



City of Phoenix

PLANNING AND DEVELOPMENT DEPARTMENT

Staff Report: Z-TA-3-15 Zoning Ordinance Text Amendment

Application No Z-TA-3-15 Amend Section 202 (Definitions), Section 623 (Intermediate Commercial) to modify tobacco oriented retailer definition, provide clarification for spacing, and protected areas to include public recreation centers. Amend Section 706 (Accessory Uses and Structures) of the Zoning Ordinance regarding building separation for buildings on the same lot to remove outdated separation requirements guidelines.

Staff recommendation: Staff recommends approval of Z-TA-3-15 as shown in the recommended text.

Purpose

The intent of these changes is to update the tobacco oriented retailer definition to include electronic nicotine delivery systems and narrow the exemptions to the definition. The amendment will also increase the separation between parks, schools, and public recreation centers to 1,320 feet. There is an increased public concern regarding the proximity of this use to places where youth may congregate. The new language will also reduce the percentage of floor space that will be exempted from the definition for tobacco-oriented retailers.

The second request would remove the reference within the Zoning Ordinance regarding building separation between buildings on a lot. This is an issue better addressed by the adopted Building Code.

Description of the Proposed Text

The proposed text reflects modifications to the tobacco oriented retailer definition, increased spacing between parks, schools, and other uses. See attachment "A" for recommended language.

Conclusion

This text amendment will amend the tobacco oriented retailer definition to include electronic nicotine delivery systems and increase the separation from protected uses. The second part of the text will remove the building separation for buildings on the same lot.

Staff recommends approval of the change to the Zoning Ordinance as proposed in Attachment A.

Writer

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12/7/15

Attachment A
Z-TA-3-15 - Tobacco Oriented Retailer

Proposed Language

Amend Chapter 2, Section 202 (Definitions) by amending the following definition as follows:

Theaters: A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

Tobacco Oriented Retailer: An establishment engaged in the sale and/or display of tobacco related products, including, but not limited to: cigarettes, chewing and dipping tobacco, cigarette papers, ELECTRONIC NICOTINE DELIVERY SYSTEM, or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco. This includes uses such as, but not limited to, a cigar store, head shop, ~~or~~ hookah lounge, OR VAPE LOUNGE. A tobacco oriented retailer ~~shall~~ **MUST** not include any establishment over 10,000 square feet in gross floor area, or any establishment devoting less than ~~45~~55 percent of its floor space to the sale/display of tobacco related products.

Tourist Court: Same as "Motel".

Amend Chapter 6, Section 623.D (Commercial C-2 District—Intermediate Commercial, Permitted Uses) as follows:

189. Tire Repairing Equipment and Supplies
190. Tobacco oriented retailers, subject to the following limitations:
 - a. Shall not be located within 500 feet of the same type use.
 - b. Shall not be located within ~~500~~1,320 feet of a public, private, or charter school providing primary or secondary education, a park or playground, ~~or~~ a licensed daycare facility, OR RECREATION CENTER.
191. Tobacco, Wholesale and Storage

Amend Chapter 7, Section 706 (Accessory Uses and Structures) as follows:

- B. All detached accessory structures in the side and rear yard, not used for sleeping or living purposes, are to maintain a minimum setback of three feet from property lines ~~and six feet between structures on the same lot~~. Swimming pools are to maintain a minimum setback of three feet from exterior property lines.
- C. All accessory structures located within the required side yard are not to exceed eight feet in height. *2