

**CITY OF O’FALLON, ILLINOIS
ORDINANCE NO. 4344**

**AN ORDINANCE AMENDING
SECTION 157 OF THE CITY OF
O’FALLON CODE OF ORDINANCES
REQUIRING PLANNED USE
APPROVAL FOR TOBACCO AND
VAPE SHOPS**

WHEREAS, the staff of the Community Development Department of the City of O’Fallon (“City”) have made the following recommendation to the City Council and believes such recommended regulations would be beneficial to the health, safety and welfare of the citizens of the City of O’Fallon; and

WHEREAS, the City has determined that designating tobacco and vape shops as Planned Uses would ensure that each proposed business is subject to careful public and administrative scrutiny and safeguard public health, safety, and welfare, particularly regarding potential impacts on youth access and neighborhood character.; and

WHEREAS, the Planning Commission held a public hearing on September 23, 2025, and recommended to approve the proposed text amendments with a vote of 9-ayes to 0-nays; and

WHEREAS, on October 12, 2025, the Community Development Committee of the City Council reviewed the text amendment; and

WHEREAS, the City seeks to ensure zoning regulations are consistent and reasonable; and

WHEREAS, the City Council, after careful and due deliberation, and duly noticed public hearings as may be required for changes in zoning regulations, has concluded that adoption of the proposed amendments to the zoning regulations of the City of O’Fallon Code of Ordinances would be in the interests of the health, safety and welfare of the citizens of the City of O’Fallon.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF O’FALLON, ST. CLAIR COUNTY, ILLINOIS AS FOLLOWS:

Section 1. The forgoing recitals are incorporated herein as findings of the City Council.

Section 2. Section 157.016 DEFINITIONS of Chapter 157 of the City of O’Fallon Code of Ordinances is amended by way of amending the code to the following:

“RETAIL SALES AND SERVICES.” *A business offering the sale of commodities and services directly to customers, when such commodities and services are used or consumed by the customer and not purchased primarily for the purpose of resale. RETAIL SALES AND SERVICES shall include the following uses:*

(1) **APPAREL AND ACCESSORIES, RETAIL STORES AND SHOPS.** *Limited to:*

- (a) *Apparel accessory shops;*
- (b) *Clothing stores;*
- (c) *Custom tailoring and dressmaking shops;*
- (d) *Clothing rental stores;*
- (e) *Jewelry and lapidary shops; and*
- (f) *Shoe stores.*

(2) **FOOD MERCHANDISE RETAIL STORES.** *Limited to:*

- (a) *Bakeries, non-manufacturing - except for retail sale upon the premises only (see also BAKERY);*
- (b) *Candy and confectionery shops;*
- (c) *Dairy product markets;*
- (d) *Delicatessens;*
- (e) *Fruit and vegetable markets;*
- (f) *Grocery stores (excluding convenience stores);*
- (g) *Health food stores; and*
- (h) *Meat, fish, seafood and poultry markets.*

(3) **FURNITURE AND HOME FURNISHING RETAIL STORES.** *Limited to:*

- (a) *China, glassware and metalware stores;*
- (b) *Draperies, curtains and upholstery stores, including custom-made service and supplies;*
- (c) *Floor covering and carpet stores, including installation and cleaning service;*
- (d) *Furniture stores, including repair and service;*
- (e) *Household appliance stores, including repair and service;*
- (f) *Interior decorator’s service stores or offices, excluding fabrication shops;*
- (g) *Lamp and mirror stores;*
- (h) *Musical instrument stores, including repair and tuning service, and supplies;*
- (i) *Office furniture and business machine stores, including service, repair, supplies and equipment; and*
- (j) *Radio, television, computer and audio and video recorder stores, including parts, repair, service and supplies.*

(4) **GENERAL MERCHANDISE RETAIL STORES.** *Limited to:*

- (a) *Department stores;*
- (b) *Dry goods stores;*
- (c) *Limited price variety stores; and*

- (d) Wholesale establishment.
- (5) MISCELLANEOUS RETAIL SALES AND SERVICE STORES AND SHOPS.
Limited to and including the offering for retail sale any or of the following commodities:
 - (a) Art articles and artist's supply stores;
 - (b) Auction halls and antique shops;
 - (c) Barber shop, salon, spa, beauty shop (see also BARBER SHOP, SALON, SPA or BEAUTY SHOP);
 - (d) Books, magazines, newspapers, greeting cards and stationery (including letterhead and business card printing) stores;
 - (e) Camera and photographic supply shops, including optical goods;
 - (f) Coin and stamp stores;
 - (g) Equipment rental stores (does not automotive sales and lease, truck and equipment sales, lease and rental and/or trailer rental);
 - (h) Florists;
 - (i) Gift, novelty, curio and souvenir shops;
 - (j) Hardware and lawn and garden equipment and supply stores;
 - (k) Hobby and craft shops, including, but not limited to, trophies and engraving, woodworking, taxidermists, gunsmiths and bicycles;
 - (l) Leather and luggage retail shops;
 - (m) Locksmith;
 - (n) Newspaper distribution and delivery stations;
 - (o) Pet shops, retail;
 - (p) Pharmacies, including, but not limited to, retailing of toiletries, notions and sundries;
 - (q) Photography processing patron drop-off stations, retail (excluding patron drive-through service);
 - (r) Sporting goods shops; ~~or~~
 - ~~(t) Tobacco shops. (See also TOBACCO SHOPS.)~~

“TOBACCO SHOP. An establishment or place of business primarily engaged in retail sale for consumption off the premises of tobacco, **vape**, and/or tobacco-related products (“tobacco products”) and/or an establishment where one-half or more of the net floor area is dedicated to or where one-half or more of the gross receipts are derived from the sale of tobacco products.”

Section 3. Section 157.037 SCHEDULE: PERMITTED USES; ACCESSORY USES; EXCEPTIONS AND SPECIAL PERMITS, (K) “B-1”, Community Business District, (2) Permitted Uses, (7). of Chapter 157 of the City of O’Fallon Code of Ordinances is amended by way of amending the code to the following:

“(K) “B-1”, Community Business District.

(1) Permitted principal structures. Building structures of the following class: Class 1, conventionally-built building structures; Class 2, prefabricated building structures; and Class 3, modular building structures.

(2) Permitted uses.

(a) Retail sale establishments.

1. General merchandise retail stores, limited to: department stores, dry goods stores and limited price variety stores.

2. Food merchandise retail stores, limited to: bakeries, non-manufacturing, except for retail sale upon the premises only; candy and confectionery shops; dairy product markets; delicatessens; fruit and vegetable markets; grocery stores (excluding convenience food stores); health food stores; liquor, beer and wine package goods stores; and meat, fish, seafood and poultry markets.

3. Furniture and home furnishing retail stores, limited to: China, glassware and metalware stores; draperies, curtains and upholstery stores, including custom-made service, and supplies; floor covering and carpet stores, including installation service; furniture stores; household appliance stores, including repair and service; interior decorator's service stores or offices, excluding fabrication shops; lamp and mirror stores; musical instrument stores, including repair and tuning service, and supplies; office furniture and business machine stores, including service, repair, supplies and equipment; and radio, television, computer and audio and video recorder stores, including parts, repair, service and supplies.

4. Eating and drinking place, retail, limited to: coffee shops; confectionery and ice cream stores; fast food restaurants, including carry-out service; food caterer's shops, retail; pizza parlors, with or without delivery service; private membership clubs, lodges or organizations offering food for member's consumption on the premises; restaurants, cafés and cafeterias; and tea rooms; drive-in restaurants; and provided none of the uses listed in this division (K)(2)(a)4. shall provide patron drive-through service facilities; and further provided that there shall be no sale or consumption of alcoholic beverages upon the premises.

5. Apparel and accessories, retail stores and shops, limited to: apparel accessory shops; clothing stores; custom tailoring and dressmaking shops; furrier shops; jewelry and lapidary shops; millinery shops; and shoe stores.

6. Motor vehicles, including parts and accessories, retail sales, limited to: new automobiles, vans and trucks, three-fourths ton and under; motorcycles; mopeds; and motor scooters; and marine craft, together with their repair and service; tires, batteries, lubricants and motor vehicle accessories, including service and installation, but excluding repair garages; and new and rebuilt motor vehicle parts and supplies, and excluding repair garages.

7. Miscellaneous retail sales stores and shops, limited to and including the offering for retail sale any or of the following commodities: art articles and artist's supply stores; auction halls, secondhand merchandise stores and antique shops; books, magazines, newspapers, greeting cards and stationery (including letterhead and business card printing) stores; camera and photographic supply shops, including optical goods; coin and stamp stores; drug and tobacco stores, including, but not limited to, retailing of toiletries, notions and sundries; equipment rental stores (excluding motor vehicle and trailer rental); florists; gift, novelty, curio and souvenir shops; hardware and lawn and garden equipment and supply stores; hobby, craft and sporting goods shops, including trophies and engraving, taxidermists, gunsmiths and bicycles; leather and luggage retail shops; newspaper distribution and delivery

stations; pet shops, retail; and photography processing patron drop-off stations, retail (excluding patron drive-through service).

(b) *Professional service offices and clinics.* Limited to: architects' office, excluding landscape architects; attorney's office; dentist's office and dental clinics and dental laboratories; engineer's office; optometrist's office; physician's office, physician's clinic and medical laboratories; psychiatrist's office and psychiatric clinics; public and certified public accountant's office, excluding bookkeepers; surgeon's office and ambulatory surgical clinics; and any other professional service office of professional practitioners who by formal education and training, at an accredited college or university, and by examination and registration are qualified to perform services of a professional nature, excluding veterinarians, veterinarian's services and chiropractors.

(c) *Finance, real estate and/or insurance service offices.* Limited to: banks; credit service offices, including credit unions; holding and investment services offices; insurance agents, brokers, carriers and service offices; real estate agents, brokers and/or management service offices; real estate operators and lessor's offices; registered land surveyor's offices; savings and loan associations offices; security and commodity brokers, dealers and flotation service offices; and title abstracting service offices.

(d) *Business service offices.* Limited to: advertising service offices, excluding fabrication shops; bookkeeping services; business management and consulting service offices; consumer and mercantile credit reporting service offices, including adjustment and collection services; direct mail advertising service offices; direct selling organization offices; employment service offices; manufacturer's representative office; security services office; stenographic, duplicating, mailing and/or telephone answering service office; and trade union offices.

(e) *Personal service establishments.* Limited to: barber's service shop; beautician's service shop; chiropractic services office or clinic; dance instruction studios; garment alteration and repair service; laundry service establishments, including coin-operated or self-service establishments, but excluding industrial and/or business (uniform, linen and the like) laundering and supply service; photographer's studio or office and photographic service offices; reducing and/or physical fitness centers; and travel arranging service office.

(f) *Repair service establishments.* Limited to: household appliance repair service shops, including, but not limited to, water heaters, ranges, refrigerators, clothes dryers, washing machines, water heaters, air conditioners and furnaces, and the retail sale thereof as limited by division (K)(2)(a) above; locksmith's shops; musical instrument repair and tuning service shops; radio, television, tape and video recorders, and computer repair service shops; shoe and leather goods repair service shops; and watch, clock and jewelry repair service shops.

(g) *Communication service offices.* Limited to: commercial mail courier offices; post offices or postal substations; radio and television broadcasting studios and/or offices, including cablevision; telephone exchange stations and customer service office, excluding construction centers; and telegraph message offices.

(h) *Transportation service offices and facilities.* Limited to: bus transportation terminals and shelters, including park-and-ride stations, but excluding bus garaging

and equipment maintenance; highways, streets and alleys; and taxicab dispatching offices, excluding garaging and equipment maintenance.

(i) *Public utility service facilities.* Limited to: electricity regulating substations, distribution facilities and customer service offices (accessory use maintenance and service); gas pressure control stations, distribution facilities and customer service offices (accessory use maintenance and service); potable water pressure control stations, storage tanks, distribution facilities and customer service office; sewage pressure control stations and adjunct facilities; and other essential public utility facilities and operations.

(j) *Governmental service offices.* Limited to: municipal, township, county, state and federal governmental service offices, including legislative and/or administrative service offices, and police stations, fire stations and ambulance service facilities; but excluding penal institutions, jails, detention homes, half-way houses, asylums and any other governmental use activity that is not the nature of being an office use activity as is listed elsewhere in this list of permitted uses.

3) *Special uses.*

(a) Taverns, night clubs, discotheques, cocktail lounges, restaurants, fraternal organizations, clubs, meeting halls or anywise involved in the sale or offering of alcoholic beverages, including “set-up” or “carry-in”, to its patrons, members or guests;

(b) Gasoline service stations and/or any listed permitted use or special use involving the dispensing of motor fuels, either as a principal or an accessory use;

(c) Any listed permitted use or special use offering for its patrons, members or guests a dance floor or other dancing accommodation, including, but not limited to, taverns, night clubs, discotheques, dance halls, road houses, private clubs, hotels or motels;

(d) Dry cleaning service shops;

(e) Churches, synagogues, temples and other places of formal worship, including their off-street parking accommodations;

(f) Public, private and parochial schools and other uses offering courses of instruction in accordance with standards for compulsory education;

(g) Car wash establishments;

(h) Cultural, entertainment and recreation service establishments, limited to arcades, bowling alleys, libraries, meeting or assembly halls, museums, pool or billiard halls, roller and/or ice skating rinks and theaters (legitimate and motion picture);

(i) Used motor vehicle retail sales, as limited per new motor vehicle sales; and

(j) Two-, three- and four-family residence dwellings and shall be subject to operation of § 157.036(E); multi-family dwellings shall be subject to operations of § 157.036(E); apartment residence dwellings in mixed use occupancy buildings shall be subject to operations of § 157.038(U).

(4) *Planned developments.*

(a) Planned multi-family developments;

(b) Planned business centers;

(c) Other planned building developments; and

(d) Veterinary clinics, subject to the provisions of §§ 157.115 through 157.121.

(5) *Permitted accessory uses.*

- (a) Any accessory use permitted and as regulated in the MR-2 District;
- (b) Storage of merchandise or inventory usually carried in stock; provided that all outdoor storage shall be completely concealed by a solid fence at least six feet in height that meets the standards of § 157.056;
- (c) Service garage, only if in conjunction with and accessory and incidental to the sale of new automobiles;
- (d) Retail sale of used automobiles and trucks, only if in conjunction with and accessory and incidental to the sale of new automobiles, as limited per new motor vehicle retail sales; and
- (e) Rental or leasing of automobiles and trucks, only if in conjunction with and accessory and incidental to the sale of new automobiles.

(6) *Exceptions.* Existing special uses and non-conforming uses are subject to the applicable provisions of §§ 157.035 and/or 157.075 through 157.084.

(7) *Supplementary regulations.*

(a) Any given permitted use is subject to the provisions of §§ 157.038 and/or 157.039, as applicable thereto;

(b) Outdoor seating requirements.

1. All outdoor eating areas on a permanent or temporary basis are permitted under the following conditions: the outdoor area does not exceed 100% of the ground floor area of the building containing the use or contains a seating area for a maximum of 15; a site plan must be pre-approved by the Director; the outdoor area is entirely on private property and on the same or adjacent zoning lot as the building containing the use; the outdoor eating area is not in a required parking area or required side, front or rear yards; the outdoor eating area conforms to the transitional yard requirements of § 157.036(E); the outdoor area does not interfere with adequate pedestrian flow into the building and meets all city Building Code requirements; parking requirements are met for enclosed uses; and if alcohol is to be served, all special use provisions will apply as indicated in §§ 157.095 through 157.102.

2. The preparation, processing, treatment and/or manufacture of goods or products for retail sale on the premises, and for food caterer's service beyond the premises, shall be permitted; provided that such preparation, processing, treatment or manufacture of goods or products shall be customary and subordinate of the use activity conducted upon the premises.

Section 3. Section 157.116 PLANNED USE; WHEN REQUIRED (B) Change in use requiring planned use approval. of Chapter 157 of the City of O'Fallon Code of Ordinances is amended by way of amending the code to the following:

(A) *Change in zoning and new construction requiring planned use approval.* A planned use approval shall be required for any proposed amendment or change in zoning, change of use from a residential to a non-residential use or any construction of a new building for any non-accessory use within the MR, O-1, B-1, B-2 or I Districts where any of the following exists:

- (1) The subject property is adjacent to or within 250 feet of any property used for residential, public assembly, including church/religious or school purposes;
 - (2) A new structure of 20,000 square feet or more is proposed;
 - (3) Two or more buildings are proposed on one lot;
 - (4) When traffic generation per a traffic study submitted by the applicant, if requested at the discretion of the city, shows any level of service of "D" or worse pursuant to the accepted national traffic standards; or
 - (5) When required by table of uses in this chapter or otherwise required elsewhere in this chapter.
- (B) *Change in use requiring planned use approval.* A planned use approval shall further be required for any new, expanded or changed use that includes any one or more of the following specific uses:
- (1) Convenience store or automotive service station;
 - (2) Retail or wholesale fuel, dispensed or sold;
 - (3) Uses offering liquor sales and/or consumption, on- or off-premises;
 - (4) Restaurants (other than restaurants with seating capacity less than 40);
 - (5) Drive-in or drive-through service (liquor sales shall be prohibited in connection therewith);
 - (6) Car washes, self and automated;
 - (7) Hotels, motels and overnight accommodations;
 - (8) Dance halls, nightclubs, private clubs or other use offering for its patrons dancing accommodations;
 - (9) Cultural, recreation or entertainment facilities, such as theaters, museums, meeting halls, golf courses;
 - (10) Country clubs, driving ranges, mini-golf courses, arcades, billiard halls, bowling alleys, skating rinks;
 - (11) Bed-and-breakfast;
 - (12) Landfill or disposal site;
 - (13) Gun and archery clubs or ranges;
 - (14) Halfway houses and group homes;
 - (15) Manufactured/mobile home subdivision and mobile home parks;
 - (16) Mining or mineral excavation or extraction;
 - (17) Mini-warehouses;
 - (18) Correction or detention facility;
 - (19) Dry cleaning service facility;
 - (20) Salvage, scrap or storage yard;
 - (21) Auto repair and service garage;
 - (22) Outdoor display (including car and equipment dealerships);
 - (23) Apartment buildings, three units or greater;
 - (24) Public, private or parochial schools or other uses offering courses of instruction in accordance with standards for compulsory education;
 - (25) Child day care facilities required to be licensed by the state;
 - (26) Public assembly, including, but not limited to, schools, auditorium, schools and churches or other places of formal worship;
 - (27) Shopping centers;

- (28) Pole barns or metal-sided buildings. New principal uses/structures of this type shall not be approved in any MR-2, O-1, B-1 or B-2 District; a development plan shall be required for any new pole barn/metal sided building proposed for any lawful industrial use;
 - (29) Kennels having outdoor runs or containment areas;
 - (30) Veterinary clinics subject to the following additional requirements:
 - (a) Proper waste disposal with no detectible odors beyond the property line;
 - (b) No outdoor dog runs or play areas;
 - (c) No indoor or outdoor boarding of animals, except for indoor boarding directly related to medical treatment; and
 - (d) Verification is provided to the city that the building design or construction will prevent noise from animals being audible from adjacent properties or tenants.
 - (31) Funeral or mortuary service establishments, including accessory crematories; provided that all accessory crematories shall be permitted only by planned use, subject to the following requirements.
 - (a) Crematories shall be permitted only as an accessory use to an existing funeral or mortuary services use subject to securing and maintaining all required IEPA permits, licenses and certifications and compliance with other applicable city requirements.
 - (b) Crematories shall not emit any noticeable odor or particulates.
 - (c) Crematories shall have emission stacks covered or shrouded with materials safe for such uses and that are compatible in design and architecture with the existing funeral home and the building housing the crematory. The crematory facility and emission stack shall be compatible with surrounding properties, including residential properties.
 - (d) Decorative vinyl fencing or other site-proof fencing or landscaping approved by the city on a site plan and located between the crematory and adjacent residential properties shall be provided.
 - (32) Video gaming licensed establishment, subject to the additional requirement that all video gaming licensed establishments must comply with all state, municipal and any other requirements of a video gaming licensed establishment;
 - (33) Cluster/conservation development in the RR, SR-1, SR1-B, SR-2 and SR-3 Residential Zoning Districts, as defined in § 157.016; and
 - (34) Modular building structures as a permitted principal structure in the SR-3 Zoning District.
 - (35) Tobacco and vape shops.**
- (C) *Resumption of a previously-abandoned use.* For purposes of this section, resumption of a previously-abandoned use shall be deemed a “new” use, except where the resumed use seeks only to reoccupy an existing building for a restaurant, place of public assembly or child care facility; and provided that no use or building expansion occurs and no intervening use occurred between the abandonment and resumption and the Director certifies that the new use meets the intent of this code, including, but not limited to, the intent

of this section that no resumed use cause a greater impact or intensity than the prior use in light of the current circumstances.

(D) *Unlisted uses.* The table of uses contained in this chapter and the specific uses or circumstances set forth in this subchapter for planned uses do not necessarily reflect all of the regulations that may apply to particular uses or districts. However, any use not listed herein nor shown in the table of uses as a special use, planned use or a use permitted by right in the applicable zoning district or authorized as an accessory use shall be prohibited unless the City Council, after review by the Planning Commission, determines that the proposed use is sufficiently similar to a use expressly authorized in the applicable district and is not otherwise prohibited or intended to be prohibited by this chapter or other applicable regulations and such determination is approved by the City Council. Except as provided in this division (D), uses not listed and expressly authorized have been determined either not to be appropriate in any district, incompatible with certain existing uses or sufficiently rare or unexpected as to be incapable of being listed at the time of adoption of this chapter. Any use not delineated in this chapter as a use permitted by right, a special use or a planned use in any zoning district, but which nevertheless constitutes a use that is required by law to be permitted within the city shall be authorized only in the Industrial District subject to the following conditions.

- (1) The use shall be permitted only to the extent required by law to be permitted.
- (2) The use shall be approved only as a planned use, except if, by law, it is required to be permitted by right.
- (3) The use shall be located no closer than 1,000 feet from any residence, residential property, park, school or church, except as may be modified by the City Council through a planned use procedure.
- (4) The use shall maintain a distance of at least 1,000 feet from any other such use.
- (5) No use shall occupy a structure in excess of 5,000 square feet without an approved alternate parking plan designed for that use and supported by a traffic study submitted to and approved by the City Council.

(E) *Planned use exemption: Regency Park and Central Park Commercial area.* For property zoned B-1 or B-1(P) having frontage along the Regency Park Drive, Central Park Drive, Central Park Circle or Park Plaza Drive, the following use(s) shall not be subject to planned use requirement, and may be approved administratively by site plan, unless a planned use is required by other aspects of the use:

- (1) Restaurants, including liquor sales and consumption on premises, not having a drive-through;

Any exempt use shall conform with the "Commercial Design Handbook" and all other code requirements to qualify for the exemption. Where the Director reasonably believes a use exempted under this provision is not fully compliant with all applicable requirements and standards or creates a risk to safety or property, the Director may require the use to be submitted as a planned use notwithstanding this exemption. Otherwise, where the Director

