this initiative)
- Establish a webpage that informs prospective applicants and the public of the requirements
- Improve the Accela license review process by requiring better information as part of an application, including higher quality floor plans and statements of compliance with the separation requirements



PUBLIC MEETINGS

- Planning Commission's Planning Committee Meeting on February 23, 2024
- Planning Commission Public Hearing on May 30, 2024
 - Motion to recommend approval passed by a vote of 6-0

