

**RESOLUTION TO AMEND THE WAKE COUNTY UNIFIED
DEVELOPMENT ORDINANCE OA-02-23**

WHEREAS, the Wake County Unified Development Ordinance guides the physical development of the County, and preserves and enhances the overall quality of life of residents, and establishes clear and efficient development review procedures; and

WHEREAS, the proposed text amendment advances the purpose and objective of the Unified Development Ordinance by: 1) The proposed text amendment promotes the health, safety and general welfare of residents by establishing distance requirements for Tobacco and Hemp retail from schools and other youth sensitive areas; 2) The proposed text amendment is reasonable because it is consistent with land use regulations within five Wake County municipal jurisdictions; 3) The proposed text amendment is reasonable as it aligns with the County's public health initiatives to curb use of tobacco and hemp products among youth; 4) The amendment furthers the Healthy and Active vision outcome established by PLANWake, the Wake County Comprehensive Plan; and

WHEREAS, in developing the proposed text amendment, staff worked collaboratively with the Health and Human Services Department and the Planning Board to meet public health goals; and

WHEREAS, the Planning staff recommends that the Board of Commissioners finds that the proposed text amendment is consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance and is reasonable and in the public interest and adopt the text amendment as presented; and

WHEREAS, on September 6, 2023, the Wake County Planning Board voted 7-0 to recommend that the Board of Commissioners adopt the statement of consistency for Ordinance Amendment 02-23 as presented; and by separate motion, voted 7-0 to recommended that the Board of Commissioners adopt Ordinance Amendment 02-23 as presented; and

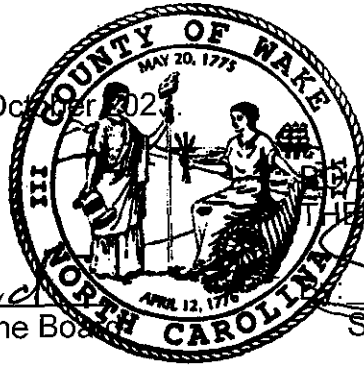
WHEREAS, the Wake County Board of Commissioners held a duly-noticed public hearing on October 16, 2023 to consider amending the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS THAT:

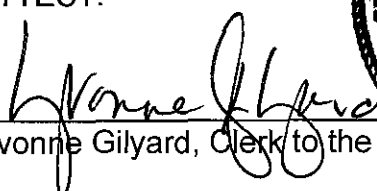
The proposed text amendment is hereby adopted, and the Unified Development Ordinance is hereby amended as shown in the attached OA-02-23 Ordinance Amendment Summary.

Adopted this 16th day of October, 2021.

ATTEST:



BOARD OF COMMISSIONERS FOR
THE COUNTY OF WAKE


Yvonne Gilyard, Clerk to the Board


Shinnica Thomas, Chair

APPROVED AS TO FORM:


Scott Warren, County Attorney

4-63 Local Agricultural Market.

4-63-1 Local Agricultural Market.

- (A) **Intent.** It is the intent of this subsection to provide the opportunity for individuals, group, businesses, and farmers to increase access to healthy, local food for all communities while protecting public health, safety and general welfare. All regulations in this ordinance shall apply unless otherwise expressly stated in the standards below.
- (B) **Standards for Local Agricultural Market.** The following supplemental standards apply to Local Agricultural Markets:
- (1) Any structure shall be located at minimum ten feet from any property line.
 - (2) Sales of agricultural products not grown or produced on site should take up no more than 25 percent of the Local Agricultural Market retail area or not to exceed 500 sq. ft. Hours of Operation are limited to 7:00 a.m. to 9:00 p.m.
 - (3) Local Agricultural Markets need to meet all setbacks of the underlying zoning district.
 - (4) Road Access.
 - (a) Must be located on a lot that abuts a private road or a public road that is included in one or more of the following classifications:
 - i. NC-numbered highways classified as "Major Collectors" on the Functional Classifications System of Highways, as amended from time to time by the North Carolina Department of Transportation;
 - ii. US-numbered highways classified as "Major Collectors," "Minor Arterials," or "Principal Arterials" (except "Freeways") on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation; or
 - iii. State-maintained secondary roads (S.R.) that have a daily traffic volume of 1,000 vehicle trips per day according to the most recent traffic counts by North Carolina Department of Transportation, or are classified as "Major Collectors" on the Functional Classification System of Highways, as amended from time to time by the North Carolina Department of Transportation.

[Added on 1/17/2017 by OA 02-16]

4-64 – Tobacco and Hemp Retail

Tobacco and Hemp Retail must comply with the following standards:

4-64-1 The site of the establishment must be located at least 1,000 feet— measured in a straight line from property line to property line—from the site of any other Tobacco and Hemp Retail establishment that exists or has been permitted.

4-64-2 The site of the establishment must be located at least 1,000 feet—as measured in a straight line from property line to property line— from any of the following use types: elementary, middle, or high school, public park, greenway, or residence.

4-64-3 There shall not be more than one use subject to these standards on the same property or in the same building, structure, or portion thereof.

[Added on 10/16/23 by OA 02-23]

Article 21 Definitions and Measurement

Thoroughfare means a road designated as any classification of thoroughfare (as indicated by the plan's legend) on the Transportation Plan.

Tobacco and Hemp Retail means the principal sales and/or distribution of:

- Any product that contains tobacco or nicotine, irrespective of whether the nicotine is tobacco-derived or synthetic, and is intended for human consumption, as defined by G.S. § 14-313(4). As used in this subchapter, "tobacco product" includes but is not limited to: cigarettes, cigars, pipe tobacco, electronic cigarettes, hookah, smoked or vaped tobacco substitutes, chewing tobacco, snuff, snus, dissolvable tobacco products, and heated tobacco products. Tobacco product does not include nicotine replacement products approved by the USFDA for treatment of tobacco use and dependence.
- Any product that contains tetrahydrocannabinol (THC), irrespective of whether the THC is hemp derived or synthetic. Products that contain no greater than .3% THC are exempt.
- Any product that contains Mitragyna speciosa, commonly known as kratom.
- Any electronic device that delivers nicotine, THC or other substances to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, vape, or electronic hookah.
- Tobacco and hemp retail shall also mean any person who primarily sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia.

Tourist Home means a building in which board or lodging, or both, are offered to the traveling public for compensation, open to transient guests, in contradistinction to a boardinghouse or a lodginghouse. The term "tourist home" does not include a bed and breakfast homestay or bed and breakfast residence.

Amendments to Section 4-11 Use Table as it pertains to Tobacco and Hemp Retail

	R80W	R40W	R10-R80	R5	RMH	Highway District	Office & Inst	General Business	Heavy Com	Ind - 1	Ind - 2	Airport District 1	Airport District 2	Special Purpose	Use Standards
Retail Sales and Service															
Mobile home sales	-	-	-	-	-	-	-	-	P	P	P	-	-	-	
Neighborhood/ convenience-oriented retail (w/gas)	-	-	S*	S*	-	P	P	P	P	P	P	P	P	-	4-50
Neighborhood/ convenience – oriented retail (w/o gas)	-	S*	S*	S*	-	P	P	P	P	P	P	P	P	-	4-50
Outdoor sales/service, displays and/or storage	-	-	-	-	-	S*	-	-	P	-	-	P	P	-	
Tobacco & Hemp	-	-	-	-	-	-	-	P	P	P	P	P	P	-	4-64
All other retail sales and service (except as noted above)	-	-	-	-	-	S*	-	P	P	-	-	P	P	-	
Sexually oriented business	-	-	-	-	-	-	-	S	S	S	S	-	-	-	4-53

**RESOLUTION ADOPTING A STATEMENT OF CONSISTENCY REGARDING
ORDINANCE AMENDMENT OA-02-23 AMENDING THE WAKE COUNTY UNIFIED
DEVELOPMENT ORDINANCE**

WHEREAS, pursuant to North Carolina General Statute §160D-605, prior to adopting or rejecting a zoning text amendment, the governing board is required to adopt a statement as to whether the amendment is consistent with the comprehensive zoning plan and explaining why the board considers the action taken to be reasonable and in the public interest; and

WHEREAS, the Wake County Planning Board has reviewed the proposed text amendment at their meeting on September 6, 2023, and recommended that the Board of Commissioners finds that the proposed text amendment is consistent with the Comprehensive Plan and Unified Development Ordinance (UDO); and

WHEREAS, this Board has reviewed and considered the text amendments and has held a public hearing on the proposed text amendments, and this Board desires to adopt a statement describing why the adoption of the proposed text amendments are consistent with the Wake County Comprehensive Plan and the Wake County Unified Development Ordinance and why the Board considers the proposed text amendments to be reasonable and in the public interest.

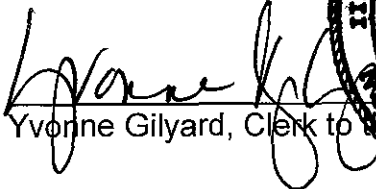
NOW, THEREFORE, BE IT ORDAINED BY THE WAKE COUNTY BOARD OF COMMISSIONERS THAT:

This Board finds and determines that the adoption of text amendment OA-02-23 is consistent with the Wake County Comprehensive Plan and Wake County Unified Development Ordinance, and reasonable and in the public interest because:

1. The proposed text amendment promotes the health, safety and general welfare of residents by establishing distance requirements for Tobacco and Hemp retail from schools and other youth sensitive areas.
2. The proposed text amendment is reasonable because it is consistent with land use regulations within five Wake County municipal jurisdictions.
3. The proposed text amendment is reasonable as it aligns with the County's public health initiatives to curb use of tobacco and hemp products among youth.
4. The amendment furthers the Healthy and Active vision outcome established by PLANWake, the Wake County Comprehensive Plan.

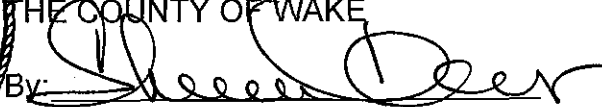
Adopted this 16th day of October 2023

ATTEST:

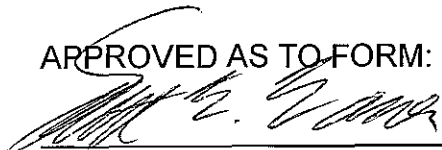

Yvonne Gilyard, Clerk to the Board



BOARD OF COMMISSIONERS FOR
THE COUNTY OF WAKE

By: 
Shinica Thomas, Chair

APPROVED AS TO FORM:


Scott Warren, County Attorney