

A G E N D A
JAMES CITY COUNTY POLICY COMMITTEE
REGULAR MEETING
Building A Large Conference Room
101 Mounts Bay Road, Williamsburg, VA 23185
March 9, 2023
4:00 PM

A. CALL TO ORDER

B. ROLL CALL

C. MINUTES

D. OLD BUSINESS

E. NEW BUSINESS

1. ORD-23-0001. Amendments to the Zoning Ordinance Regarding Vape and Smoke Shops

F. ADJOURNMENT

ITEM SUMMARY

DATE: 3/9/2023

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: ORD-23-0001. Amendments to the Zoning Ordinance Regarding Vape and Smoke Shops

ATTACHMENTS:

	Description	Type
☐	Memorandum	Cover Memo
☐	Initiating Resolution	Resolution

REVIEWERS:

Department	Reviewer	Action	Date
Policy	Cook, Ellen	Approved	2/28/2023 - 2:48 PM
Policy	Holt, Paul	Approved	2/28/2023 - 2:51 PM
Publication Management	Daniel, Martha	Approved	2/28/2023 - 2:55 PM
Policy Secretary	Secretary, Policy	Approved	2/28/2023 - 4:22 PM

MEMORANDUM

DATE: March 9, 2023

TO: The Policy Committee

FROM: Christy H. Parrish, Zoning Administrator

SUBJECT: ORD-23-0001. Amendments to the Zoning Ordinance Regarding Vape and Smoke Shops

At its meeting on January 24, 2023, the Board of Supervisors adopted an Initiating Resolution to consider possible amendments to the James City County Zoning Ordinance (the “Ordinance”) to require vape and smoke shops to obtain a Special Use Permit (SUP) (Attachment No. 1).

Staff has received numerous calls from citizens regarding vape and smoke shops in the County. Specifically, citizens have voiced concerns over the location of these shops in close proximity to schools and the Toano Commercial Historic District. Additionally, staff has received complaints of non-compliant lights on the exterior of windows or buildings and of individuals smoking outside the retail store near other places of business.

Uses listed in each Zoning District are either permitted by-right or permitted by an SUP. The SUP process allows the Planning Commission and the Board of Supervisors to consider whether a proposed establishment will adversely affect the health, safety, or welfare of persons residing or working on the premises or in the neighborhood, will impair the character of the district or adjacent districts, will be incompatible with the Comprehensive Plan of James City County, will likely reduce or impair the value of buildings or property in surrounding areas, and whether such establishment or use will be in substantial accordance with the general purpose and objectives of the Ordinance.

The current Ordinance generally permits vape and smoke shops under the retail and service stores use category which includes tobacco and pipes stores. Retail sales of tobacco and pipes are permitted by-right in the R-4, Residential Planned Community, LB, Limited Business, B-1, General Business, M-1, Limited Business/Industrial, PUD, Planned Unit Development, MU, Mixed Use, and EO, Economic Opportunity Districts.

Additionally, retail stores and shops are defined as “buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards) such as the following which will serve as illustration: Drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.”

Staff is aware of the following existing retail shops in the County:

- | | |
|----------------------------------|-------------------------|
| 1. Williamsburg Tobacco Outlet 1 | 5601 Richmond Road |
| 2. Williamsburg Tobacco Outlet 2 | 5251 John Tyler Highway |
| 3. Williamsburg Tobacco Outlet 3 | 240 McLaws Circle |
| 4. Palace One Stop Shop | 4385 Ironbound Road |
| 5. Vape Zone | 4854 Longhill Road |
| 6. Déjà Vu Smoke Shop | 5242 Olde Towne Road |
| 7. Super Tobacco and Vapes | 6528 Richmond Road |
| 8. Super Smoke and Vape | 7828 Richmond Road |
| 9. Havana Connections | 4920 Courthouse Street |

Should the Ordinance be amended to specially permit vape and smoke shops, the existing stores will become non-conforming. Section 24-629 of the Ordinance (Continuation of nonconforming uses) states that “a nonconforming use may continue as it existed when it became nonconforming provided however, if any nonconforming use is discontinued for a period of two years, it shall lose its nonconforming status and any further use shall be required to conform to the provisions of this chapter.”

In January 2023, the City of Williamsburg amended its Zoning Ordinance to require vape and smoke shops obtain an SUP in various commercial districts. Staff surveyed several other localities and found that most permit vape and smoke shops as a general retail use.

Staff understands that the purpose of the Initiating Resolution and this Ordinance amendment is to define and classify vape and smoke shops as a standalone specially permitted use and ensure all associated or accessory uses are addressed.

Proposed Draft text for the Ordinance:

Section 24-2. Definitions

Existing:

Retail stores and shops. Buildings for display and sale of merchandise at retail or for the rendering of personal services (but specifically exclusive of coal, wood and lumber yards) such as the following which will serve as illustration: Drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop.

Proposed:

Retail stores and shops. Buildings for display and sale of merchandise at retail or for the rendering of personal services ~~(but specifically exclusive of coal, wood and lumber yards)~~ such as the following which will serve as illustration: Drug store, newsstand, food store, candy shop, milk dispensary, dry goods and notions store, antique shop and gift shop, hardware store, household appliance store, furniture store, florist, optician, music and radio store, tailor shop, barber shop and beauty shop. *For purposes of this definition, the following uses are excluded: coal, wood and lumber yards, vape/smoke shop, and vape/smoke lounge.*

Vape/smoke shop. A retail establishment that sells cigars, tobacco, and/or tobacco products, such as, but not limited to cigars, pipe tobacco, roll-your-own supplies, herbal and wax vaporizers, and glassware; cannabis and/or hemp products, such as, but not limited to Cannabidiol (CBD); and/or e-cigarettes and associated equipment, such as, but not limited to vape batteries, coils, and e-liquids. Drug stores, retail food stores, grocery stores and convenience stores, the primary purpose of which is to sell goods and services other than those listed above, shall not be considered vape or smoke shops even if the above referenced goods are offered for sale.

Vape/smoke lounge. Any public or private establishment that allows persons to gather for the purpose of using cigars, tobacco, and/or tobacco products, such as, but not limited to cigars, pipe tobacco, roll-your-own supplies, herbal and wax vaporizers, and glassware; cannabis and/or hemp products such as, but not limited to Cannabidiol (CBD); and/or e-cigarettes and associated equipment, such as, but not limited to vape batteries, coils, and e-liquids.

Zoning District		Permitted	SUP
R-4 Residential Planned Community District Section 24-281 Use List	Department stores, wearing apparel, furniture, carpet, shoe, tailor, dressmaking, candy, ice cream, florist, furrier, locksmith, pet, picture framing, stamp and coin, travel bureau, upholstery, yard goods, toys, music and records, tobacco and pipes , jewelry sales and service, books, greeting cards, sporting goods, drugs, plants and garden supplies, hardware and paint, home appliances sales and service, arts and crafts, handicrafts, antiques, gift and photography stores	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP
LB Limited Business Section 24-368 Use List	Retail and service stores, including the following stores: books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, hardware, health and beauty aids, home appliance, ice cream, jewelry, locksmith, music, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes , toys, travel bureau agencies, upholstery, variety, wearing apparel, and yard goods	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP
B-1 General Business Section 24-390 Use List	Retail and service stores, including the following stores: alcohol, appliances, books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gift, gourmet foods, greeting cards, handicrafts, hardware, home appliance, health and beauty aids, ice cream, jewelry, locksmith, music, office supply, optical goods, paint, pet, photography, picture framing, plant supply, secretarial services, shoes, sporting goods, stamps, tailor, tobacco and pipes , toys, travel agencies, upholstery, variety, wearing apparel, and yard goods	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP
M-1 Limited Business/Industrial Section 24-411 Use List	Retail and service stores, including the following stores: alcohol, appliances, books, cabinets, cameras, candy, carpet, coin, department, dressmaking, electronics, florist, furniture, furrier, garden supply, gourmet foods, greeting card, hardware, home appliance, health and beauty aids, ice cream, jewelry, locksmith, music, optical goods, paint, pet, picture framing, plant supply, shoes, sporting goods, stamps, tailor, tobacco and pipes , toys, travel agencies, upholstery, variety, wearing apparel, and yard goods	P	

PUD Planned Unit Development Districts Section 24-493 Use List	Retail and service stores, including the following stores: books, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, greeting card, ice cream, jewelry sales and service, locksmith, music and records, pet, picture framing, shoe, sporting goods, stamp, tailor, tobacco and pipes , toys, travel bureau, upholstery, wearing apparel and yard goods	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP

MU Mixed Use Section 24-518 Use List	Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plant supply, shoe, sporting goods, stamp, tailor, tobacco and pipes , toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP

EO Economic Opportunity Section 24-536.4 Use List	Retail and service stores, including the following stores: books, cabinet, candy, carpet, coin, department, dressmaking, florist, furniture, furrier, garden supply, greeting card, gunsmith (excluding shooting ranges), hardware, home appliance sales and service, ice cream, jewelry sales and service, locksmith, music and records, paint, pet, picture framing, plan supply, shoe, sporting goods, stamp, tailor, tobacco and pipes , toys, travel bureau, upholstery, wearing apparel, and yard goods	P	
	<i>Vape/smoke shop and vape/smoke lounge</i>		SUP

Staff looks forward to discussion and feedback from the Policy Committee on the approach above and whether all Districts should include this use. Staff will then proceed with developing the draft Ordinance language for a future Policy Committee or Planning Commission meeting.

CHP/md

ORD23-1AmdVapeSmk-mem

Attachment:

1. Initiating Resolution

RESOLUTION

INITIATION OF CONSIDERATION OF AMENDMENTS TO THE ZONING ORDINANCE

TO CONSIDER POSSIBLE AMENDMENTS REGARDING THE USE LIST OF THE

LIMITED BUSINESS, LB, GENERAL BUSINESS, B-1, LIMITED BUSINESS/INDUSTRIAL,

M-1, PLANNED UNIT DEVELOPMENT, PUD, MIXED USE, MU, ECONOMIC

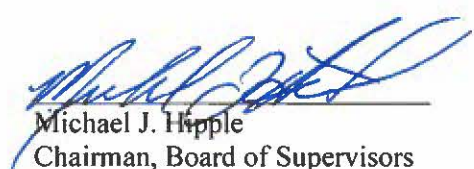
OPPORTUNITY, EO, AND THE RESIDENTIAL PLANNED COMMUNITY, R-4, DISTRICTS

TO REQUIRE VAPE/SMOKE SHOPS TO OBTAIN A SPECIAL USE PERMIT

WHEREAS, section 15.2-2286(A)(7) of the Code of Virginia, 1950, as amended (the "Virginia Code"), and County Code Section 24-13 authorize the Board of Supervisors of James City County, Virginia (the "Board"), to, by resolution, initiate amendments to the regulations of the Zoning Ordinance that the Board finds to be prudent and required by public necessity, convenience, general welfare, or good zoning practice; and

WHEREAS, the Board is of the opinion that the public necessity, general welfare, and good zoning practice warrant the consideration of amendments to the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, does hereby initiate amendment of the James City County Code, Chapter 24, Zoning, in order to consider possible amendments regarding the Use List of the Limited Business, LB, General Business, B-1, Limited Business/Industrial, M-1, Planned Unit Development, PUD, Mixed Use, MU, Economic Opportunity, EO, and the Residential Planned Community, R-4, Districts to require vape/smoke shops to obtain a Special Use Permit. The Planning Commission shall hold at least one public hearing on the consideration of amendments to said Zoning Ordinances and shall forward its recommendation to the Board of Supervisors in accordance with the law.


Michael J. Hipple
Chairman, Board of Supervisors

ATTEST:


Teresa J. Saegert
Deputy Clerk to the Board

SADLER
ICENHOUR
MCGLENNON
LARSON
HIPPLE

VOTES

<u>AYE</u>	<u>NAY</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
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Adopted by the Board of Supervisors of James City County, Virginia, this 24th day of January, 2023.