

Ordinance 26-02

To Amend Chapter 26 of The 2001 Revised Code Of The City Of Dalton, Georgia Captioned “Businesses” To Reserve Sections 26-333 through 26-344 and By The Addition Of A New Article X Captioned “Vape and Tobacco Stores”; To Provide For An Effective Date; To Provide For The Repeal of Conflicting Ordinances; To Provide For Severability; And For Other Purposes.

BE IT ORDAINED by the Mayor and Council of the City of Dalton, and by the authority of the same, **IT IS HEREBY ORDAINED** as follows:

Section 1.

Chapter 26 of The 2001 Revised Code of the City of Dalton, Georgia captioned “Businesses”, Article IX Mobile Food Vendors is hereby amended by the addition of certain reserved sections which shall read as follows: “Secs. 26-333 – 26-344. – Reserved.”

Section 2.

Chapter 26 of The 2001 Revised Code of the City of Dalton, Georgia captioned “Businesses”, is hereby amended by the addition of a new Article X captioned “Vape and Tobacco Stores” which shall read as follows:

ARTICLE X. VAPE AND TOBACCO STORES

Sec. 26-345. Definitions.

For purposes of this article, the following terms, phrases, words, and their derivatives shall have the meaning set forth in this section.

Alternative nicotine product means any material that contains nicotine, but does not contain tobacco leaf, and is intended for human consumption, whether such material is chewed, absorbed, dissolved, or ingested by any other means. Such term shall include, but shall not be limited to, nicotine gel, pouches, or gum or dissolvable nicotine strips, sticks, lozenges, or pellets. Such term shall not include little cigars, cigars, cigarettes, loose or smokeless tobacco, consumable vapor products, or any product regulated as a drug or

therapeutic device by the United States Food and Drug Administration under chapter V of the Federal Food, Drug, and Cosmetic Act.

Authorized city official means an individual appointed by the Mayor and Council or City Administrator to perform certain duties or services.

Cannabinoid means any of various naturally-occurring, biologically active, chemical constituents (such as cannabidiol or cannabinol) of hemp or cannabis including some (such as THC) that possess psychoactive properties.

Cigar bar means a retail establishment that derives at least seventy-five percent (75%) of its total annual gross revenue from the sale of cigars.

Consumable vapor product means any liquid solution, whether it contains nicotine or not, that is intended to be heated into an aerosol state and inhaled by an individual. Such term shall include, but shall not be limited to, e-liquid, e-juice, vape juice, and cartridges that are prefilled with such a solution. Such term shall not include any alternative nicotine product, cigar, cigarette, loose or smokeless tobacco, perfume, potpourri, essential oil, or product regulated as a drug or therapeutic device by the United States Food and Drug Administration under chapter V of the Federal Food, Drug, and Cosmetic Act.

Floor space means the floor area inside an establishment that is visible or accessible to patrons for any reason, including aisles, walkways, and cashier stations

Gasoline station means a retail establishment which meets all requirements of the state of Georgia to sell fuel and which sells fuel in the ordinary course of its business.

Kratom means the tropical evergreen known as *Mitragyna speciosa*, which contains the alkaloid mitragynine or metabolite 7-hydroxymitragynine.

Non-traditional tobacco paraphernalia means any device designed to facilitate the use, smoking, consumption or ingestion of tobacco, nicotine, chemicals, substances, illicit drugs, or other harmful additives in any form (such as grinders, bongs, hookah pipes, or faux jewelry, bracelets, or necklaces commonly associated with tobacco, vaping, or drug use, with one purpose of such items being the inhalation or ingestion of tobacco or drugs); provided, however, that the term "non-traditional tobacco paraphernalia" shall exclude products that contain nicotine, tobacco products, cigarette papers or wrappers, blunt wraps, tobacco pipes, holders, cigarette rolling machines, or other products, devices, or substances used for the purpose of making tobacco cigarettes; provided further that, said term shall also not include any item for which the sale or use of the same is regulated under state or federal law.

Person means any individual, natural person, partnership, firm, corporation, joint venture, proprietorship, business entity, association, agency, group, organization or group of persons or any other legal entity.

Tobacco product means any cigarettes, cigars, little cigars, granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff or snuff powder; cavendish; plug and

twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such a manner as to be suitable for chewing or smoking, or both for chewing and smoking. The term "tobacco product" shall not include any alternative nicotine product, vapor product, or product regulated as a drug or device by the United States Food and Drug Administration under chapter V of the Food, Drug, and Cosmetic Act.

Vapor device means any system or device developed or intended to deliver a consumable vapor product to an individual who inhales from the device.

Vape and tobacco store means any business whose principal business activity is the sale of any tobacco product, alternative nicotine product, consumable vapor product, vapor device, cannabinoid, kratom, non-traditional tobacco paraphernalia, or any combination thereof (all such items may be hereinafter referenced as "regulated products"). No cigar bar or gasoline station shall be considered a vape and tobacco store. A "principal business activity" means any one or more of the following exist:

- (1) Twenty-five percent (25%) or more of the establishment's annual gross revenue is derived from the sale of regulated products. In the case of an audit, the relevant time period shall be the 12 months immediately preceding the commencement of the audit. If the establishment being audited has been in operation for less than 12 months, the audit period shall be the period of time the entity has operated.
- (2) The establishment maintains at least twenty-five percent (25%) of its floor space for the display or sale of regulated products.
- (3) The establishment maintains at least five hundred (500) square feet of its floor space for the display or sale of regulated products.
- (4) The establishment regularly makes regulated products available for sale and holds itself out, in any medium, as an establishment that primarily caters to customer interest in the regulated products.

Sec. 26-346. Purposes of article.

This article has been enacted in accordance with a plan designed for the following purposes, among others:

- (1) Promoting the health and general welfare of the community;
- (2) Establishing reasonable and ascertainable standards for the regulation and control of the sale of regulated products;
- (3) Giving effect to existing land use and preserving certain residential areas, with reasonable considerations, among others, to the character of the area and the peculiar suitability for particular uses, the congestion in the roads and streets, and with a general view of promoting desirable living conditions and sustaining the stability of neighborhoods and property values; and
- (4) Protecting against the negative effects of concentration of retail outlets for regulated products, preventing underage persons from engaging in or having any interest in regulated products, and efficiently utilizing community resources required to enforce state and local laws with respect to the sale of regulated products.

Sec. 26-347. Prohibition on new vape and tobacco stores.

- (a) No vape and tobacco store shall be permitted within any zoning classification of the City of Dalton.
- (b) No occupational tax certificate, zoning approval, or permit of any kind shall issue for any vape and tobacco store within the City of Dalton.

Sec. 26-348. Grandfathering of existing vape and tobacco stores.

- (a) Notwithstanding any other provision in this article, existing vape and tobacco stores operating in the City of Dalton with a valid occupational tax certificate as of the effective date of this article shall be considered grandfathered. Grandfathered vape and tobacco stores may continue operations except as otherwise provided in this code.
- (b) Such grandfathered status shall terminate and the occupational tax certificate of any grandfathered vape and tobacco store shall be revoked upon the occurrence of any one or more of the following:
 - (1) The vape and tobacco store ceases operation for a period of 30 consecutive days;
 - (2) The death of the principal owner of any vape and tobacco store;
 - (3) Any bankruptcy, assignment for the benefit of creditors, or change in ownership of the vape and tobacco store;
 - (4) The vape and tobacco store relocates to a different premises within the City;
 - (5) The vape and tobacco store's occupational tax certificate is not timely renewed or it is revoked for any reason;
 - (6) Any permit or license to operate the vape and tobacco store is suspended, revoked, or limited in any way; or
 - (7) Any employee, owner, or agent of the vape and tobacco store is convicted of violating any federal, state, or local law in connection with the sale of any product at such vape and tobacco store.

Sec. 26-349. Inspection of grandfathered establishments.

Sworn officers of the police department, code enforcement officers, and any other authorized city official shall have the authority to inspect establishments grandfathered under this article during the hours in which the premises are open for business. The city attorney or any authorized city official may also require a vape and tobacco store to produce books and records and may conduct or oversee an audit of the books and records of a vape and tobacco store at any time. Such investigations may occur from time to time to determine compliance with the requirements of this article and state law.

Sec. 26-350. General regulation of business operations.

- (a) No vape and tobacco store, employee of any vape and tobacco store, or other person shall sell or permit to be sold any item of non-traditional tobacco paraphernalia to any person under the age of 18 years, either directly or indirectly.
- (b) No vape and tobacco store, employee of any vape and tobacco store, or other person shall sell or permit to be sold any regulated product in violation of state or federal law, either directly or indirectly.
- (c) Each vape and tobacco store shall maintain its entire inventory of regulated products in an area behind the sales counter where patrons of the vape and tobacco store may not handle such products without first interacting with an employee of the vape and tobacco store. Specifically, upon request to see any regulated products, employees of the vape and tobacco store shall verify that the patron requesting such product is of legal age to purchase said items. The vape and tobacco store and its employees shall not allow patrons who are not of lawful age to purchase such items to enter into the area behind the sales counter where regulated products are displayed or stored.

Secs. 26-351 – 26-399. Reserved.

Section 2.

This Ordinance shall be effective upon the posting of this Ordinance in two (2) public places in the City of Dalton for five (5) consecutive days following its enactment by the Mayor and Council, the public health, safety, and welfare requiring it.

Section 3.

All ordinances and parts of ordinances in conflict with this ordinance are repealed.

Section 4.

It is hereby declared to be the intention of the Mayor and Council of the City of Dalton that the section, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared unconstitutional or otherwise invalid by a court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this Ordinance.

SO ORDAINED this ____ day of _____, 2026.

The foregoing Ordinance received its first reading on _____ and a second reading on _____. Upon second reading a motion for passage of the ordinance was made by Councilmember _____, second by Councilmember _____ and upon the question the vote is ____ ayes, ____ nays and the Ordinance is adopted.

MAYOR/MAYOR PRO TEM

ATTEST:

CITY CLERK