



## Cover Memorandum/Staff Report

File #: 25-509

Agenda Date: 5/20/2025

Item #: 9.A.

**TO:** Mayor and Commissioners  
**FROM:** Anthea Gianniotis, Development Services Director  
**THROUGH:** Terrence R. Moore, ICMA-CM  
**DATE:** May 20, 2025

ORDINANCE NO. 04-25: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AMENDING THE LAND DEVELOPMENT REGULATIONS OF THE CITY OF DELRAY BEACH CODE OF ORDINANCES CHAPTER 4, "ZONING REGULATIONS," ARTICLE 4.3, "DISTRICT REGULATIONS, GENERAL PROVISIONS," SECTION 4.3.3, "SPECIAL REQUIREMENTS FOR SPECIFIC USES," TO ADOPT SUBSECTION (DDD), "RETAIL TOBACCO AND NICOTINE PRODUCTS DEALER," TO ENACT REGULATIONS GOVERNING THE LOCATION AND OPERATIONS OF RETAIL TOBACCO AND NICOTINE PRODUCTS DEALERS; AND BY AMENDING ARTICLE 4.4, "BASE ZONING DISTRICT," SECTION 4.4.13, "CENTRAL BUSINESS (CBD) DISTRICT," SUBSECTION (C), "ALLOWABLE USES," TO ADOPT DISTANCING REQUIREMENTS FOR STANDALONE RETAIL TOBACCO OR NICOTINE PRODUCTS DEALERS, AND BY AMENDING APPENDIX A, "DEFINITIONS," TO ADOPT A DEFINITION FOR RETAIL TOBACCO OR NICOTINE PRODUCTS DEALERS; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE, AUTHORITY TO CODIFY, AND PROVIDING AN EFFECTIVE DATE. (FIRST READING)

### **Recommended Action:**

Consider Ordinance No. 04-25, a City-initiated amendment to Section 4.3.3, "Special Requirements for Specific Uses" to adopt Subsection (DDD), "Retail Tobacco and Nicotine Products Dealer," Appendix A, "Definitions" to adopt a definition of Retail Tobacco and Nicotine Products Dealer, and Section 4.4.13, "Central Business (CBD) District" to adopt additional regulations governing the frequency of such use.

### **Background:**

Standalone retail tobacco and nicotine dealers have begun to proliferate, particularly in the downtown . The over-concentration of this use has the potential to negatively impact the downtown in particular, due to the compact lot and block structure. However, the proliferation of retail tobacco dealers is not desirable in any location, particularly adjacent to potentially incompatible uses such as schools or parks, due to the documented negative public health impacts of tobacco use. The proposed amendment would adopt restrictions on frequency, proximity to certain other uses, hours of operation, window displays, and sales of CBD oil. The proposed amendment is fully discussed in the attached staff report, and Ordinance No. 04-25 is provided as an attachment.

The Downtown Development Authority reviewed the Ordinance at its February 10, 2025 meeting; the DDA recommendation memo is attached.

Planning and Zoning Board heard the request at its April 21, 2025 meeting and voted 6 to 0 to

recommend approval, with the following recommendations:

- 1) that more than 750 feet between standalone tobacco and nicotine dealers be required;
- 2) that 1,000 feet of separation (instead of 300 feet of separation) from schools be required; and
- 3) that a five-year amortization of existing standalone tobacco and nicotine dealers that do not meet the distance separation requirement be adopted.

The 750-foot distance separation requirement between standalone retail tobacco and nicotine dealers, as well as the 300-foot separation from schools, places of worship, and residential uses, are maintained in the ordinance as the protection provided by separation distances is consistent with those for standalone bars and CBD oil establishments.

**City Attorney Review:**

Ordinance No. 04-25 is approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

Not applicable.

**Timing of Request:**

Ordinance No. 04-25 will be effective immediately if adopted at second reading, anticipated for June 17, 2025.