

**AMENDMENTS TO COUNCIL BILL 25-0114  
(1<sup>st</sup> Reader Copy)**

By: Councilmember Blanchard  
{To be offered to the Land Use and Transportation Committee}

**Amendment No. 1**

Strike beginning with line 13 on page 2 down through and including line 2 on page 3 and substitute:

“(1) “SMOKE SHOP” MEANS A RETAIL GOODS ESTABLISHMENT THAT:

(I) IS ENGAGED IN THE RETAIL SALE OR ON-SITE CONSUMPTION OF TOBACCO PRODUCTS, TOBACCO SMOKING ACCESSORIES, ANY DEVICE OR PARAPHERNALIA THAT CAN BE USED TO DELIVER NICOTINE OR OTHER SUBSTANCES TO THE INDIVIDUAL INHALING FROM THE DEVICE, OR ANY CARTRIDGE, COMPONENT, OR ACCESSORY OF THE DEVICE; AND

(II) OPERATES UNDER 1 OR MORE OF THE FOLLOWING LICENSES ESTABLISHED BY THE STATE BUSINESS REGULATION ARTICLE:

(A) OTHER TOBACCO PRODUCTS (OTP) RETAILER, AS ESTABLISHED BY § 16.5-201 {“LICENSES REQUIRED RELATING TO TOBACCO PRODUCTS”};

(B) ELECTRONIC SMOKING DEVICES RETAILER, AS ESTABLISHED BY § 16.7-201 {“LICENSE REQUIRED”};

(C) VAPE SHOP VENDOR, AS ESTABLISHED BY § 16.7-201 {“LICENSE REQUIRED”};

(D) A CIGARETTE RETAILER, AS ESTABLISHED BY SUBTITLE 2 OF TITLE 16 {“CIGARETTE BUSINESS LICENSES”}; OR

(E) A TOBACCONIST LICENSE, AS ESTABLISHED BY § 16.5-201 {“LICENSES REQUIRED RELATING TO TOBACCO PRODUCTS”} OF THE STATE BUSINESS REGULATION ARTICLE; AND

(III) DEVOTES MORE THAN 10 LINEAR FEET OF DISPLAY AREA, MEASURED BY SHELF SPACE, COUNTER SPACE, AND WALL-MOUNTED DISPLAYS, WHETHER VERTICAL OR HORIZONTAL, TO:

(A) OTHER TOBACCO PRODUCTS, AS DEFINED BY § 16.5-101(J) OF THE STATE BUSINESS REGULATION ARTICLE;

(B) ELECTRONIC SMOKING DEVICES, AS DEFINED BY § 16.7-101(C) OF THE STATE BUSINESS REGULATION ARTICLE; OR

(C) A COMBINATION OF BOTH TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES.

(2) EXCLUSIONS.

“SMOKE SHOP” DOES NOT INCLUDE A RETAIL GOODS ESTABLISHMENT:

(I) THAT PRIMARILY DERIVES ITS REVENUE FROM THE SALE OF PREMIUM CIGARS, PIPE TOBACCO, MEMBERSHIP FEES, OR LOCKER RENTALS; OR

(II) WHERE THE SALE OF TOBACCO PRODUCTS IS SECONDARY TO THE ESTABLISHMENT’S PRIMARY RETAIL FUNCTION AND LESS THAN 25% OF THE ESTABLISHMENT’S REVENUE IS DERIVED FROM THE SALE OF TOBACCO PRODUCTS.”.

**Amendment No. 2**

On page 3, in line 7, strike “500” and substitute “750”; and, on that same page, in that same line, strike “AND” and substitute “OR”; and, on that same page, in line 8, strike “1,500” and substitute “750”.

### **Amendment No. 3**

On page 1, in line 9, strike “(w) and” and substitute “(w),”; and, on that same page, in that same line, after “14-340,” insert “and 18-702,”; and, on that same page, in line 11, strike “(x) and” and substitute “(x),”; and, on that same page, in that same line, after “14-341,” insert “and 18-703,”; and, on that same page, in line 16, strike “and 15-305” and substitute “15-305, and 18-702”; and, on page 2, in line 2, strike “(w) and” and substitute “(w),”; and, on that same page, in that same line, after “14-340,” insert “and 18-702,”; and, on that same page, in line 3, strike “(x) and” and substitute “(x),”; and, on that same page, in that same line, after “14-341,” insert “and 18-703,”; and, on page 3, after line 13, insert:

### **“Title 18. Nonconformities**

#### **Subtitle 7. Mandatory Termination of Certain Uses**

#### **§ 18-702. SMOKE SHOPS.**

##### **(A) IN GENERAL.**

EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, SMOKE SHOPS LOCATED WITHIN 750 FEET OF ANY SCHOOL, RECREATION CENTER, OR PARK SHALL BE TERMINATED NO LATER THAN 2 YEARS AFTER THE DATE ON WHICH THE USE BECAME NONCONFORMING.

##### **(B) WAIVER FOR HARDSHIP.**

##### **(1) BOARD AUTHORITY.**

THE BOARD OF MUNICIPAL AND ZONING APPEALS MAY EXTEND BY AN ADDITIONAL 1 YEAR THE TIME BY WHICH A SMOKE SHOP MUST TERMINATE THE NONCONFORMING USE.

##### **(2) TIMELY APPLICATION.**

TO OBTAIN AN EXTENSION, THE PROPERTY OWNER OR LESSEE SHALL APPLY TO THE BOARD, IN WRITING, WITHIN 1 YEAR AFTER THE PROPERTY BECOMES NONCONFORMING.

(3) FACTORS FOR EXTENSION.

THE PROPERTY OWNER OR LESSEE SEEKING AN EXTENSION UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL ESTABLISH THE EXISTENCE OF 1 OF THE FOLLOWING FACTORS THAT WOULD RENDER TERMINATION WITHIN THE TIME REQUIRED BY SUBSECTION (A) OF THIS SECTION A HARDSHIP:

- (I) PURCHASE OF THE PROPERTY WITHIN THE 3 YEARS IMMEDIATELY PRECEDING THE NONCONFORMITY;
- (II) INVESTMENT IN CAPITAL IMPROVEMENTS TO THE PROPERTY IN EXCESS OF \$100,000 BEFORE JUNE 30, 2025, AND AFTER APRIL 1, 2021; OR
- (III) A LEASE THAT WAS ENTERED INTO BEFORE APRIL 1, 2021, HAS A TERM REMAINING IN EXCESS OF 10 YEARS, AND IS NOT TERMINABLE BY THE LESSEE BECAUSE OF ZONING CHANGES PROHIBITING THE USE.”.

**Amendment No. 4**

On page 17, in lines 12 and 13, strike “the 30<sup>th</sup> day after”.