

**CITY OF CORAL GABLES, FLORIDA**

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY COMMISSION OF CORAL GABLES, FLORIDA PROVIDING FOR TEXT AMENDMENTS TO THE CITY OF CORAL GABLES OFFICIAL ZONING CODE, BY AMENDING ARTICLE 4, "ZONING DISTRICTS," SECTION 4-402, "PROHIBITED USES, CERTAIN STREETS;" ARTICLE 5, "DEVELOPMENT STANDARDS," DIVISION 7 "DISTANCE REQUIREMENTS;" AND ARTICLE 8, "DEFINITIONS," TO CREATE PROVISIONS AND CLARITY FOR RETAIL VAPE SHOPS; PROVIDING FOR REPEALER PROVISION, SEVERABILITY CLAUSE, CODIFICATION, AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, in 2016 the Surgeon General, U.S. Department of Health and Human Services, issued a report on "E-Cigarette Use Among Youth and Young Adults" and the Surgeon General has determined that tobacco use by youth and young adults in any form including e-cigarettes is not safe; and

**WHEREAS**, in accordance with the Surgeon General's report, use of e-cigarettes by youth and young adults has increased by an alarming rate and, indeed e-cigarettes are the most commonly used tobacco products among youth; and

**WHEREAS**, the Surgeon General found that e-cigarettes, which contain highly addictive nicotine, can harm brain development of youth and young adults in ways that may affect their health and mental health; and

**WHEREAS**, the report indicates that e-cigarette companies are promoting flavors and using a wide variety of media channels and approaches that have been used in the past for marketing conventional tobacco products to target youth and young adults; and

**WHEREAS**, the State of Florida has adopted a law effective January 1, 2020 restricting tobacco use to persons 21 age and over; and

**WHEREAS**, the establishment of regulating standards for locating stores that predominantly sell e-cigarettes are paramount to protecting the health, safety and welfare of the City's youth and young adults; and

**WHEREAS**, at the recommendation of the City Commission, City Staff is proposing Zoning Code text amendments to establish a clear set of standards for the operation of retail Vape Shops within the City; and

**WHEREAS**, the proposed regulation of Vape Shops in the downtown area is inconsistent with the Downtown Coral Gables Retail Strategy dated November 2016; and

**WHEREAS**, after notice was duly published, a public hearing was held before the Planning and Zoning Board on February 12, 2020, at which hearing all interested parties were afforded the opportunity to be heard; and

**WHEREAS**, the Planning and Zoning Board was presented with text amendments to the Official Zoning Code, and after due consideration, recommended approval (vote: 7-0); and

**WHEREAS**, a public hearing for First Reading was held before the City Commission on July 14, 2020, at which hearing all interested parties were afforded the opportunity to be heard; and

**WHEREAS**, the City Commission was presented with text amendments to the Zoning Code, and after due consideration and discussion, (approved/denied) the amendment on First Reading (vote: \_\_-\_\_).

**NOW THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:**

**SECTION 1.** The foregoing “**WHEREAS**” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

**SECTION 2.** The Official Zoning Code of the City of Coral Gables is hereby amended as follows<sup>1</sup>:

#### **ARTICLE 4 - ZONING DISTRICTS**

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#### **Division 4. Prohibited Uses**

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#### **Section 4-402. Prohibited uses, certain streets.**

- A. Except as provided in Section 4-403(F), no service station, public garage, auto repair shop, machine shop, used car lot, or any business conducted outside a building shall be permitted on any lots or premises abutting Coral Way (a portion of which is known as Miracle Mile), or Biltmore Way, or upon lots or premises abutting Ponce De Leon Boulevard between Southwest 8th Street and Bird Road.
- B. No driveway for use by motor vehicles or any other purpose shall be permitted to be constructed across the sidewalks on properties abutting Miracle Mile from Douglas Road to LeJeune Road and/or on properties abutting Ponce de Leon Boulevard from Minorca Avenue to University Drive.
- C. No off-street parking shall be permitted to be located on the grade level of buildings

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<sup>1</sup> Deletions are indicated by ~~strike through~~. Insertions are indicated by underline.

constructed on properties abutting Miracle Mile from Douglas Road to LeJeune Road and/or on properties abutting Ponce de Leon Boulevard from Minorca Avenue to University Drive.

D. No driveway for motor vehicle purposes or any other purposes shall be constructed across the sidewalk or in such yard areas of property abutting both sides of Ponce de Leon Boulevard from Malaga Avenue to Bird Road; driveways existing as of February 26, 1981 may be permitted to remain.

E. No Vape Shop or any retail business engaged in the sale of vape-related products shall be permitted on any properties abutting Miracle Mile, 100 Block of Giralda Avenue (known as Giralda Plaza), Ponce de Leon Boulevard between Giralda Avenue and Valencia Avenue, or Aragon Avenue between Ponce de Leon Boulevard and Salzedo Street.

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## ARTICLE 5 – DEVELOPMENT STANDARDS

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### Division 7. Distance Requirements

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#### Section 5-704. Vape shop and vape-related products.

A. No Vape Shop or any retail business engaged in the sale of vape-related products shall be permitted upon premises closer than five hundred (500) feet from any school.

B. The distance shall be measured by following a straight line from the main entrance of the proposed establishment to the nearest point of the school grounds. There shall be no variances of the above distance requirements granted for any reason.

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## ARTICLE 8 - DEFINITIONS

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**Vape Shop** means any business dedicated to the retail sale of vapor-generating electronic devices and components, parts, and accessories for vape-related products, such that twenty-five (25%) percent or more of the floor area dedicated for retail sales is occupied by the display of vapor-generating electronic devices and components, parts and accessories for vape-related products or that fifty-one percent (51%) or more of the establishment's total quarterly gross sales revenues is from the sale of vapor-generated electronic devices and components, parts, and accessories for vape-related products. It shall be the responsibility of the retail establishment to maintain records open for inspection by the city to demonstrate compliance with this requirement.

**Vapor-generating electronic device(s)** means any product that employs an electronic, chemical, or mechanical means to produce vapor or aerosol from a nicotine product or any other substance,

including but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product, any replacement cartridge for such device, and any other container of a nicotine in a solution or other form or any other substance intended to be used with or within an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product.

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**SECTION 3.** All ordinances or parts of ordinances inconsistent or in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 4.** If any section, part of section, paragraph, clause, phrase or word of this Ordinance is declared invalid, the remaining provisions of this Ordinance shall not be affected.

**SECTION 5.** It is the intention of the City Commission that the provisions of this Ordinance shall become and be made a part of Ordinance No. 2007-01 as amended and known as the “Zoning Code” of the City of Coral Gables, Florida, which provisions may be renumbered or re-lettered and the word ordinance be changed to “section”, “article”, or other appropriate word to accomplish such intention.

**SECTION 6.** If the Official Zoning Code of the City of Coral Gables Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

**SECTION 7.** This ordinance shall become effective \_\_\_\_\_, 2020.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, A.D. 2020.

APPROVED:

RAUL VALDES-FAULI  
MAYOR

ATTEST:

BILLY Y. URQUIA  
CITY CLERK

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY:

MIRIAM SOLER RAMOS  
CITY ATTORNEY