



# ORDINANCE AMENDING CHAPTER 31 – VAPOR STORES

PH-24-010

April 2, 2024

# Background

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- On January 23, 2024, the City Council made a Motion of Direction to have staff prepare an ordinance limiting vape shops to “B-4” and “B-5” only, and prohibiting them within one thousand (1,000) feet of a public school.
- Currently, vape shops are permitted in all zoning districts where retail stores are allowed (i.e. “B-2” and up).

# Background

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- If approved, the proposed ordinance would:
  - ▣ Allow vape shops only in “B-4” (Business District) and other less restrictive zoning districts (i.e. “B-5”, “M-1”, and “M-2”);
  - ▣ Prohibit vape shops within one thousand (1,000) feet of a public school, as measured in a straight line from property line to property line; and
  - ▣ Prohibit vape shops within the Historic Overlay District (HOD).

# Background

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- As written, a “vapor store” is defined as: “a retail establishment that sells or offers for sale e-cigarettes, as defined by Chapter 147 of the Texas Health and Safety Code, and which receives at least eighty (80) percent of its gross revenues from the sale of e-cigarettes.”

# Notification Requirements

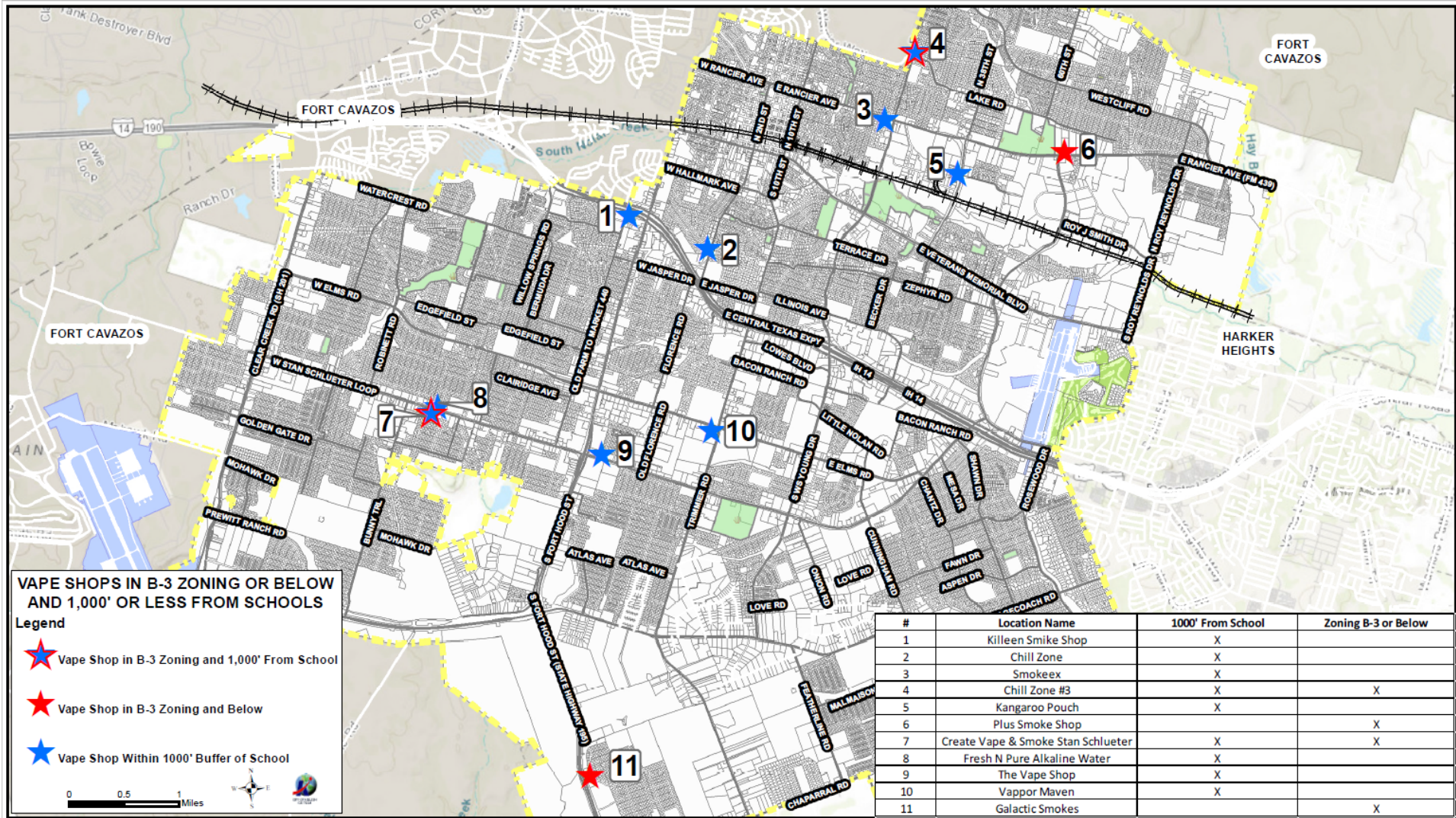
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- In accordance with S.B. 929 – which became effective on September 1, 2023 – staff sent written notices to property owners and tenants of all businesses that would become nonconforming if the proposed ordinance is adopted.

# Public Notification

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- Staff has identified eleven (11) existing businesses that would become legal nonconforming if this ordinance is adopted, including:
  - ▣ Seven (7) that are within 1,000 feet of a school;
  - ▣ Two (2) that are zoned “B-3” or more restrictive; and
  - ▣ Two (2) that are both within 1,000 feet of a school and zoned “B-3” or more restrictive.



# Public Notification

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- ❑ Per Killeen Code of Ordinances, Sec. 31-51 and 31-52, the lawful use of a building or land upon the effective date of the proposed ordinance may be continued, although such use does not conform to the provisions in the proposed ordinance.
- ❑ If the proposed ordinance is adopted, the eleven (11) identified businesses will become legal nonconforming uses, and can continue to operate as-is.



# Staff Recommendation

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- Staff recommends that City Council approves ordinance as presented.

# Commission Recommendation

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- At their regular meeting on March 4, 2023, the Planning and Zoning Commission recommended disapproval of the proposed ordinance by a vote of 7 to 0.
- Therefore, in accordance with Killeen Code of Ordinances Sec. 31-39(e), approval of the request will require the favorable vote of three-fourths ( $3/4$ ) of all the members of the City Council (6 affirmative votes).