

ORDINANCE NUMBER 25-01

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF EUSTIS, LAKE COUNTY, FLORIDA, AMENDING THE CITY'S LAND DEVELOPMENT REGULATIONS AS FOLLOWS: (1) AMENDING SECTION 102-11(b): COMMUNITY MEETING; (2) ADDING SUBSECTIONS TO SECTION 109.4-USE REGULATIONS TABLE TO INCLUDE DEFINITIONS AND REQUIREMENTS FOR THE FOLLOWING USES: "RETAIL SMOKE SHOP," "TATTOO ESTABLISHMENT," AND "MASSAGE ESTABLISHMENT"; AMENDING SECTION 109.4 – USE REGULATIONS TABLE TO ADD AS A CONDITIONAL AND/OR PERMITTED USE THE FOLLOWING USES: "SELF-SERVICE STORAGE," "RETAIL SMOKE SHOP," "TATTOO ESTABLISHMENT," AND "MASSAGE ESTABLISHMENT"; PROVIDING FOR APPLICABLE LEGISLATIVE FINDINGS; PROVIDING FOR CODIFICATION, SCRIVENER'S ERROR, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, pursuant to the municipal powers granted by Article VIII of the Constitution of the State of Florida and Chapter 166, Florida Statutes, the City of Eustis may exercise all available governmental, corporate, and proprietary powers except when prohibited by law; and

WHEREAS, on July 16, 2009 the City Commission adopted revised Land Development Regulations under Ordinance 09-33 which have since been amended from time to time as necessary to periodically review, revise and update the Land Development Regulations; and

WHEREAS, the Local Planning Agency held a public hearing on April 3, 2025 where it reviewed the proposed revisions to the Land Development Regulations, found them to be in compliance with the City's Comprehensive Plan, and recommended forwarding this Ordinance to the City Commission for its consideration; and

WHEREAS, the proposed amendment to Section 102-11(b) – Community Meetings render this component mandatory for certain new developments to aid in fostering cooperation and communication between neighbors; and

WHEREAS, the proposed amendment to Section 109.4 – Use Regulations Table adds subsections for term definitions and requirements which are currently not provided for in the Land Development Code as follows:

Section 109.4.1. - "Retail Smoke Shop". This subsection is added in compliance with Florida law permitting municipalities to establish requirements and locational restrictions for this use.

Section 109.4.2. - “Tattoo Establishment.” This subsection is added in compliance with Section 381.00791 of the Florida Statutes and complies with the constitutional protections afforded to freedom of expression in *Buehrle v. City of Key West* (U.S. Supreme Ct. 2015)

Section 109.4.3. “Massage Establishment.” This subsection is added in compliance with Section 480.052 of the Florida Statutes.

WHEREAS, the proposed amendments provide for conditional and/or permitted uses for self-service storage, retail smoke shop, tattoo establishment and massage establishment as shown in the amended uses table.

WHEREAS, the City Commission finds the proposed revisions necessary to provide consistency with the Comprehensive Plan, clarify its legislative intent and approval of this Ordinance is in the interests of the public health, safety, and welfare and to foster economic growth.

NOW, THEREFORE, THE COMMISSION OF THE CITY OF EUSTIS HEREBY ORDAINS THE FOLLOWING:

Section 1. The foregoing whereas clauses are true and correct and adopted as the legislative and administrative findings of the City Commission and made a specific part of this Ordinance.

Section 2. Chapter 102 - Administration and Enforcement, section 102-11 entitled “General Procedures for Development Approval” is amended to read as follows:

Section 102-11 – General Procedures for Development Approval

(a) Pre-application conference. Prior to filing for any development approval, the applicant is encouraged to meet with the development services director and/or other appropriate city staff to discuss the development review process. The purpose of the conference is to acquaint the applicant with the requirements and procedures of the land development regulations and to determine the appropriate application process as provided for in this chapter. No person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

(1) A pre-application conference is ~~encouraged~~ required for all submittals, ~~especially including~~ the following:

a. All new developments except:

1. Subdivisions with less than ~~25~~ 10 lots, or
2. Conditional uses of accessory structures or home occupations.

3. Change of use within an existing structure resulting in no increase in intensity/traffic.

b. Redevelopment resulting in an increase in square footage as set forth in Section 102-19 of these land development regulations.

c. Any PUD.

d. Any mixed-use and/or multi-family project resulting in a residential density of five (5) dwelling units per acre or greater.

e. A required pre-application conference with Development Services may be waived by the Development Services Director or staff designee, provided reasonable justification is provided by an applicant.

(2) The recommended submittal requirements for review at the pre-application conference are as follows:

a. A map showing the general location of the property.

b. An aerial map of the property.

c. A boundary survey or other scaled delineation of the parcel.

d. A map of the land use designations for the site and the surrounding area within 500 feet of the property.

e. A map of the design district designations for the site and the surrounding area within 500 feet of the property, including existing and proposed streets.

f. A conceptual layout (if applicable).

(3) During the pre-application conference, the director may waive submittal requirements under these land development regulations, if, in the director's opinion, the submittal requirements are unnecessary based upon the size, nature, and complexity of the proposal.

(b) Community Meeting.

(1) Generally. To increase community awareness and participation, applicants seeking specified types of developments ~~are encouraged to~~ shall hold a pre-application community meeting to address community concerns related to the proposed development prior to submittal of the application.

a. A Pre-Application Community Meeting is ~~especially important~~ required for the following ~~proposed~~ development applications:

1. Residential subdivisions with more than 10 lots, ~~especially those requesting a density variation greater than 25 percent under section 115-3.3(a)(1).~~

2. ~~Multi~~Mixed-use developments (including multi-family) for those properties greater than 5 dwelling units per acre.

3. ~~Conditional uses.~~

~~3. Proposed commercial and industrial projects with buildings over 50,000 square feet in size uses adjacent to residential land use properties.~~

~~4.5. Any PUD.~~

~~5.6. Design-district change Any Future Land Use Map Amendment on properties over 4 acres~~ (requested by a property owner and not initiated by the City or required because of annexation).

~~7. Comprehensive plan amendment.~~

(2) The recommended submittal requirements for review at the Pre-Application Community Meeting are as follows:

- a. A map showing the general location of the property.
- b. An aerial map of the property.
- c. A boundary survey or other scaled delineation of the parcel.
- d. A map of the future land use designations for the site and the surrounding area within 500 feet of the property.
- ~~e. A map of the design-district designations for the site and the surrounding area within 500 feet of the property, including proposed streets.~~

~~f.~~ A conceptual site plan or lot layout (if applicable) that includes the following:

- 1. Number and type of dwelling units and lot sizes if applicable.
- 2. Total acreage.
- 3. Total developable acreage (total acreage less water bodies and wetlands).
- 4. Total open space required and provided.
- 5. Net density calculation.
- 6. Required buffers.
- 7. Requested waivers.
- 8. Vehicular and pedestrian connections and access points.

(3) City staff must approve the time and location for the Pre-Application Community Meeting.

(4) ~~City staff~~ Developer or his/her representative shall prepare a report summarizing the attendance and discussion at the Pre-Application Community Meeting within 30 days of the meeting and submit it to the Planning staff during their initial submittal.

(5) The applicant shall include the City's report with its application.

Section 3. Chapter 109.4 - Use Regulations Table is hereby amended to add the following sections:

Sec. 109.4.1. – Retail smoke shop.

(a) *Purpose and Intent.* Florida law provides for a comprehensive state licensing and regulatory framework for the sale of nicotine and tobacco products, including vaping devices. The purpose of this section is to establish land development regulations for the permitting requirements and locational restrictions for retail smoke shops consistent with Florida law.

(b) *Definitions.*

When used in this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

Retail smoke shop. A commercial retail or wholesale establishment fully enclosed primarily engaged in selling tobacco, tobacco products and accessories for such products. This definition includes hookah lounges which generate vapor as defined herein. Smoke shop accessories may include but are not limited to e-cigarettes, vaporizers, hookahs, bongs, cigarette papers or wrappers, rolling machines, and other similar paraphernalia not enumerated.

Vapor means aerosolized or vaporized nicotine, or other aerosolized or vaporized substance produced by a vapor-generating device or exhaled by the person using such a device.

Vaping means to inhale or exhale vapor produced by a vapor-generating electronic device or to possess a vapor-generating electronic device while that device is actively employing an electronic, a chemical, or a mechanical means designed to produce vapor or aerosol from a nicotine product or any other substance. The term does not include the mere possession of a vapor-generating electronic device.

(c) *Business Tax Receipt.* It shall be unlawful for any person in the city to engage in, follow or practice, or attempt to engage in, follow or practice the business, profession

or occupation of retail smoke shops unless such person or entity has first obtained a business tax receipt issued by city.

(d) *Separation Requirements.*

- (1) The proposed site shall be at least 528 feet from any other such use.
- (2) The proposed site shall be at least 528 feet from the nearest house of worship, school (public or private), childcare center, library, or public park.
- (3) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed retail smoke shop establishment to the other parcel.

(a) *Uses Permitted Conditionally.*

- (1) Retail smoke shops are subject to approval of a Conditional Use permit in accordance with the City Code of Ordinance and Land Development Regulations as applicable in the following: GC, GI and MCI subject to the requirements of this section.
- (2) Existing establishments in operation and legally established by the effective date of this section shall not be required to submit a conditional use permit application and the current use shall be deemed a legal nonconforming use.
- (3) The requirements in this section shall apply to all new establishments once this section is adopted.

Sec. 109.4.2. – Tattoo establishment.

- (a) *Purpose and Intent.* The purpose of this section is to limit the number and location of tattoo establishments within City boundaries in order to address the commercial nature of this practice; acknowledge risks posed to the health, safety and welfare of the residents of the City and the visiting public; recognize this is an adult-oriented practice with specific legal limitations for underage customers; aid in the reduction of the incidence of disease and land use incompatibilities. These goals are not in contradiction to and shall fully support the constitutional protections afforded to this practice as a First Amendment expression within the legal framework established by law.
- (b) *Applicable Law.* Chapter 381 of the Florida Statutes, specifically sections 381.00771 through 381.00791, as may be amended from time to time, are hereby adopted and incorporated in this section by reference.

(c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Tattoo means a mark or design made on or under the skin of a human being by a process of piercing and ingraining a pigment, dye, or ink in the skin.

Tattoo artist means a person licensed under ss. 381.00771-381.00791 to practice tattooing.

Tattoo establishment means any permanent location, place, area, structure, or business where tattooing is performed.

(d) *Application.* Application of ss. 381.00771-381.00791; exemption per s. 381.00773.

(1) Except for s. 381.00787, which applies to all persons, ss. 381.00771-381.00791 do not apply to a person licensed to practice medicine or dentistry under chapter 458, chapter 459, or chapter 466 who performs tattooing exclusively for medical or dental purposes.

(2) Sections 381.00771-381.00791 apply exclusively to the tattooing of human beings and do not apply to the tattooing of any animal.

(e) *Visibility of Tattooing.* Tattooing shall not be visible from a public right-of-way, public land, public open space or any private property open to the public, including common areas.

(f) *Business Tax Receipt.* It shall be unlawful for any person in the city to engage in, follow or practice, or attempt to engage in, follow or practice the business, profession or occupation of a tattoo establishment unless such person or entity has first obtained a business tax receipt issued by city.

(g) *Separation Requirements.*

(1) The proposed site shall be at least 528 feet from any other such use.

(2) The proposed site shall be at least 528 feet from the nearest house of worship, school (public or private), childcare center, library, or public park.

(3) The separation requirements set forth above shall be measured by following the shortest route of ordinary fare from the nearest point of the parcel of the proposed tattoo establishment to the other parcel.

(h) *Uses Permitted Conditionally.*

(1) Tattoo establishments are permissible use in GC, GI subject to the requirements of this section.

- (2) Tattoo establishments are subject approval of a Conditional Use permit in accordance with the City Code of Ordinance and Land Development Regulations as applicable in the following: CBD, RT, MCR, MCI subject to the requirements of this section.
- (3) Existing establishments in operation and legally established by the effective date of this section shall not be required to submit a conditional use permit application and the current use shall be deemed a legal nonconforming use.
- (4) The requirements in this section shall apply to all new message establishments once this section is adopted.

Sec. 109.4.3. – Massage establishment.

- (a) *Purpose and Intent.* Florida law recognizes that the practice of massage therapy is potentially dangerous to the public in that massage therapists must have a knowledge of anatomy and physiology and an understanding of the relationship between the structure and the function of the tissues being treated and the total function of the body. Massage therapy is a therapeutic health care practice, and regulations are necessary to protect the public from unqualified practitioners. Florida law has deemed necessary in the interest of public health, safety, and welfare to regulate the practice of massage therapy in the state; however, restrictions shall be imposed to the extent necessary to protect the public from significant and discernible danger to health and yet not in such a manner which will unreasonably affect the competitive market.
- (b) *Adoption of “Massage Therapy Practice Act.”* Chapter 480 of the Florida Statutes, as may be amended from time to time, is hereby adopted and incorporated in this section by reference.
- (c) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Massage establishment means a site or premises, or portion thereof, wherein a massage therapist practices massage therapy.

Massage therapy means the manipulation of the soft tissues of the human body with the hand, foot, knee, arm, or elbow, regardless of whether such manipulation is aided by hydrotherapy, including colonic irrigation, or thermal therapy; any electrical or mechanical device; or the application to the human body of a chemical or herbal preparation.

Massage therapist means a person licensed as required by this act, who performs massage therapy, including massage therapy assessment, for compensation.

- (d) *Section Applicability.* Nothing in this section shall be construed as applying to State of Florida licensed barbers, cosmetologists, manicurists, pedicurists, physical therapists' assistants, midwives, practical nurses, agents, servants or employees in licensed hospitals or nursing home or other licensed medical institutions, licensed physicians, osteopaths, chiropractors, podiatrists, naturopathic physicians or other licensed medical practitioners, or their agents, servants, or employees acting in the course of such agency, service or employment under the supervision of the licensee.
- (e) *Business Operating Hours.* Unless an enumerated exception in Section 480.0475, Florida Statutes applies, it shall be unlawful for a massage establishment to operate between the hours of midnight and 5:00 a.m.
- (f) *Business Tax Receipt.* It shall be unlawful for any person in the city to engage in, follow or practice, or attempt to engage in, follow or practice the business, profession or occupation of massage therapy unless such person or entity has first obtained a business tax receipt issued by city.
- (g) *Annual inspections; prosecution of violations.* The City Code Enforcement Department inspectors are authorized to, at least once a year and at such other time that may be necessary or expedient to enter upon any premises where a massage establishment is maintained in the city to inspect such establishment for compliance with Florida law, including Chapter 480 of the Florida Statutes and any other applicable law for the purposes of enforcing the provisions of this section.
- (h) *Uses Permitted Conditionally.*
 - (1) Massage establishments are permissible uses in GC, GI, CBD, RT, MCR, MCI subject to the requirements of this section and subject to approval of a Conditional Use permit in accordance with the City Code of Ordinance and Land Development Regulations as applicable.
 - (2) Existing establishments in operation and legally established by the effective date of this section shall not be required to submit a conditional use permit application and the current use shall be deemed a legal nonconforming use.
 - (3) The requirements in this section shall apply to all new message establishments once this section is adopted.

Section 4. Section 109.4 Use Regulations Table is hereby amended as follows:

	Residential				Commercial & Industrial		Mixed Use				Other			
Specific Use	RR	SR	UR	MH	GC	GI	CBD	RT	MCR	MCI	PI	AG	CON	Standards
KEY: P = Permitted Use L=Permitted Subject to limitations in Standards Column C= Conditional Use Blank = Not Permitted														
Food & beverage store/ incl. alcohol				L	P		P	C	P	P	L			1, 9
Hotel					P		P	C	P	P				
Massage Establishment					C	C	C	C	C	C				
Mobile vendor					P	P	L, C		P	P				14
Outdoor kennel					C	P			C	C		P		
Package store					P		P	C	P	P				
Parking, commercial					P		P	C	P	P	L			9
Pharmacy					P	C	P	C	P	P				
Restaurant, no drive-thru				L	P		P	C	P	P	L			1, 9
Restaurant with drive-thru					P		C	C	P	P				
Retail sales & service				L	P	C	P	C	P	P	L			1, 9
Retail Smoke Shop					C	C				C				
Self-service storage						C								
Tattoo Establishment					P	P	C	C	C	C				

Section 5. Any typographical errors that do not affect the intent of this Ordinance may be corrected with notice to and authorization of the City Attorney and City Manager without further process.

Section 6. That it is the intention of the City of Eustis that the provisions of this ordinance shall become and be made a part of the City of Eustis Code of Ordinances and that the sections of this Ordinance may be renumbered or re-lettered and the word "Ordinance" may be changed to "Section", "Article", or other such appropriate word or phrase to accomplish such intentions.

Section 7. That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 8. That should any section, phrase, sentence, provision, or portion of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

Section 9. That this Ordinance shall become effective immediately on passing.

PASSED, ORDAINED AND APPROVED in Regular Session of the City Commission of the City of Eustis, Florida, this ____ day of _____, 2025.

**CITY COMMISSION OF THE
CITY OF EUSTIS, FLORIDA**

WILLIE L. HAWKINS
Mayor/Commissioner

ATTEST:

Christine Halloran, City Clerk

CITY OF EUSTIS CERTIFICATION

**STATE OF FLORIDA
COUNTY OF LAKE**

The foregoing instrument was acknowledged before me by means of physical presence this 17th day of April, 2025 by Willie L. Hawkins, Mayor/Commissioner, and Christine Halloran, City Clerk, who are personally known to me.

Notary Public – State of Florida
My Commission Expires: _____
Notary Serial No. _____

CITY ATTORNEY'S OFFICE

This document is approved as to form and legal content for use and reliance of the City Commission of the City of Eustis, Florida.

City Attorney's Office

Date

CERTIFICATE OF POSTING

The foregoing Ordinance Number 25-01 is hereby approved, and I hereby certify that I published the same by posting one copy hereof at City Hall, one copy hereof at the Eustis Memorial Library, and one copy hereof at the Parks & Recreation Office, all within the corporate limits of the City of Eustis, Lake County, Florida.

Christine Halloran, City Clerk