



Conditional Use Permit Application

Tobacco & Vape Shops

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APPLICANT: _____ ADDRESS: _____

PHONE NUMBER: _____

BUSINESS TYPE: _____

BUSINESS NAME: _____

All Tobacco and Vape Shops are required to obtain a conditional use permit issued by the Pelham City Council upon the recommendation of the Pelham Planning Commission. The permit shall be required prior to the issuance of a business license for said use and prior to occupancy of the premises regarding said use.

1. The Pelham Planning Commission shall hold a public hearing, notice of which will be given, for the consideration of the additional rules and regulations described above and comments from the applicant(s) and other interested parties will be heard. After completing an applicable public hearing, the Pelham Planning Commission will vote on a recommendation to make to the Pelham City Council and then submit its recommendation and report.
2. The Pelham City Council will also hold a public hearing considering the additional rules and regulations described above, as well as any requested exceptions, and, shall make the final decision regarding the granting of a permit and issuance of an applicable business license.

DESCRIPTION OF ALL SERVICES OFFERED:

ADDITIONAL REQUIREMENTS FROM APPENDIX A; ARTICLE XV, SECTION 14:

1. Purpose. The general purpose and intent of these regulations are to provide separation, development and operational standards for tobacco shops and vape shops in the City of Pelham in order to mitigate the negative impacts associated with smoking and vaping uses and to serve the public health, safety, and welfare of residents and businesses within the City.
2. Applicability. For the purposes of this section, the standards of this section apply to new establishments of tobacco shops and vape shops. An establishment is considered new when no previous tobacco shop or vape shop existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section. Any properly licensed tobacco shop or vape shop legally operating at the effective date of this ordinance that is not in compliance with this section shall be considered a legal nonconforming use and shall be subject to the provisions of Article XXVI (Nonconforming Uses of Lands and Buildings) of this ordinance.

3. Discontinuance and termination. Any tobacco shop or vape shop, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.

4. Definitions. As used in this section, the following words and phrases will have the following meanings:

a. *Electronic cigarette (E-cigarette).* An electronic or battery-operated device, whether or not such device is shaped like a cigarette, that uses an atomizer, aerosol or similar device that allows users to inhale nicotine vapor or flavored vapor, without fire, smoke or ash. An electronic cigarette includes but is not limited to any electronic nicotine delivery system, electronic vaping device, personal vaporizer, electronic pipe, electronic hookah, or vapor pen.

b. *Tobacco product.* Includes any substance containing tobacco or derived from tobacco and any substance used in electronic cigarette and vaping devices including but not limited to cigarettes, cigars, e-juice, e-liquid, e-nicotine, smoke juice, pipe tobacco, rolling tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, nicotine gel, nicotine lollipops, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body.

c. *Tobacco, vape or E-cigarette.* A free standing business establishment for which more than 50 percent of the gross floor area is devoted to the display, sale, use and storage of vape or tobacco products, including electronic cigarettes and related accessories. Related accessories include any apparatus, equipment or instrument used for smoking tobacco and/or inhaling vapor from nicotine enriched solutions and/or the burning or vaporizing of controlled substances.

d. *Vaping.* To inhale vapor from any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking.

5. Locational requirements.

a. No tobacco shop or vape shop (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other tobacco shop or vape shop. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.

b. No tobacco shop or vape shop shall be located within 500 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.

c. No tobacco shop or vape shop shall be located within 500 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.

6. Development and operational standards.

- a. Hours of operation. The hours of operation shall be limited to the hours between 9:00 a.m. and 6:00 p.m.
- b. A tobacco shop or vape shop located in a building sharing one or more common walls or sharing common attic space with another retail or commercial establishment shall not allow tobacco product use or vaping on the premises in a manner that interferes with any other establishment's use or enjoyment of the premises.
- c. Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices shall be kept and displayed in a secure and locked enclosure, which can only be accessed with the assistance of a clerk. Self-service displays of tobacco products and tobacco paraphernalia are prohibited.
- d. Tobacco products, tobacco paraphernalia, electronic cigarettes and vaping devices, and electronic cigarette and vaping accessories shall not be visible through storefront windows.
- e. Tobacco shops and vape shops shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the shop. It shall be unlawful for a tobacco shop or vape shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.
- f. No more than 15 percent of the square footage of the windows and clear doors of an establishment used for retailing shall bear advertising or signs of any sort, and all advertising and signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises.
- g. New store operators shall submit a floor plan, drawn to scale and professionally prepared by a licensed civil engineer or architect, designating all interior dimensions of the premises, the proposed use of all spaces, identification of limited access areas, and areas of ingress and egress. The purpose of the floor plan is to serve as fire protection/life safety/accessibility drawing for review and comment by the fire chief or fire marshal.

SIGNATURE OF APPLICANT

APPLICATION DATE

OFFICE USE ONLY

SUBMITTAL DATE: _____

P&Z RECOMMENDATION: ___ YES ___ NO

DATE: _____

CITY COUNCIL APPROVAL: ___ YES ___ NO

DATE: _____

PERMIT #: _____