

June 21, 2024

Requested by Department of Planning and Urban Development

City Planning Commission  
PC-2024-01-T

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AKRON CITY COUNCIL

Offered By: EUSCO

ORDINANCE NO. 274 -2024 amending/supplementing Title 15, Chapter 153, "Zoning Code", Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" to add a definition of and development requirements for vape shops; and declaring an emergency.

WHEREAS, under the provisions of Section 153.434-.458 of the Code of Ordinances, the Akron City Planning Commission at its meeting on June 14, 2024, under file PC-2024-01-T, approved the changes described in Section 1 hereof; and

WHEREAS, City Council after public notice and hearing is of the opinion that the text changes described in Section 1 hereof are in the public interest and serve the public good.

NOW, THEREFORE, BE IT ENACTED by the Council of the City of Akron:

Section 1. That Title 15, "Land Usage", Chapter 153 "Zoning Code" Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" of the Code of Ordinances of the City of Akron, 2004 be and is hereby amended and/or supplemented to read as follows:

Article 1. General Provisions

153.140 Definitions.

**"Vape shop."** Any business whose principal product line for retail sale is alternative nicotine products or vape juice, or both. For the purposes of this section, alternative nicotine products refer to any products or devices that employ an electronic heating element, power source, electronic circuit, battery, or other electronic, chemical, or mechanical means to produce a vapor that delivers nicotine to the person inhaling from the device, including electronic cigarettes, electronic cigars, electronic hookahs, electronic bongs and electronic pipes, whether manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, or electronic pipe, and/or accessories therein, including but not limited to tanks, coils, pod cartridges, drip tips, vape battery kits, replacement coils, vape adapters, atomizers, and rebuildable tools. For the purposes of this section, vape juice refers to any liquid that contains compounds containing pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food grade flavoring, water, and can be used for vaping by means of an alternative nicotine product. For purposes of this code section, principal shall mean that alternative nicotine products, vape juice, or both constitute at least twenty-five (25) percent of the business' aggregate retail sales determined by assessing the annual total monetary value of all products and/ or services sold.

Article 14. Conditional Uses

153.464 Uses permitted as conditional uses.

**AA. Vape Shops;**

153.476 Special standards applicable to specific conditional uses.

**F. Vape shops.**

- 1. Spacing. No vape shop shall be located within 2500 feet from another vape shop.**
- 2. Prohibited location. No vape shops shall be located in an area that does not permit retail uses.**

Section 2. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety for the reason that the proposed changes to the Zoning Code are necessary to discourage the overdevelopment of vape shops and, provided this ordinance receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

Passed July 22, 2024

Wanda R. Biviano  
Clerk of Council

Cheryl Somerville  
President of Council

Approved July 23, 2024

Sh. Mohr  
M A Y O R

## PART I

Subject/Project: PC-2024-01-T DEFINE/REGULATE VAPE SHOPS

Department of Origin: DEPT. OF PLANNING & URBAN DEVELOPMENT Date: 06/14/2024

Bureau of Origin: \_\_\_\_\_

Division of Origin: ZONING

Fact Sheet Prepared by: MICHAEL ANTENUCCI, ZONING MANAGER Date: 06/14/2024

### Financial Data:

	<u>Budgeted Cost</u>		<u>Current Estimate of Cost</u>		<u>Additional Appropriation Over Budgeted Cost</u>
	<u>Source</u>	<u>Amount</u>	<u>Source</u>	<u>Amount</u>	
Current Request:					
N/A	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
Total Project:					
(if applicable)					
N/A	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____
	_____	_____	_____	_____	_____

## PART II

Purpose of Legislation: Amending/supplementing Title 15, Chapter 153, "Zoning Code", Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" to add a definition of and development requirements for vape shops.

Impact of Objective of the Legislation: N/A

Alternatives: N/A

Earlier Legislation on this Subject: N/A

Additional Comments/Remarks (as appropriate): Both the Planning Staff and the Planning Commission recommended approval of this request.

Exhibits: N/A

Instructions: This report must be completely filled out and must accompany all Ordinances, resolutions, and documents sent by City Council. Part I should be filled out in the space provided. Part II will require additional pages. The entire report must not exceed a total of 5 pages.

## MEMORANDUM

**TO:** AKRON CITY PLANNING COMMISSION    **ITEM # 2B**  
**PC-2024-01-T**

**FROM:** DEPARTMENT OF PLANNING AND  
URBAN DEVELOPMENT

**DATE:** JUNE 14, 2024

**SUBJECT:** PC-2024-01-T – Text Change to amend the Zoning Code to define and establish a conditional use requirement and special standards for “vape shops.”

### COMMENTS:

The City of Akron is proposing to amend the Zoning Code to regulate “Vape Shops” to be allowed only as a conditional use with spacing requirements. Currently, the City of Akron permits “Vape Shops” to be classified as “Retail Stores,” which are allowed in Retail and Commercial Use Districts.

In the last ten years, “vaping” has proliferated throughout the country. Sold initially as a means of quitting smoking, it has become popular with the public. Unfortunately, the result of this is that there has been a marked increase in vape shops throughout the country, and Akron is no different. In other cities across Ohio, a blanket ban on all flavored vapes has been sought. The City of Akron does not desire a total ban on vape shops, but simply wishes to reduce the number of stores clustering near one another. For example, there is at least one instance of a vape shop opening less than 500 feet from another vape store selling similar products.

A healthy retail district benefits from a mix of uses and can suffer from retail blight if only a few indistinguishable stores are present. The over-abundance and concentration of vape shops has the potential to create pockets of blight, prevent higher and better usage, and create disinvestment by other local retailers throughout Akron.

The Zoning Code is continuously revised or updated to reflect modern realities. To prevent the over-saturation of vape shops in the City, which can lead to local business disinvestment and the potential for retail blight, the City is proposing text changes that will define and regulate these shops. As such, all new vape shops must be in a district allowing retail uses and receive Conditional Use approval. Furthermore, vape shops would be required to have a 2,500-foot minimum spacing distance between them.

Objectives of the Land Use and Development Guide Plan include providing well planned, designed and located business areas in sufficient size and at locations to service the needs of the population; developing retail areas in such a manner that

they do not harm adjacent residential areas; and discouraging the overdevelopment of retail activities that lead to retail blight. To achieve these objectives, the Planning Staff recommends the following text changes:

153.140 Definitions.

**“Vape shop.”** Any business whose principal product line for retail sale is alternative nicotine products or vape juice, or both. For the purposes of this section, alternative nicotine products refer to any products or devices that employ an electronic heating element, power source, electronic circuit, battery, or other electronic, chemical, or mechanical means to produce a vapor that delivers nicotine to the person inhaling from the device, including electronic cigarettes, electronic cigars, electronic hookahs, electronic bongos and electronic pipes, whether manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, or electronic pipe, and/or accessories therein, including but not limited to tanks, coils, pod cartridges, drip tips, vape battery kits, replacement coils, vape adapters, atomizers, and rebuildable tools. For the purposes of this section, vape juice refers to any liquid that contains compounds containing pharmaceutical grade vegetable glycerin, propylene glycol, nicotine, food grade flavoring, water, and can be used for vaping by means of an alternative nicotine product. For purposes of this code section, principal shall mean that alternative nicotine products, vape juice, or both constitute at least twenty-five (25) percent of the business’ aggregate retail sales determined by assessing the annual total monetary value of all products and/ or services sold.

153.464 Uses permitted as conditional uses.

## **AA. VAPE SHOPS**

153.476 Special standards applicable to specific conditional uses.

## **F. VAPE SHOPS**

- 1. Spacing.** No vape shop shall be located within 2500 feet from another vape shop.
- 2. Prohibited location.** No vape shops shall be located in an area that does not permit retail uses.

## **RECOMMENDATION:**

The Planning Staff recommends **APPROVAL** of the requested text change to amend the Zoning Code to define and establish a conditional use requirement and special standards for “vape shops.”

BL/emd



## LEGAL NOTICE

Notice is hereby given that the following open comment public hearings will be held by the Council of the City of Akron on Monday, July 15, 2024, during the Special Council Meeting at 5:00 p.m.:

- Ordinance approving the 2024 Consolidated Plan Annual Action Plan for the City's Community Development Block Grant, HOME Investment Partnership and Emergency Solutions Grant Programs.
- Ordinance amending/supplementing Title 15, Chapter 153, "Zoning Code", Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" to add a definition of and development requirements for vape shops.
- Ordinance amending/supplementing Title 15, Chapter 153, "Zoning Code", Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" to expand the definition of and add development requirements for marijuana facilities.
- Ordinance authorizing a Conditional Use to retain an oversized accessory structure at 87 W. Linwood Avenue.
- Ordinance authorizing a Conditional Use to construct a detached mother-in-law suite at 2574 Addyston Road.

This legislation will also be discussed during the Planning & Economic Development Committee meeting at 1:00 p.m. Participants may attend in person in the Akron City Council Chambers, 166 South High Street or remotely by joining the meeting via videoconference. All public hearing participants that would like to join **remotely** must provide contact information including an email address, phone number, and which public hearing you wish to participate in to [sbiviano@akronohio.gov](mailto:sbiviano@akronohio.gov) no later than July 12, 2024. Please submit any documentation for consideration by the Council to [sbiviano@akronohio.gov](mailto:sbiviano@akronohio.gov) no later than July 12, 2024. The meetings may also be accessed via livestream, which will be available at: [www.akroncitycouncil.org](http://www.akroncitycouncil.org).

Any changes to the time, location, venue/forum of the aforementioned meetings will be posted on Akron City Council's website: [www.akroncitycouncil.org](http://www.akroncitycouncil.org).

Sara Biviano  
Clerk of Council

*The City of Akron is committed to ensuring that individuals with disabilities are able to fully participate in public programs, services and activities. Anyone who is in need of an accommodation from any City department is invited to contact the HR Department at 330-375-2780 at least seven (7) days in advance. If you require TDD phone service call Ohio Relay at 800-750-0750 and they will assist in coordinating with the City of Akron.*

*\*Advertised in Akron Beacon Journal 6/29/2024 and on Akron City Council website beginning 6/25/2024*

**Summary of Ordinance No. 274-2024** passed by Akron City Council July 22, 2024, amending/supplementing Title 15, Chapter 153, "Zoning Code", Article 1 "General Provisions", Section 153.140 "Definitions" and Article 14 "Conditional Uses", Section 153.464 "Uses permitted as conditional uses", and Section 153.476 "Special standards applicable to specific conditional uses" to add a definition of and development requirements for vape shops; and declaring an emergency.

By: Sara Biviano, Clerk of Council

This summary is being published pursuant to Section 38 of the City Charter. The complete text of this legislation is available in the office of the Clerk of Council.

*\*posted on Akron City Council website 7/23/2024 through 8/7/2024*