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RESOLUTION NO.: R-2022-074

Resolving to Consider Ordinance No.: 2022- 081 Amending the 1998 Code of Ordinances, Chapter 17 (Unified Development Ordinance), Article 4, Use Regulations, Section 17-4.2, Principle Uses, to add Provisions Governing Smoke or Vape Shops, and Article 9, Definitions and Measurements, to add Definitions concerning Smoke or Vape Shops; and, Setting and Advertising to the Public the Date of a Public Hearing on this Ordinance; and, referring this Ordinance to the Planning Commission for its Consideration; and Invoking the Pending Ordinance Doctrine with Respect to this Ordinance

WHEREAS, the City of Columbia (hereinafter, "the City") has experienced a growing number of Smoke or Vape Shops within the corporate limits of the City; and

WHEREAS, the proliferation of Smoke and Vape Shops in the City would result in undesirable impacts to the community, including increased potential for minors to be exposed to and therefore use or aspire to use tobacco products, nicotine products and vape products; adverse health consequences of using tobacco products and vape products; and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses; and

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Columbia this 4th day of October, 2022 that:

1. Council shall consider the attached Ordinance Amending the 1998 Code of Ordinances, Chapter 17 (Unified Development Ordinance), Article 4, Use Regulations, Section 17-4.2, Principle Uses, to add Provisions Governing Smoke or Vape Shops, and Article 9, Definitions and Measurements, to add Definitions concerning Smoke or Vape Shops ("Smoke or Vape Shop Ordinance"); and
2. The Smoke or Vape Shop Ordinance is hereby referred to the City of Columbia Planning Commission for review and preparation of recommendations to City Council during its meeting on November 10, 2022; and
3. Council hereby sets a zoning public hearing on the Smoke or Vape Shop Ordinance for January 17, 2023 in Council Chambers during its regularly scheduled Council meeting; and
4. Pursuant to South Carolina law, Council hereby invokes the pending ordinance doctrine with respect to the Smoke or Vape Shop Ordinance.

IT IS SO RESOLVED.

Requested by:

Councilman Howard Duvall

Approved by:

Cherise B. Wilson
City Manager

Approved as to form:

[Signature]
City Attorney

[Signature]
Mayor

Attest:

[Signature]
City Clerk

Introduced: 10/4/2022

Final Reading: 10/4/2022

ORDINANCE NO.: 2022-081

Amending the 1998 Code of Ordinances of the City of Columbia, South Carolina, Chapter 17, (Unified Development Ordinance), Article 4, Use Regulations, Section 17-4.2, Principal Uses, to add Provisions Governing Smoke or Vape Shops, and Article 9, Definitions and Measurements, to add Definitions concerning Smoke or Vape Shops

WHEREAS, the regulation of smoke and vape shops is necessary and in the interests of the public health, safety and general welfare because there has been an increase of the establishment and operation of smoke and vape shops in the City of Columbia. The proliferation of smoke and vape shops in the City would result in undesirable impacts to the community. Among these impacts are increased potential for minors to be exposed to and therefore use or aspire to use tobacco products, nicotine products and vape products; adverse health consequences of using tobacco products and vape products; and heightened risk of negative aesthetic impacts, blight, and loss of property values of residential neighborhoods and businesses in close proximity to such uses. This ordinance contains amendments consistent with good zoning and planning practices to address such negative impacts of smoke and vape shops while providing a reasonable number of locations and zones for such shops/stores to locate within the City of Columbia.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council this _____ day of _____, 2022, that the City of Columbia's *Unified Development Ordinance*, Article 4, Use Regulations, Section 17-4.2, Principal Uses, and Article 9, Definitions and Rules of Measurement, Section 17-9.4, is amended to add the following:

Section 17-9.4, Definitions

ALTERNATIVE NICOTINE PRODUCT

A product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. An "Alternative Nicotine Product" does not include Tobacco Products, or any product approved by the United States Food and Drug Administration as a non-tobacco product for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, which is being marketed and sold solely for that approved purpose.

CANNABIS

Any derivatives, compounds, extracts, cannabinoids, isomers, acids, salts, or salts of isomers of the species *Cannabis Sativa L.*, excluding marijuana as defined by S.C. Code Ann. § 44-53-110(27)(a), with a tetrahydrocannabinol (THC) concentration of not more than 0.3 percent on a dry weight basis, or the THC concentration for hemp as defined in 7 U.S.C. § 5940, whichever is greater. "Cannabis" includes, but is not limited to, full-spectrum Cannabidiol (CBD), Delta-8 THC, Delta-9 THC, Delta-10 THC and HHC.

INCIDENTAL OR ANCILLARY USE

A display or sale by a grocery store, supermarket, convenience store, gas station, or similar retail business that uses no more than two percent (2%) of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of one or more of the following: Tobacco Products, Alternative Nicotine Products, cigarettes containing Cannabis, Smoking Paraphernalia, and/or Vape Products. For any grocery store, market, retail kiosk or similar business consisting of 250 square feet or less, "Incidental or Ancillary Use" is defined as no more than five (5) square feet being used for the display, sale, distribution, delivery, offering, furnishing, or marketing of Tobacco Products, cigarettes containing Cannabis, Smoking Paraphernalia, and/or Vape Products.

SMOKE OR VAPE SHOP

Any retail store located within the City of Columbia, with more than an Incidental or Ancillary Use, that displays, sells, distributes, delivers, offers, furnishes or markets one or more of the following: 1) Alternative Nicotine Products; 2) Vape Products; 3) Tobacco Products; 4) cigarettes, cigars, dried or shredded plant material, flowers, smoking blends, and similar products that are smoked or inhaled and contain Cannabis or Synthetic Cannabinoids; or 5) Smoking Paraphernalia.

SYNTHETIC CANNABINOIDS

A class of artificially-made chemicals that are cannabinoid receptor agonists intended to replicate, mimic, or cause a similar reaction to the psychoactive effects of marijuana. These compounds may be found in products marketed as incense, herbal blends or mixtures, synthetic marijuana, or potpourri, and labeled as Spice, K2, Green Giant, Smacked, Wicked X, AK-47, Geeked Up, Ninja, Caution, Red Giant, Keisha Kole, XXX Ultra, Skunk, Atomic and other names, however named.

TOBACCO PRODUCT

Any product containing, made, or derived from tobacco that is intended for human consumption, whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, or any component, part, or accessory of a tobacco product including but not limited to cigarettes; cigars; cheroots; stogies; perique; granulated, plug-cut, crimp-cut, ready rubbed and other smoking tobacco; snuff; snuff flowers; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking in a pipe, or other tobacco related devices. Tobacco Products do not include 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.

SMOKING PARAPHERNALIA

Any paraphernalia, equipment, device, or instrument that is designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of Tobacco Products, Cannabis Products, Synthetic Cannabinoids, or controlled substances as defined in S.C. Code Ann. § 44-53-110. Items classified as Smoking Paraphernalia include but are not limited to: pipes, ice pipes or chillers, air-driven pipes, water pipes, bongs, water bongs, hookahs, punctured metal bowls, and roach clips.

VAPE PRODUCT

Any non-combustible product, which may or may not use or contain a Cannabis Product, Alternative Nicotine Product, or Synthetic Marijuana, that employs a heating element, power source, electronic circuit, or other electronic, chemical or mechanical means, regardless of shape or size, that can be used to produce vapor from a liquid solution or any other form. "Vape Product" includes devices called e-cigarettes, electronic cigars, electronic pipes, vaporizers, vaporizer cartridges, vapes, e-hookahs, vape pens, pod mods, box mods, puff bars, tanks or mods, sub-ohm tanks, vaporizers, dab pen, or similar product or device. "Vape Product" also includes e-juice, vape juice, and e-liquid containing an Alternative Nicotine Product, Cannabis, or Synthetic Cannabinoids. "Vape Product" does not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the United States Food, Drug, and Cosmetic Act.

Section 17-4.2(B)(4), Principal Use Table

Retail Sales Uses

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Smoke or Vape Shop, allowed conditionally in Zoning Districts NAC, CAC, RAC, DAC, GC, MC, and LI.

Section 17-4.2(c)(3)(e), Standards for Specific Principal Uses, Commercial Uses, Retail Sales Uses

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3. Smoke or Vape Shops

- (i) All Smoke or Vape Shops wishing to operate within the Zoning Districts NAC, CAC, RAC, DAC, GC, MC, and LI must meet the following conditions:
 - a. Smoke or Vape Shops shall not be located within 1,000 feet from a public or private K-12 school, child day care facility, youth center, recreational facility, park, church or religious institution, or community center.
 - b. Smoke or Vape Shops shall not be located within 1,000 feet from another Smoke or Vape Shop.

If any section, subsection, or clause of this ordinance shall be deemed unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected thereby.

This ordinance shall take effect upon the date of final reading.

Requested by:

Councilman Howard Duvall

Mayor

Approved by:

City Manager

Approved as to form:

ATTEST:

City Attorney

City Clerk

Introduced:

Final Reading: