

BRUNSWICK CITY PLANNING & ZONING COMMITTEE

Agenda

FEBRUARY 12, 2024

5:50 PM

**or Immediately Following
Finance Committee**

1. Discussion Items

- (a) **ORD. NO. 11-2024** - An ordinance amending Section A(18) of the Design Guidelines for the Main Street District of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (b) **ORD. NO. 12-2024** - An ordinance amending Section A(3) of the Design Guidelines for the Southeast Neighborhood of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (c) **ORD. NO. 13-2024** - An ordinance amending Section 1256.04(m) of the Codified Ordinances of the City of Brunswick by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (d) **ORD. NO. 14-2024** - An ordinance amending Section A(9) of the Design Guidelines for the Northwest Neighborhood of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (e) **ORD. NO. 17-2024**- An ordinance establishing Sections 1242.02(32.1) and (84.1) of the Codified Ordinances of the City of Brunswick by defining "Electronic Smoking Device" and "tobacco products". - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (f) **ORD. NO. 18-2024**- An ordinance establishing Section 1274.17 of the Codified Ordinances of the City of Brunswick by providing additional conditional use standards for vape and smoke shops.- **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)
- (g) **ORD. NO. 19-2024** - An ordinance amending Section 1242.02(94) of the Codified Ordinances of the City of Brunswick by updating the definition of vape

and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

- (h) **ORD. NO. 20-2024** - An ordinance repealing and replacing Section 636.19 of the City of Brunswick Codified Ordinances. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

2. General Discussion
3. Adjournment

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 11-2024** - An ordinance amending Section A(18) of the Design Guidelines for the Main Street District of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: In order to be consistent with the location of vape and smoke shops in other zoning districts in the City of Brunswick, vape and smoke shops, which shall be permitted as a conditionally permitted use subject to the provisions of Chapter 1274, shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any religious institution, educational institution or city park is located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line of any religious institution, educational institution or city park.

PURPOSE AND EXPLANATION: The proposed amendment will make the location of vape and smoke shops consistent with other zoning districts in the City of Brunswick.

IMPLEMENTATION SCHEDULE: First reading on February 12, 2024, then refer to the Planning Commission for a public hearing.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes

Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 11-2024

BY: Mr. Delsanter, Mr. Lambert, Mr. Kuczma

AN ORDINANCE AMENDING SECTION A(18) OF THE DESIGN GUIDELINES FOR THE MAIN STREET DISTRICT OF THE BRUNSWICK TOWN CENTER SPECIAL PLANNING DISTRICT NO. 2 BY IMPOSING ADDITIONAL RESTRICTIONS FOR VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section A(18) of General Requirements is hereby amended to read as follows:

“(18) Vape and smoke shops, which shall be permitted as a conditionally permitted use subject to the provisions of Chapter 1274, shall not be permitted within ~~one thousand (1,000) feet of~~ 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any of the following are located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any of the following are located:

- (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- (2) A public or private educational facility, including, without limitation, child care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, junior colleges and universities, trade schools, tutorial services and commercial learning centers. ~~School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.~~
- (3) A playground that is open to the public or a City park.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____
2nd Reading _____
3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 12-2024** - An ordinance amending Section A(3) of the Design Guidelines for the Southeast Neighborhood of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: In order to be consistent with the location of vape and smoke shops in other zoning districts in the City of Brunswick , Section A(3) of the Brunswick Town Center SPD-2 Southeast Neighborhood Design Guidelines has been amended as follows: “Conditional Uses. Home occupations, hotels, vape and smoke shops, and tattoo and body piercing parlors as conditional uses, subject to Section 1274.09. **Vape and smoke shops shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any religious institution, educational institution or city park is located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any religious institution, educational institution or city park is located.**”

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PURPOSE AND EXPLANATION: The proposed amendment will make the location of vape and smoke shops in Brunswick Town Center SPD-2 Southeast Neighborhood consistent with other zoning districts in the City of Brunswick.

IMPLEMENTATION SCHEDULE: First reading on February 12, 2024, refer back to the Planning Commission for a public hearing.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

1
CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 12-2024

BY: Mr. Delsanter, Mr. Lambert, Mr. Kuczma

AN ORDINANCE AMENDING SECTION A(3) OF THE DESIGN GUIDELINES FOR THE SOUTHEAST NEIGHBORHOOD OF THE BRUNSWICK TOWN CENTER SPECIAL PLANNING DISTRICT NO. 2 BY IMPOSING ADDITIONAL RESTRICTIONS FOR VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section A(3) of the General Requirements shall be amended to read as follows:

“Conditional Uses. Home occupations, hotels, vape and smoke shops, and tattoo and body piercing parlors as conditional uses, subject to Section 1274.09. **Vape and smoke shops shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any of the following are located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any of the following are located:**

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(2) A public or private educational facility, including, without limitation, child care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, junior colleges and universities, trade schools, tutorial services and commercial learning centers.

(3) A playground that is open to the public or a City park.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____

Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 13-2024** - An ordinance amending Section 1256.04(m) of the Codified Ordinances of the City of Brunswick by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: Section 1256.04(m) of the Codified Ordinances is hereby amended to read as follows:

Vape and smoke shops shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any of the following are located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any religious institution, educational institution or city park is located.

**PURPOSE AND
EXPLANATION:**

The proposed amendment will make the location of vape and smoke shops in the C-N Neighborhood Commercial District consistent with other zoning districts in the City of Brunswick.

**IMPLEMENTATION
SCHEDULE:**

First reading on February 12, 2024; refer back to the Planning Commission for a public hearing.

**FINANCIAL
INFORMATION:**

**FINANCIAL
SUMMARY:**

**RECOMMENDED
ACTION:**

One Reading	No
Two Readings	No

Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 13-2024

BY: Mr. Delsanter, Mr. Lambert, Mr. Kuczma

AN ORDINANCE AMENDING SECTION 1256.04(m) OF THE CODIFIED ORDINANCES OF THE CITY OF BRUNSWICK BY IMPOSING ADDITIONAL RESTRICTIONS FOR VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section 1256.04(m) of the Codified Ordinances is hereby amended to read as follows:

“(m) Vape and smoke shops shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any of the following are located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any of the following are located, ~~which shall not be permitted within one thousand (1,000) feet of:~~

- (1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.
- (2) A public or private educational facility, including, without limitation, child care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, junior colleges and universities, trade schools, tutorial services and commercial learning centers. ~~School includes the school grounds, but does not include facilities used primarily for another purpose and only incidentally as a school.~~
- (3) A playground that is open to the public or City park.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____
2nd Reading _____
3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 14-2024** - An ordinance amending Section A(9) of the Design Guidelines for the Northwest Neighborhood of the Brunswick Town Center Special Planning District No. 2 by imposing additional restrictions for vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: That Section A(9) of General Requirements shall be amended to read as follows:

“(9) Vape and smoke shops, **which shall be permitted as a conditionally permitted use subject to the provisions of Chapter 1274, shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any religious institution, educational institution, or city park is located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any religious institution, educational institution, or city park is located.**”

**PURPOSE AND
EXPLANATION:**

The proposed amendment will make the location of vape and smoke shops in the Northwest Neighborhood of Brunswick Town Center SPD-2 consistent with other zoning districts in the City of Brunswick.

IMPLEMENTATION

SCHEDULE: First reading on February 12, 2024; refer back to the Planning Commission for a public hearing.

**FINANCIAL
INFORMATION:**

**FINANCIAL
SUMMARY:**

**RECOMMENDED
ACTION:**

One Reading

No

Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

1
CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 14-2024

BY: Mr. Delsanter, Mr. Lambert, and Mr. Kuczma

AN ORDINANCE AMENDING SECTION A(9) OF THE DESIGN GUIDELINES FOR THE NORTHWEST NEIGHBORHOOD OF THE BRUNSWICK TOWN CENTER SPECIAL PLANNING DISTRICT NO. 2 BY IMPOSING ADDITIONAL RESTRICTIONS FOR VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section A(9) of General Requirements shall be amended to read as follows:

“(9) Vape and smoke shops, which shall be permitted as a conditionally permitted use subject to the provisions of Chapter 1274, shall not be permitted within 3,500 feet of any parcel or unified site within or outside of the City of Brunswick corporate boundaries upon which any of the following are located, which shall be measured from the nearest point of the parcel on which the vape/smoke shop is located to the nearest property line upon which any of the following are located:

(1) A church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

(2) A public or private educational facility, including, without limitation, child care facilities, nursery schools, pre-schools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, junior colleges and universities, trade schools, tutorial services and commercial learning centers.

(3) A playground that is open to the public or a City park.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 17-2024-** An ordinance establishing Sections 1242.02(32.1) and (84.1) of the Codified Ordinances of the City of Brunswick by defining "Electronic Smoking Device" and "tobacco products". - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: Section 1242.02(32.1) of the Codified Ordinances of the City of Brunswick has been created to establish a definition of an "electronic smoking device"; and Section 1242.02(84.1) has been created to establish a definition of "tobacco products".

PURPOSE AND EXPLANATION: Definitions of "electronic smoking device" and "tobacco products" are necessary.

IMPLEMENTATION SCHEDULE: First reading on February 12, 2024; then refer back to the Planning Commission for a public hearing.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 17-2024

BY: Mr. Delsanter, Mr. Lambert, and Mr. Kuczma

AN ORDINANCE ESTABLISHING SECTIONS 1242.02(32.1) AND (84.1) OF THE CODIFIED ORDINANCES OF THE CITY OF BRUNSWICK BY DEFINING “ELECTRONIC SMOKING DEVICE” AND “TOBACCO PRODUCTS”.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section 1242.02(32.1) of the Codified Ordinances is hereby established to read as follows:

“(32.1) Electronic Smoking Device: Any device that may be used to deliver any aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory to such a device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic Smoking Device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.”

SECTION 2: That Section 1242.02(84.1) of the Codified Ordinances is hereby established to read as follows:

“(84.1) Tobacco Products: (a) Any product containing, made of, or derived from tobacco or containing any form of nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff or snus; (b) any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; and (c) any component, part, or accessory of (a) or (b), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, or pipes. Tobacco Products do not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.”

SECTION 3: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____

AYES ____ NAYS ____

ATTEST: _____

Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 18-2024-** An ordinance establishing Section 1274.17 of the Codified Ordinances of the City of Brunswick by providing additional conditional use standards for vape and smoke shops.- **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: Section 1274.17 of the Codified Ordinances has been established to create additional conditional use standards for vape and smoke shops.

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PURPOSE AND EXPLANATION: Vape and smoke shops are conditionally permitted uses in specified Zoning Districts in the City, as same may be amended from time to time. In addition to the specific requirements contained in the Zoning Code for each specified Zoning District, vape and smoke shops are subject to the specific provisions of Chapter 1274 and the provisions created in this ordinance.

IMPLEMENTATION SCHEDULE: First reading on February 12, 2024; then refer back to the Planning Commission for a public hearing.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No

Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 18-2024

BY: Mr. Delsanter, Mr. Lambert, and Mr. Kuczma

AN ORDINANCE ESTABLISHING SECTION 1274.17 OF THE CODIFIED
ORDINANCES OF THE CITY OF BRUNSWICK BY PROVIDING ADDITIONAL
CONDITIONAL USE STANDARDS FOR VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section 1274.17 of the Codified Ordinances is hereby established to read as follows:

“1274.17 Additional Conditional Use Standards for Vape and Smoke Shops.

Vape and smoke shops are conditionally permitted uses in specified Zoning Districts in the City, as same may be amended from time to time. In addition to the specific requirements contained in the Zoning Code for each specified Zoning District, vape and smoke shops are subject to the specific provisions of this Chapter 1274 and the provisions below:

- (a) No vape/smoke shop shall be permitted to be located within 1,000 feet of any existing vape/smoke shop, as measured from the nearest property lines of each respective property and/or unified site. This restriction does not apply to any vape/smoke shop that is currently operating in accordance with all applicable law as of the effective date of this Ordinance.
- (b) Any Conditional Use Permit issued pursuant to this Chapter shall be valid only with respect to the person/entity and location for which same was issued. The transfer of any Conditional Use Permit issues pursuant to this Chapter is prohibited.
- (c) Any Conditional Use Permit issued shall be revoked and the person/entity and location for which same was issued shall be prohibited from applying for or being issued a new Conditional Use Permit for a period of one (1) year from the date of revocation consistent with the penalty provisions contained in Section 636.19.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____
 2nd Reading _____
 3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____
 Clerk of Council
 Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 19-2024** - An ordinance amending Section 1242.02(94) of the Codified Ordinances of the City of Brunswick by updating the definition of vape and smoke shops. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: Section 1242.02(94) of the Codified Ordinances is hereby amended to read as follows:

“(94) Vape and Smoke Shop: A retail establishment that offers Electronic Smoking Devices and/or Tobacco Products for retail sale.”

PURPOSE AND EXPLANATION: To be consistent with other proposed legislation regarding electronic smoking devices and/or tobacco products for retail sale, an amendment to Section 1242.02(94) is necessary.

IMPLEMENTATION SCHEDULE: First reading on February 12, 2024; then refer back to the Planning Commission for a public hearing.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No
Suspension of Rules	No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

ORDINANCE NO. 19-2024 _____

BY: Mr. Delsanter, Mr. Lambert, and Mr. Kuczma

AN ORDINANCE AMENDING SECTION 1242.02(94) OF THE CODIFIED ORDINANCES OF THE CITY OF BRUNSWICK BY UPDATING THE DEFINITION OF VAPE AND SMOKE SHOPS.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That Section 1242.02(94) of the Codified Ordinances are hereby amended to read as follows:

“(94) Vape and Smoke Shop: A retail establishment that ~~derives more than fifty percent (50%) of its gross revenue from the sale of electronic cigarettes or similar devices, cigars, cigarettes, pipes, or other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental.~~offers Electronic Smoking Devices and/or Tobacco Products for retail sale.”

SECTION 2: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading

2nd Reading

3rd Reading _____

ADOPTED: _____ AYES
 _____ NAYS _____

ATTEST: _____
Clerk of Council
Laura E. Timura, CMC

PROPOSED LEGISLATION



DATE: 2/12/2024

TO: Vice Mayor Nicholas Hanek and Members of City Council

FROM: Carl S. DeForest, City Manager
Grant Aungst

COPY: Mayor Ron Falconi

LEGISLATION: **ORD. NO. 20-2024** - An ordinance repealing and replacing Section 636.19 of the City of Brunswick Codified Ordinances. - **1st Reading** (To be brought from Planning & Zoning Committee, *Administration/Grant Aungst*)

BACKGROUND: It is estimated that 95% of all adult smokers begin smoking before the age of twenty-one. An earlier age of initiation is associated with greater levels of nicotine dependence and greater intensity and persistence of smoking beyond adolescence and through adulthood.

PURPOSE AND EXPLANATION: The parts of the brain most responsible for decision-making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction. Data from the 2021 National Youth Tobacco Survey on the use of e-cigarettes shows that over 11% of, or more than two million, U.S. middle and high school students reported current e-cigarette use, where almost 40% used e-cigarettes on a frequent basis.

IMPLEMENTATION

SCHEDULE: Immediately.

FINANCIAL INFORMATION:

FINANCIAL SUMMARY:

RECOMMENDED ACTION:

One Reading	No
Two Readings	No
Three Readings	Yes
Emergency	No

Suspension of Rules No

If emergency or suspension of the rules, why the request?
Recommend adoption.

**ADDITIONAL
INFORMATION:**

1
CITY OF BRUNSWICK, OHIO
ORDINANCE NO. 20-2024

BY: Mr. Delsanter, Mr. Lambert, Mr. Kuczma

AN ORDINANCE REPEALING AND REPLACING SECTION 636.19 OF THE CITY OF BRUNSWICK CODIFIED ORDINANCES.

WHEREAS: It is estimated that 95% of all adult smokers began smoking before the age of twenty-one.

WHEREAS: An earlier age of initiation is associated with greater levels of nicotine dependence and greater intensity and persistence of smoking beyond adolescence and through adulthood.

WHEREAS: The parts of the brain most responsible for decision making, impulse control, sensation seeking, and susceptibility to peer pressure continue to develop and change through young adulthood, and adolescent brains are uniquely vulnerable to the effects of nicotine and nicotine addiction.

WHEREAS: Data from the 2021 National Youth Tobacco Survey on the use of e-cigarettes shows that over 11% of, or more than two million, U.S. middle and high school students reported current e-cigarette use, where almost 40% used e-cigarettes on a frequent basis.

WHEREAS: THE COUNCIL OF THE CITY OF BRUNSWICK HEREBY ORDAINS:

SECTION 1: That the existing version of Section 636.19 of the Codified Ordinances is hereby replaced in its entirety to read as follows:

“636.19 ILLEGAL DISTRIBUTION OF TOBACCO PRODUCTS.

(A) Definitions. For the purposes of this Section, the following definitions shall apply:

- (1) “Distribute” means giving, providing, or delivering Tobacco Products.
- (2) “Electronic Smoking Device” means any device that may be used to deliver any aerosolized or vaporized nicotine or any other substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen or e-hookah. Electronic Smoking Device includes any component, part, or accessory to such a device, whether or not sold separately, and also includes any substance intended to be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic Smoking Device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

- (3) “Purchaser” means any person who obtains or attempts to obtain a Tobacco Product.
 - (4) “Sale”, “Sell” or “Sold” means transferring, or offering or attempting to transfer, a Tobacco Product for money, trade, barter, exchange or other consideration.
 - (5) “Self-Service Display” means the open display or storage of Tobacco Products in a manner that is physically accessible in any way to the general public without the assistance of the Tobacco Retailer or its agent, employee, or representative or without a direct person-to-person transfer between the Purchaser and the Tobacco Retailer or its agent, employee or representative.
 - (6) “Tobacco” or “Tobacco Product(s)” means: (a) any product containing, made of, or derived from tobacco or containing any form of nicotine that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, dissolved, inhaled, absorbed, or ingested by any other means, including, but not limited to, a cigarette, cigar, pipe tobacco, chewing tobacco, snuff or snus; (b) any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; (c) any component, part, or accessory of (a) or (b), whether or not any of these contain tobacco or nicotine, including, but not limited to, filters, rolling papers, blunt or hemp wraps, or pipes. Tobacco Product does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.
 - (7) “Tobacco Retailer” means any individual, firm, partnership, joint venture, association, joint stock company, corporation, unincorporated business entity, or any other group acting as a unit that owns a business where Tobacco Products are available for sale to the general public and are licensed pursuant to Chapter 868 of the Codified Ordinances. Tobacco Retailer, as used herein, includes any manufacturer, producer, distributor or wholesaler of Tobacco Products. Tobacco Retailer does not mean the employees or agents of an owner of a business where Tobacco Products are available to the general public.
 - (8) “Vending Machine” has the same meaning as “Coin Machine” in Ohio Revised Code Section 2913.01, as same may be amended from time to time.
- (B) Restrictions on the Sale of Tobacco Products.
- (1) Age Restriction. No Tobacco Retailer, or its agent, employee or representative, nor any other person, shall sell or distribute any Tobacco Product to any person under twenty-one years of age, except if a person is participating in a research protocol described in Sections (C)(1)(a) and (C)(2) herein and meets the requirements provided therein.

- (2) Age Verification. Tobacco Retailers or their agents, employees or representatives shall verify by means of government-issued photographic identification that the Purchaser is at least twenty-one years of age. No Tobacco Retailer, or its agents, employees, or representatives, nor any other person, shall sell or distribute any Tobacco Product to any individual who does not demonstrate, through a government-issued photographic identification, that the individual is at least twenty-one years of age. Verification is not required for a person over thirty years of age; provided however, that the Purchaser appeared to be thirty years of age or older shall not constitute a defense to a violation of this Section in any proceeding alleging the sale of Tobacco Products to an individual under the age of twenty-one.
- (3) Signage. Signs reading “THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 21 IS PROHIBITED BY LAW” shall be legibly printed in letters at least one inch high and shall be posted clearly and conspicuously in every location where Tobacco Products are sold. Selling Tobacco Products in any place that does not have a sign consistent with this Section is prohibited by law and punishable as provided herein.
- (4) Self-Service Display Prohibition. No Tobacco Retailer or its agent, employee or representative, nor any other person, shall sell or distribute Tobacco Products by or from a Self-Service Display.
- (5) Vending Machine Prohibition. No Tobacco Retailer or its agent, employee or representative, nor any other person, shall sell or distribute Tobacco Products by or from a Vending Machine.
- (6) False Information. No Tobacco Retailer or its agent, employee or representative, nor any other person, shall knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purposes to sell or distribute Tobacco Products.
- (7) No Tobacco Retailer or its agent, employee or representative, nor any other person, shall manufacture, sell or distribute any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco.
- (8) No Tobacco Retailer or its agent, employee or representative, nor any other person, shall sell any Tobacco Product in a smaller quantity than that placed in the pack or container by the manufacturer.
- (9) No Tobacco Retailer or its agent, employee or representative, nor any other

person, shall sell or distribute any Tobacco Product in a smaller quantity than was intended for retail when the Tobacco Product was packaged by the manufacturer.

(C) Affirmative Defenses.

(1) The following are affirmative defenses to a charge under Sections (B)(1) and (B)(2) hereof:

- (a) The parent, guardian, or legal custodian of a person under the age of eighteen has consented in writing to a person under the age of eighteen participating in research protocol, or a person over the age of eighteen, but under the age of twenty-one, has consented in writing, on his or her own behalf, to participate in research protocol.
- (b) The person who has sold or distributed Tobacco Products to a person under the age of twenty-one is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person who is under the age of twenty-one.

(2) It is not a violation of Sections (B)(1) or (B)(2) hereof to sell or distribute Tobacco Products to a person under the age of twenty-one while the person under the age of twenty-one is participating in a research protocol if all of the following apply:

- (a) The parent, guardian, or legal custodian of a person under the age of eighteen has consented in writing to a person under the age of eighteen participating in the research protocol, or a person over the age of eighteen, but under the age of twenty-one, has consented in writing, on his or her own behalf, to participate in the research protocol.
- (b) An institutional human subjects protection review board, or equivalent entity, has approved the research protocol.
- (c) The person under the age of twenty-one is participating in the research protocol at the facility or location specified in the research protocol.

(D) Severability. The provisions of this Section are severable, and if any provision, clause, sentence or paragraph of this Section or the application thereof to any person or circumstances are held by a court of competent jurisdiction to be unconstitutional or otherwise invalid, such a ruling shall not affect the other parts of this Section that can be given effect.

(E) Penalty. Whoever violates Section (B) is guilty of illegal distribution of Tobacco Products. Except as otherwise provided herein, illegal distribution or sale of Tobacco Products is a misdemeanor of the fourth degree. If the offender has

previously been convicted of or pleaded guilty to a violation of Section (B) within the previous twelve (12) months, or any previous version of the Codified Ordinances relating to illegal distribution or sale of Tobacco Products, then illegal distribution or sale of Tobacco Products is a misdemeanor of the third degree. If the offender has been convicted of or pleaded guilty to two (2) or more violations of Section (B) within the previous twelve (12) months, or any previous version of the Codified Ordinances relating to illegal distribution or sale of Tobacco Products, then illegal distribution of sale of Tobacco Products is a misdemeanor of the first degree and any Conditional Use Permit issued shall be revoked in accordance with the provisions of Section 1274.17.”

SECTION 2: The provisions of this Ordinance prohibiting the sale of Tobacco Products from a Self-Service Display or Vending Machine shall be effective and enforceable one hundred eighty (180) days after the effective date of this Ordinance. All other provisions contained herein shall be effective and enforceable upon the effective date of this Ordinance.

SECTION 3: Upon the effective date of this Ordinance, existing Section 636.19 shall be repealed in its entirety and replaced with the provisions contained in this Ordinance.

SECTION 4: That this Ordinance shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 1st Reading _____

2nd Reading _____

3rd Reading _____

ADOPTED: _____ AYES _____ NAYS _____

ATTEST: _____

Clerk of Council
Laura E. Timura, CMC