

ORDINANCE NO. 2024-42

AN ORDINANCE AMENDING CHAPTERS 1103, 1141, AND 1155 OF THE CODIFIED ORDINANCES OF THE CITY OF WILLOUGHBY, OHIO, TITLED, "DEFINITIONS", "BUSINESS DISTRICTS", AND "USE SPECIFIC REGULATIONS", RESPECTIVELY.

WHEREAS, under Chapters 1109 and 1141 of the Codified Ordinances of the City of Willoughby, Ohio, all development, construction, occupancy and use of commercial premises is subject to approval which must be obtained from the Chief Building and Zoning Inspector of the City before occupancy of premises for commercial, retail or other uses; and

WHEREAS, electronic nicotine delivery system use among minors has substantially increased and the use of these systems is associated with and may encourage the use of conventional tobacco products; and

WHEREAS, limiting the accessibility of electronic cigarettes and vaping devices to more clearly defined use categories and zoning classifications within the City will assist the City's interest in furthering the health, safety and general welfare of its residents;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILLOUGHBY, THE COUNTY OF LAKE, AND THE STATE OF OHIO:

SECTION 1. That Chapter 1103 of the Codified Ordinances of the City of Willoughby, Ohio, titled, "Definitions"; specifically, Section 1103.03, titled, "Definitions of General Terms", is hereby amended to read and provide as follows:

1103.03 DEFINITIONS OF GENERAL TERMS.

Words used in this Planning and Zoning Code are used in their ordinary English usage. However, for the purpose of this Planning and Zoning Code, certain words used herein are defined and whenever used in this Code shall have the meaning indicated in this section, except where the context clearly indicates a different meaning.

(a) The following are general terms of reference:

...

(b) Certain general terms are hereby defined as follows:

(1) "Abutting" means having a common border with, or being separated from, such a common border by a right-of-way, alley, or easement.

...

(138) "Retail Sales (electronic cigarettes and vaping devices)" means the sale in completely enclosed buildings of electronic devices, including any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device.

including, but not limited to, e-cigarettes, e-cigars, e-pipes, vapor products, or e-hookas.

(139) “Right-of-way” means a strip of land taken, dedicated, or otherwise . . .

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SECTION 2. That Chapter 1141 of the Codified Ordinances of the City of Willoughby, Ohio, titled, “Business Districts”; specifically, Section 1141.03, titled, “Schedule of Permitted Uses”, is hereby amended to read and provide as follows:

1141.03 SCHEDULE OF PERMITTED USES.

LAND USE CATEGORY	Limited Residential Business L-RB	Office Building O-B	Downtown Business D-B	Retail Business R-B	General Business G-B	Lakeshore Gateway L-G	Use-Specific Regulations Reference
(1) RESIDENTIAL							
...							
(3) RETAIL/SERVICES							
(a) Retail in completely enclosed buildings			P	P	P	P	
...							
(c) <u>Retail sales (electronic cigarettes and vaping devices)</u>				C	C	C	1155.04(qq)
(d) Limited Retail in an office building	C						1155.04(nn)
...							

SECTION 3. That Chapter 1155 of the Codified Ordinances of the City of Willoughby, Ohio, titled, “Use Specific Regulations”; specifically, Section 1155.04 titled, “Use-Specific Regulations”, is hereby amended to read and provide as follows:

1155.04 USE-SPECIFIC REGULATIONS.

This section contains additional standards and requirements that apply to the use type listed, regardless of the zoning district in which the use is permitted unless otherwise expressly stated. Any use in this section that is regulated as a conditional use in the district in which it is proposed shall also comply with the conditional use criteria set forth in Section 1109.05(f)

(a) Accessory Buildings Larger than Permitted by Right. In a Residential District, . . .

...

(qq) Retail Sales (electronic cigarettes and vaping devices) shall comply with the following additional requirements:

- (1) The conditional use permit shall only be issued to an owner/operator or lessee operator.
- (2) Full compliance with all licensing requirements of any governmental agency.

- (3) No person shall sell or otherwise distribute electronic cigarettes or vaping devices from a vending machine open to the general public.
- (4) No retail sales, dispensing or distribution of the Retail Sales (electronic cigarettes or vaping devices) by acceptance or redemption of any coupons, price promotion, or other instrument or mechanism, that provides these products to a consumer at no cost or at a price that is less than the non-discounted, standard price issued by a retailer on the product item is permitted.
- (5) No retail sales, dispensing or distribution of the Retail Sales (controlled substances) product shall be made between the hours of 10:00 p.m. and 5:00 a.m.


(rr) Retail Sales (Limited) as an Accessory Use. Principal uses in the . . .

...

SECTION 9. That the existing Chapters 1103, 1141, 1155 and of the City's Ordinances are hereby repealed in that said Chapters are superseded by this legislation.

SECTION 10. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were conducted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such actions were conducted in meetings open to the public in compliance with all legal requirements including Chapter 107 of the Codified Ordinances of the City of Willoughby.

SECTION 11. That this Ordinance shall be in full force and take effect immediately upon its passage by Council and its approval by the Mayor, or at the earliest period allowed by law.

Adopted: April 16, 2024 
President of Council

Attest: Alisa Nash
Clerk of Council

Date: 4.17.24 Approved: 
Mayor

Submitted to the Mayor for his approval on this 17th day of April, 2024.

Alisa Nash
Clerk of Council