

REQUEST FOR BOARD ACTION

HENDERSON COUNTY PLANNING BOARD

MEETING DATE: November 14, 2024

SUBJECT: LDC Text Amendment – TX-2024-04, Tobacco and Hemp Retail

PRESENTER: Russ Burrell, County Attorney
Autumn Radcliff, Planning Director

ATTACHMENTS: 1. Draft Text Amendment

SUMMARY OF REQUEST:

The Board of Commissioners have previously discussed concerns with the location of tobacco and hemp retail stores near schools. It has been expressed that a reasonable separation of these types of retail and services from schools should be implemented. The proposed text amendment would add a definition for tobacco and hemp retail establishments and require a separation from schools and a separation between these retail establishments.

BOARD ACTION:

The Planning Board is requested to review the proposed amendment and make a recommendation to the Board of Commissioners. The Board of Commissioners must hold a public hearing before adopting any amendments to the Land Development Code.

Suggested Motion: I move that the Planning Board recommend the proposed text amendment TX-2024-04 as discussed by the Board and finds that it is reasonable and consistent with the 2045 Comprehensive Plan.

Text Amendment Summary: The Board of Commissioners have previously discussed concerns with the location of tobacco and hemp retail stores near schools. It has been expressed that a reasonable separation of these types of retail and services from schools should be implemented. The proposed text amendment would add a definition for tobacco and hemp retail establishments and require a separation from schools and a separation between these retail establishments.

Supplemental Requirements: to be added to all Retail Sales and Service Supplemental Requirements (SR's).

- (A) Establishment where the principal sale and distribution are tobacco and hemp retail shall adhere to the following requirements.
- a. The site of the establishment must be located at least 1,000 feet—measured in a straight line from property line to property line—from the site of any other Tobacco and Hemp Retail establishment that exists or has been permitted.
 - b. The site of the establishment must be located at least 1,000 feet—as measured in a straight line from property line to property line— from any of the following use types: elementary, middle, or high school, regardless of public, private, or charter status.

Definition:

Tobacco and Hemp Retail. Tobacco and Hemp Retail means any establishment with the principal sale or distribution of:

- Any product that contains or is claimed in its packaging to contain tobacco or nicotine, irrespective of whether the nicotine is tobacco derived or synthetic, and is intended for human consumption, as defined by G.S. § 14-313(4). “Tobacco product” includes but is not limited to cigarettes, cigars, pipe tobacco, electronic cigarettes, hookah, smoked or vaped tobacco substitutes, chewing tobacco, snuff, snus, dissolvable tobacco products, and heated tobacco products. “Tobacco product” does not include nicotine replacement products approved by the USFDA for treatment of tobacco use and dependence.
- Any product that contains tetrahydrocannabinol (THC), irrespective of whether the THC is hemp derived or synthetic. Products that contain no greater than .3% THC and are not intended for human consumption by swallowing are exempt.
- Any product that contains or claims to contain *Mitragyna speciosa*, commonly known as kratom.
- Any electronic device that delivers nicotine, THC or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape, or electronic hookah.

- Tobacco and hemp retail shall also mean any establishment which primarily sells tobacco paraphernalia.