



STAFF REPORT

DATE: April 20, 2021
TO: Kent Cagle, City Manager
FROM: Traci Briggs, City Attorney
SUBJECT: Repealing Possession of Tobacco Ordinance

BACKGROUND AND FINDINGS:

Chapter 16, Article VI of the Code of Ordinances provides an offense for possession or purchase of tobacco by a minor, defined as a person under 18 years of age. It also has an offense for falsely claiming to be 18 or over in order to purchase tobacco or presenting false or misleading information regarding age. There have been no amendments to this ordinance since 1996.

Federal and state law have established the age of violations as younger than 21 years of age, meaning it is more restrictive than the city's ordinance. Also, these laws address a more expansive list of items that create an offense, including such things as e-cigarettes.

Attached is a draft ordinance to repeal Chapter 16, Article VI in its entirety since it is preempted by federal and state law. There will be no enforcement impact on the Killeen Police Department as officers have for some time been writing any violations under state law.

THE ALTERNATIVES CONSIDERED:

The City Council may leave the current possession of tobacco ordinance as currently codified, make amendments, or repeal the ordinance.

Which alternative is recommended? Why?

Staff recommends repealing the possession of tobacco ordinance. The federal and state law are more restrictive and preempt the city's ordinance making it unnecessary.

CONFORMITY TO CITY POLICY:

This item conforms to law and city policy.

FINANCIAL IMPACT:

What is the amount of the expenditure in the current fiscal year? For future years?

There is no fiscal impact related to this item.

Is this a one-time or recurring expenditure?

N/A

Is this expenditure budgeted?

N/A

If not, where will the money come from?

N/A

Is there a sufficient amount in the budgeted line-item for this expenditure?

N/A

RECOMMENDATION:

Staff recommends the City Council approve the attached ordinance to repeal Chapter 16, Article VI, possession of tobacco.

DEPARTMENTAL CLEARANCES:

Legal

ATTACHED SUPPORTING DOCUMENTS:

Ordinance