

ORDINANCE NO. 2015-008

AN ORDINANCE OF THE CITY OF COCONUT CREEK, FLORIDA AMENDING CHAPTER 13 OF THE CODE OF ORDINANCES “LAND DEVELOPMENT CODE” BY AMENDING ARTICLE III, “ZONING REGULATIONS”; BY AMENDING DIVISION 1, “GENERALLY”; BY AMENDING SECTION 295, “DEFINITIONS” IN ORDER TO ADD DEFINITIONS FOR “ELECTRONIC CIGARETTE” OR “E-CIGARETTE”, “RETAIL ELECTRONIC-CIGARETTE/VAPORIZER STORE”, AND “SMOKING LOUNGE, CIGAR BAR, HOOKAH BAR, VAPOR BAR, VAPOR LOUNGE”; AND AMENDING CHAPTER 13, “LAND DEVELOPMENT CODE” BY AMENDING ARTICLE III, “ZONING REGULATIONS”; BY AMENDING DIVISION 8, “MASTER BUSINESS LIST”, BY AMENDING SECTION 13-621, “MASTER BUSINESS LIST– B-2, B-3 AND B-4” IN ORDER TO ADD “RETAIL ELECTRONIC-CIGARETTE/VAPORIZER STORE AND SMOKING LOUNGE, CIGAR BAR, HOOKAH BAR, VAPOR BAR AND VAPOR LOUNGE” AS PERMITTED SPECIAL LAND USES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Commission of the City of Coconut Creek has adopted the City land development regulations for the protection of the public health and general welfare of the citizens of Coconut Creek; and

**WHEREAS**, the City Commission recognizes that changes in technology and popular trends result in the establishment of new uses not previously addressed in the City’s Land Development Regulations; and

**WHEREAS**, the City Commission recognizes that certain provisions of the City’s Land Development Regulations should be reviewed and updated; and

**WHEREAS**, the City Commission has a substantial interest in promoting the public health, safety and welfare as well as land-use compatibility within the City; and

**WHEREAS**, the City Commission recognizes the need to develop reasonable regulations regarding the location of retail electronic cigarette/vaporizer stores and smoking lounges.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA:**

**Section 1:** That Chapter 13, “Land Development Code”, Article III, “Zoning Regulations”, Division I, “Generally”, Section 295, “Definitions” of the Code of Ordinances of the City of Coconut Creek shall be amended to add the following definitions:

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscoring type are additions to existing text.  
A line of \*\*\* indicates existing text not shown

**Sec. 13-295 Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\*\*\*\*\*

Electronic Cigarette or E-Cigarette means any device that uses an atomizer or similar device that allows users to inhale nicotine vapor or other vapor without the use of fire, smoke, or ash. The definition of e- cigarette shall include, but is not limited to, electronic cigars, electronic cigarillos, hookahs, vaporizers or electronic pipes, and any cartridge or other component of the device or related product including any liquid products that are manufactured for use with e- cigarettes.

\*\*\*\*\*

Retail Electronic-Cigarette/Vaporizer Store means a business establishment for which more than fifty percent (50% ) of the gross floor area is dedicated to the storage, mixing, display and/or retail sale of electronic cigarette devices, nicotine-enriched solutions and/or liquid products that are manufactured for use with e- cigarettes, such as cartridges, substances and additives.

\*\*\*\*\*

Smoking lounge, cigar bar, hookah bar, vapor bar, vapor lounge means any business establishment for which the configuration of the enclosed indoor floor area is to facilitate on-site consumption of tobacco, cigarettes, nicotine-enriched solutions, or non-tobacco items designed to be combusted or inhaled or which produce a vapor, whether purchased on the premises or otherwise.

\*\*\*\*\*

**Section 2:** That Chapter 13, “Land Development Code”, Article III, “Zoning Regulations”, Division 8 “Master Business List”, Section 13-621, “Master Business List – B-2, B-3, and B-4”, of the Code of Ordinances of the City of Coconut Creek shall be amended to add the following uses to the Master Business List as special land uses in the B-2, B-3 and B-4 zoning categories.

**Sec. 13-621 Master Business List-B-2, B-3, and B-4**

Master Business List	B-2	B-3	B-4
Amusement centers (indoor only)			S

Animal boarding services		S <sup>(3)</sup>	S <sup>(3)</sup>
Animal grooming (no overnight boarding)		P <sup>(3)</sup>	P <sup>(3)</sup>
Apparel and accessory stores	P	P	P
Arts, crafts and drafting supplies	P	P	P
Auctioneers			P
Automobile dealerships		S	S
Automobile parts (no service or installation)		P <sup>(2)</sup>	P <sup>(2)</sup>
Automobile and truck rental agency (office only)		P	P
Automobile and truck rental agency		S <sup>(6)</sup>	S <sup>(6)</sup>
Automobile service (no fuel sales)		S	S
Automobile tag agency		P	P
Bake shop and delicatessen	P	P	P
Ballrooms and dance halls			S
Barbershops, beauty/nail salons and tanning salons	P	P	P
"Big box" retail over 75,000 sq. ft.			S
Boat sales and service		S	S
Bowling alleys		S	S
Building materials		P <sup>(2)(5)</sup>	P <sup>(2)(5)</sup>
Business services	P	P	P
Catering and meeting halls		S	S
Child daycare and nursery schools		S	S

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown

Coin operated Laundromats		S	S
Convenience stores with or without fuel sales		S	S
Dance, musical instruction and martial art studios	P	P	P
Detective and security agencies	<del>P</del> <sup>(6)</sup>	<del>P</del> <sup>(6)</sup>	<del>P</del> <sup>(6)</sup>
Drug stores and pharmacies	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>
Dry cleaners	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>
Employment agencies	P	P	P
Financial institutions, mortgage and stockbrokers	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>	<del>P</del> <sup>(1,2)</sup>
Florists	P	P	P
Funeral homes		S	S
General retail not otherwise specified	P	P	P
Government offices	P	P	P
Gyms and exercise clubs	P	P	P
Hardware stores		<del>P</del> <sup>(5)</sup>	<del>P</del> <sup>(5)</sup>
Hotels/motels		S	S
Household equipment rental		<del>P</del> <sup>(5)</sup>	<del>P</del> <sup>(5)</sup>
Indoor tennis, racket ball, handball and similar court sports		S	S
Indoor theaters		S	S
Jewelry shops with repair (no smelting)		P	P
Lawn and garden supplies and equipment		<del>P</del> <sup>(2,5)</sup>	<del>P</del> <sup>(2,5)</sup>
Liquor stores		S	S

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown

Maid, valet and janitorial services		P	P
Massage therapist		S <sup>(7)</sup>	S <sup>(7)</sup>
Medical laboratories		P	P
Medical offices and clinics		P	P
Motor fuel sales (no service bays)	S		
Motorcycle and recreation vehicles sales and service		S	S
News stands	P <sup>(2)</sup>	P <sup>(2)</sup>	P <sup>(2)</sup>
Pain clinics		S <sup>(8)</sup>	S <sup>(8)</sup>
Pet stores		P <sup>(3)</sup>	P <sup>(3)</sup>
Photographic and artist studios		P	P
Printing, lithograph and reproduction	P	P	P
Private clubs and lodges		S	S
Professional offices not otherwise specified	P	P	P
Real estate office	P	P	P
Repair shops for small household appliances and locksmiths	P <sup>(2)(5)</sup>	P <sup>(2)(5)</sup>	P <sup>(2)(5)</sup>
Restaurants, carry-out snack shops, etc.	P <sup>(1)</sup>	P <sup>(1)</sup>	P <sup>(1)</sup>
<u>Retail electronic-cigarette/vaporizer store</u>	<u>S</u>	<u>S</u>	<u>S</u>
Secretarial, data processing and temporary staffing services	P	P	P
Shoe repair	P	P	P
Skating rinks			S
<u>Smoking lounge, cigar bar, hookah bar, vapor bar, vapor lounge</u>	<u>S</u>	<u>S</u>	<u>S</u>

CODING: Words in ~~struck through~~ type are deletions from existing text.  
Words in underscored type are additions to existing text.  
A line of \*\*\* indicates existing text not shown

Special facilities (see sections <u>13-300</u> to <u>13-303</u> )			
Trade, technical and business schools		P <sup>(4)</sup>	P <sup>(4)</sup>
Travel agencies	P	P	P
Veterinary clinics (no boarding services)		P <sup>(3)</sup>	P <sup>(3)</sup>
Video stores		P	P

- *P - Indicates permitted use*
- *S - Indicates special land use (see Section 13-35)*
- <sup>(1)</sup>Facilities with drive-thrus are special land uses.
- <sup>(2)</sup>Permitted use when occupying an in-line bay. Free-standing units are special land uses.
- <sup>(3)</sup>Must conduct business wholly within a building, but limited outside dog walking is permitted.
- <sup>(4)</sup>No motor vehicle or marine repair.
- <sup>(5)</sup>No outside storage or display of equipment or supplies.
- <sup>(6)</sup>Parking spaces for business vehicles must be provided in excess of the required number of the required number for the use.
- <sup>(7)</sup>Must be licensed by the Department of Professional Regulation.
- <sup>(8)</sup>To provide adequate protection to the community and establish the legitimacy of the facility, the special land use application submission for pain clinics, must, in addition to the criteria set forth in Section 13-35, address the following:
  - a. No business approved as a special land use under this section shall limit the form of payment for services or prescriptions to cash only.
  - b. In the event the business applying for approval under this section does not accept insurance reimbursement, it must state the reason for such policy in its application and the failure of any business to accept insurance, Medicare or Medicaid reimbursements shall be considered by the planning and zoning board in making its decision as to the appropriateness of granting a special land use permit.

- c. The application for special land use shall disclose in detail the owners and operators of the facility, and shall be required to update the owner/operator information annually at the time of application for business tax receipts for the business, or at any time that there is a change of owner/operator.
- d. No business operating under a special land use permit under this section shall be owned, either in whole, or in part, or have any contractual relationship, whether through employment or by independent contract, with a physician who, within the five-year period prior to the date of application for a special land use or at any time after application for a special land use under this section, has been denied the privilege of prescribing, dispensing, administering, supplying or selling any controlled substance or who has, within the five-year period prior to the date of application for a special land use under this section or at any time after application for a special land use under this section, had any state medical board action taken against his or her medical license as a result of dependency on drugs or alcohol.
- e. The business shall be operated by a medical director who is a Florida-licensed physician.
- f. The business shall not be owned in whole or in part by any person who has been convicted of or who has pled guilty or nolo contendere to any felony in this state or in any other state within the five-year period prior to the date of application for a special land use. However, in no event shall the business be owned in whole or in part by any person who has been convicted of or who has pled guilty or nolo contendere at any time to an offense constituting a felony in this state or in any other state involving the prescribing, dispensing, supplying or selling of any controlled substance.
- g. The application for special land use shall include an affidavit by the medical director attesting to the fact that no employees of the facility have been convicted of a drug-related felony within the five-year period to the date of application and that the business shall not employ any such convicted felons thereafter.
- h. Any business approved as a special land use under this section shall maintain the appropriate diagnostic equipment to diagnose and treat patients complaining of chronic pain.

- i. Any business seeking approval as a special land use under this section shall be required to file with its application a natural disaster management plan.
- j. Any business seeking approval as a special land use under this section shall be required to file with its application a floor plan showing the location and adequate security for protection of any controlled substance to be dispensed in the course of business, including such security measures as impact resistant glass, exterior lighting, video recorders, and alarm systems.
- k. Any business or facility seeking approval as a special land use under this section, which business or facility is required to register with the State of Florida pursuant to F.S. § 458.3265 or § 459.0137, as amended from time to time, shall provide copies of such registration at the time of application for special land use hereunder and annually thereafter upon application for a business tax receipt for any approved special land use.
- l. Any business or facility seeking approval as a special land use under this section shall be required to submit with its application its plans to address, mitigate, or eliminate potential adverse effects of its business operation upon the public including plans for crowd control, parking compliance, noise attenuation, neighborhood compatibility, and crime prevention.
- m. Any business or facility approved by the city commission as a special land use under this section shall update and resubmit to the city the documentation supporting its original application annually at the time of application for business tax receipt for the business, or at any time that there is a change of owner/operator, and in the event such information is not submitted or fails to evidence compliance with the conditions set for approval, the city commission may, after public hearing, revoke any previously approved special land use granted to such business or facility.

**Section 3:** Severability. If any section, sentence, clause or phrase for this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

**Section 4:** Codification. That the provisions of this Ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

**Section 5:** Effective Date. This ordinance shall be effective upon its passage and adoption by the City Commission.

PASSED FIRST READING THIS 12th DAY OF February, 2015.

PASSED SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.

\_\_\_\_\_  
Rebecca A. Tooley, Acting Mayor

Attest:

\_\_\_\_\_  
Leslie Wallace May, MMC  
City Clerk

	1 <sup>st</sup>	2 <sup>nd</sup>
Tooley	<u>Aye</u>	_____
Sarbone	<u>Aye</u>	_____
Belvedere	<u>Aye</u>	_____
Welch	<u>Aye</u>	_____