

DOCKET ITEM #7
Text Amendment #2024-00008
Location limitation on retailers selling
tobacco, nicotine, nicotine alternatives, and
hemp products

Issue: (A) Initiation of a Text Amendment and (B) Public Hearing and consideration of a Text Amendment to the Zoning Ordinance to amend the use limitations in Articles III-VI to include the limitation that retail uses principally selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products cannot be located within 1,000 linear feet of a day care establishment, a public school, and a private academic school, and to Section 2-191 retail shopping establishment, to amend the definitions to include uses principally selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products.	Planning Commission Hearing:	November 7, 2024
	City Council Hearing:	November 16, 2024
Staff: Ann Horowitz, Principal Planner, ann.horowitz@alexandriava.gov Mavis Stanfield, Urban Planner, mavis.stanfield@alexandriava.gov Tony LaColla, AICP, Division Chief, anthony.lacolla@alexandriava.gov		
Staff recommendation: Staff recommends that the Planning Commission INITIATE and recommend APPROVAL of the text amendment.		

I. BACKGROUND

The American Lung Association states that smoking during childhood and adolescence causes significant health problems in young people and can contribute to continued use through adulthood. It cites: “Every day, almost 2,500 children under 18 years of age try their first cigarette, and more than 400 of them will become new, regular daily smokers. Half of them will ultimately die from their habit.” Addressing this critical public health concern, the General Assembly of Virginia has actively proposed and approved multiple bills to curb minors’ access and exposure to tobacco, nicotine vapor, alternative nicotine, and hemp products. Recent efforts include enacting stricter state retail licensing requirements and providing localities with the opportunity to adopt zoning ordinance measures.

Supporting a local zoning and land use approach, the General Assembly approved HB 947 on April 5, 2024, amending the Code of Virginia with the addition of § 15.2-912.4. The legislation allows any locality the option to prohibit any new retail operation that primarily sells tobacco products, nicotine vapor products, alternative nicotine products, or hemp products from locating within 1,000 feet of a child day center or a public, private, or parochial school. Retail businesses of this type that were in operation before July 1, 2024, however, may continue in existing locations.

II. DISCUSSION OF PROPOSED TEXT CHANGES

Staff proposes amendments to the Zoning Ordinance that adopt the General Assembly’s legislative effort to reduce minors’ access and exposure to tobacco, nicotine vapor, alternative nicotine, and hemp products through a distance requirement from vulnerable underage populations. This involves a change to the retail shopping establishment definition, Section 2-191, to add nicotine vapor products, alternative nicotine products, and hemp products to the existing tobacco reference.

The second proposed change would add another entry to the Use Limitations sections for each zone that allows residential shopping establishments. The language would uniformly appear in these zones as:

Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Staff has incorporated terminology in the proposed use limitations sections that follows the intent of Virginia Code § 15.2-912.4 but uses language aligned with Zoning Ordinance as follows:

- The term *principal use*, as defined in Section 2-200.3, is used in the proposed language to specify that the new businesses restricted within 1,000 linear feet of day care centers and schools would be largely standalone tobacco or vape type businesses as opposed to retailers like convenience, grocery, or drug stores which often sell these products as one of several in their inventories.
- According to Section 2-186, the definition for *private academic school* includes parochial schools.
- The early childhood, elementary, middle, or high school terms were added to identify that post-secondary, collegiate school or university, included in the *public school* definition in Section 2-187.2, are exempt from the regulation given that other state requirements govern limitations on tobacco, nicotine, and hemp products at these locations.

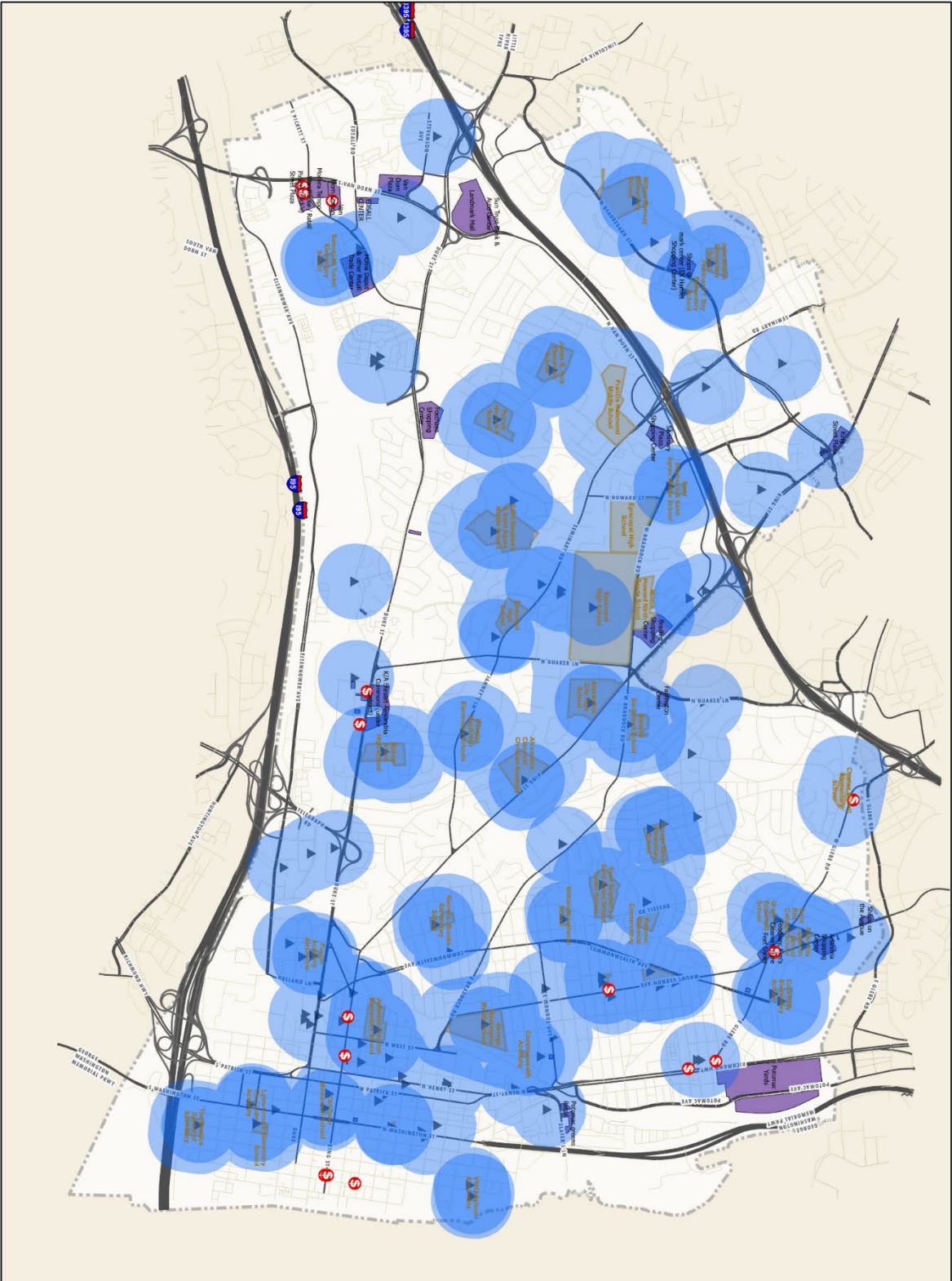
The proposed text amendment mirrors the Code of Virginia allowance for retail operations in operation prior to July 1, 2024 to continue at existing locations. Fifteen retailers with a principal use selling tobacco, nicotine vapor, alternative nicotine, or hemp products existed in the City before July 1. Of that number, six operate more than 1,000 linear feet of a day care center or school (Attachment). The remaining nine may continue to operate at the same locations until they close. Staff ensures the existing businesses within 1,000 linear feet may not expand, enlarge, or intensify by including language stating that Article XII (Noncompliance and Nonconformity) does not apply.

III. RECOMMENDATION

Staff recommends initiation and approval of the proposed text amendments on the attached document.

Staff: Tony LaColla, AICP, Division Chief
Ann Horowitz, Principal Planner
Mavis Stanfield, Urban Planner III

- Attachments:** 1) Map indicating areas restricted to tobacco, nicotine, and hemp retailers and existing businesses
- 2) Proposed Zoning Text Amendments



Tobacco, Nicotine and Hemp Products Zone Map

- Legend**
- S Tobacco, Nicotine, and Hemp Product Locations
 - ▲ Licensed Childcare Centers from VDH as of 6/28/2024
 - Public and Private School Property
 - School Property 1000' Buffer
 - Childcare Centers 1000' Buffer
 - Shopping Complex

This map was produced by the GIS Division of the Department of Information Technology Services, City of Alexandria, Virginia pursuant to Section 24-1-412 of the Code of Virginia. Any determination of topography or contours, or any depiction of physical features, is for informational purposes only and shall not be used for the design, modification or construction of improvements to rail property or for flood plain determination. The map provided hereunder are provided "as is" and the City expressly disclaims all warranties, LLC and otherwise, express or implied, and the user shall assume all responsibility for all incidental, consequential or special damages arising out of or in connection with the use or production of this map.

Mapping Standards:
 Coordinate System - NAD83 State Plane Virginia North
 Projection - Transverse Mercator
 Map Units - Feet



Map Produced: 10/22/2024
 1:30,000



ARTICLE II. - DEFINITIONS

2-191 Retail shopping establishment.

A store or shop engaged in the sale of commodities or goods to individual consumers for personal use rather than for resale, including but not limited to:

Tobacco products, nicotine vapor products, alternative nicotine products, hemp products intended for smoking, as defined in the Code of Virginia, as amended;

ARTICLE III. – RESIDENTIAL ZONE REGULATIONS

Sec. 3-1400 - RMF/Residential multi-unit zone.

3-1409 Use limitations.

(G) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

ARTICLE IV. - COMMERCIAL, OFFICE AND INDUSTRIAL ZONES

Sec. 4-100 - CL/Commercial low zone.

4-107 Use limitations.

(J) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-200 - CC/Commercial community zone.

4-207 Use limitations.

(I) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-300 - CSL/Commercial service low zone.

4-307 Use limitations.

(I) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-400 - CG/Commercial general zone.

4-407 Use limitations.

(G) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-500 - CD/Commercial downtown zone.

4-507 Use limitations.

(G) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-600 – CD-X/Commercial downtown zone (Old Town North).

4-607 Use limitations.

(G) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-700 - CR/Commercial regional zone.

4-707 Use limitations.

(D) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-800 - OC/Office commercial zone.

4-807 Use limitations.

(H) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-900 – OCM(50)/Office commercial medium (50) zone.

4-906 Use limitations.

(H) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-1000 – OCM (100)/Office commercial (100) zone.

4-1006 Use limitations.

(H) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-1100 - OCH/Office commercial high zone.

4-1106 Use limitations.

(H) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-1200 - I/Industrial zone.

4-1206 Use limitations.

(F) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 4-1400 - NR/Neighborhood retail zone (Arlandria).

4-1413 Use limitations.

(H) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any

such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

ARTICLE V. – MIXED USE ZONES

Sec. 5-100 – CRMU-L/Commercial residential mixed use (low).

5-110 Use limitations.

(E) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 5-200 – CRMU-M/Commercial residential mixed use (medium).

5-210 Use limitations.

(E) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 5-300 – CRMU-H/Commercial residential mixed use (high).

5-310 Use limitations.

(E) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 5-400 – CRMU-X/Commercial residential mixed use (Old Town North) zone.

5-410 Use limitations.

(D) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

Sec. 5-500 – W-1/Waterfront mixed use zone.

5-511 Use limitations.

(D) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.

ARTICLE VI. – SPECIAL AND OVERLAY ZONES

Sec. 6-700 – KR/King Street urban retail zone.

6-707 Use limitations.

(G) Retail shopping establishments with a principal use selling tobacco products, nicotine vapor products, alternative nicotine products, or hemp products intended for smoking are prohibited on property within 1,000 linear feet of a child day care center, or a public or private academic early childhood, elementary, middle, or high school. Any such use in operation prior to July 1, 2024, may continue to operate at its existing location, but Article XII does not apply.