



# City of Killeen

## Legislation Details (With Text)

**File #:** PH-24-010    **Version:** 1    **Name:** Vape Shop Ordinance  
**Type:** Ordinance/Public Hearing    **Status:** Public Hearings  
**File created:** 3/11/2024    **In control:** City Council  
**On agenda:** 4/9/2024    **Final action:** 4/9/2024  
**Title:** HOLD a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances providing for regulations regarding vapor stores.  
**Sponsors:** Development Services  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Notification Map, 2. Ordinance, 3. Minutes, 4. Presentation

| Date     | Ver. | Action By             | Action      | Result |
|----------|------|-----------------------|-------------|--------|
| 4/9/2024 | 1    | City Council          | disapproved | Pass   |
| 4/2/2024 | 1    | City Council Workshop |             |        |

**HOLD** a public hearing and consider an ordinance amending Chapter 31 of the Killeen Code of Ordinances providing for regulations regarding vapor stores.

**DATE:** April 2, 2024  
**TO:** Kent Cagle, City Manager  
**FROM:** Edwin Revell, Executive Director of Development Services  
**SUBJECT:** Ordinance Amending Chapter 31, Regulating Vapor Stores

### **BACKGROUND AND FINDINGS:**

On January 23, 2024, the City Council made a Motion of Direction to have staff prepare an ordinance limiting vape shops to "B-4" (Business District) and "B-5" (Business District) 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).

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).

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 (80%) eighty

percent of its gross revenues from the sale of e-cigarettes.”

In accordance with Texas Local Government Code Section 211.006(a-1), 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.

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 public school and zoned “B-3” or more restrictive.

### **THE ALTERNATIVES CONSIDERED:**

The City Council has three (3) alternatives:

- Do not approve the ordinance;
- Approve the ordinance with amendments; or
- Approve the ordinance as presented.

### **Which alternative is recommended? Why?**

Staff recommends approval of the ordinance as presented.

### **CONFORMITY TO CITY POLICY:**

The proposed ordinance conforms to all applicable City policies.

### **FINANCIAL IMPACT:**

#### **What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

This is not applicable.

#### **Is this a one-time or recurring revenue/expenditure?**

This is not applicable.

#### **Is this revenue/expenditure budgeted?**

This is not applicable.

#### **If not, where will the money come from?**

This is not applicable.

#### **Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

This is not applicable.

### **RECOMMENDATION:**

At their Regular Meeting on March 4, 2024, 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).

**DEPARTMENTAL CLEARANCES:**

This item has been reviewed by Development Services and Legal staff.

**ATTACHED SUPPORTING DOCUMENTS:**

Notification Map  
Minutes  
Ordinance  
Presentation