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Item #

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

AN ORDINANCE

**AMENDING CHAPTER 35, UNIFIED DEVELOPMENT CODE, OF THE
CITY CODE OF SAN ANTONIO, TEXAS, BY ADDING SPACING
REQUIREMENTS FOR VAPE SHOPS AND TOBACCO RETAIL
OUTLETS WITHIN 1,000 FEET OF PUBLIC OR PRIVATE SCHOOLS,
DAYCARE CENTERS, AND INSTITUTIONS OF HIGHER LEARNING
AND AMENDING DEFINITIONS; AND PROVIDING FOR
PUBLICATION.**

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WHEREAS, the San Antonio City Council adopted the revised Unified Development Code (UDC) on May 3, 2001 and reenacted the Unified Development Code, 2005 Edition on September 22, 2005; and

WHEREAS, UDC Section 35-111 contemplates amendments initiated by City Council outside of the traditional five year update cycle; and

WHEREAS, Council Member Council Member John Courage, District 9, filed a Council Consideration Request (CCR) related to Building Regulations Enhancing Anti-Vaping Trends and Habits (BREATH); and

WHEREAS, the CCR was considered by the Community Health Committee on March 24, 2024, and staff recommended that the Unified Development Code be updated to prohibit operation of tobacco and vape shops within 1,000 feet of public or private schools, daycares, or institutions of higher learning; and

WHEREAS, the Community Health Committee approved the item to move forward for zoning commission and full council council consideration; and

WHEREAS, public hearings were held after notice and publication regarding these amendments to the Unified Development Code at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, on May 6, 2025 the Zoning Commission held a public hearing at which time parties in interest and citizens were given an opportunity to be heard; and

WHEREAS, the Zoning Commission made recommendations pertaining to these amendments;
NOW THEREFORE:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Chapter 35 of the City Code of San Antonio, Texas is hereby amended by adding language that is underlined (added) and deleting the language that is stricken (~~deleted~~) to the existing text as set forth in this Ordinance.

SECTION 2. Chapter 35 of the City Code of San Antonio, Texas is hereby amended as follows:

Sec. 35-398.01. - Ice Machines Over 120 Square Feet.

- (a) Applicability. These supplemental use regulations shall be required for both accessory and stand-alone ice machines over one hundred twenty (120) square feet.

Sec. 35-398.02: Prohibition of Tobacco and/or vape shops from certain uses.

(a) Applicability. No tobacco store or vape shop shall be allowed to operate within 1,000 feet of a public or private school, daycare, or institution of higher learning unless granted an “S” Specific Use Authorization by City Council, in accordance with Sec. 35-423.

(b) Method of Measurement. Distance shall be measured in a direct line from the property line of the retail outlet whose primary purpose is the sale of tobacco or vaping products and the property line of a public or private school, daycare, or institution of higher learning.

Chapter 35, Appendix A, Section 35-A101 is amended as follows:

‘Sec. 35-A101. – Definitions and Rules of Interpretation.’

- (a) **Generally.** Words, phrases and terms defined in this appendix shall be given the defined meaning as set forth below. Words, phrases and terms not defined in this chapter, but defined in the building code adopted by chapter 6 of the City Code, shall be given their usual and customary meanings except where the context clearly indicates a different meaning. Words, phrases and terms neither defined in this chapter nor in the building code shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

Hood. A protective and sometimes decorative cover over doors, windows, or chimneys.

Hookah Lounge. See Tobacco Store.

Hoophouse. A temporary structure constructed of translucent material and supported on metal or plastic pipe, which is devoted to the protection or cultivation of flowers or other tender plants. Also called High Tunnel.

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Restrictive covenant. A covenant creating restrictions applicable to development within a subdivision pursuant to V.T.C.A. Property Code Title 11.

Retail/Hookah Lounge. See Tobacco Store.

Retail trade. Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. Characteristics of retail trade establishments are: (1) the establishment is usually a place of business and is engaged in activity to attract the general public to buy; (2) the establishment buys and receives as well as sells merchandise; (3) the establishment may process some of the products, but such processing is incidental or subordinate to the selling activities; and (4) retail establishments sell to customers for their own personal or household use.

Small tree. A tree species that normally does not reach a height that exceeds twenty-five (25) feet at maturity.

Smoking Room. See Tobacco Store.

Soffit. The underside of an overhanging element, such as the eaves of a roof.

Time-share. A facility in which the exclusive right of use, possession, or occupancy circulates among the various owners or lessees thereof in accordance with a time schedule on a periodically recurring basis.

Tobacco Store. A retail outlet whose main purpose is selling tobacco products, as the term is defined by the Food and Drug Administration, and smoking equipment. May also be referred to as a Retail/Hookah Lounge or Smoking Room.

Top of bank. For purposes of determining river improvement overlay riverside setbacks in section 35-673, the point, stage or elevation at which water overflows the natural or man made banks of the river; alternately, the vertical point along the river where an abrupt change in slope is evident, and where the water level is generally able to overflow the natural bank or man made edge and enter adjacent floodplains (if any) during flows at or exceeding the average annual high water stage.

Utilities standards. See section 35-507 of this chapter.

Vape Shop means a retail outlet whose main purpose is selling vaping products. Vaping means a vaporizer or inhalant-type device, also known as an electronic cigarette, that contains a power source and heating element designed to heat a substance and inhaling the vapor of the device directly through the mouth, whether or not the vapor contains nicotine, and the refillable or disposable cartridges for them.

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Variance. Permission to depart from the literal requirements of this chapter as provided in subsections 35-482 and 35-483. For floodplain variances see section 35-F106.

SECTION 3. All other provisions of Chapter 35 of the City Code of San Antonio, Texas shall remain in full force and effect unless expressly amended by this ordinance.

SECTION 4. Should any Article, Section, Part, Paragraph, Sentence, Phrase, Clause, or Word of this ordinance, for any reason be held illegal, inoperative, or invalid, or if any exception to or limitation upon any general provision herein contained be held to be unconstitutional or invalid or ineffective, the remainder shall, nevertheless, stand effective and valid as if it had been enacted and ordained without the portion held to be unconstitutional or invalid or ineffective.

SECTION 5. Notice of these changes to the Unified Development Code shall require the publication in an official newspaper of general circulation in accordance with Chapter 35, Article IV, Division 1, Table 403-1.

SECTION 6. The publishers of the City Code of San Antonio, Texas are authorized to amend said Code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 7. This ordinance shall be effective immediately upon passage by eight or more affirmative votes; otherwise, it shall be effective on the tenth day after passage.

PASSED AND APPROVED this ____ day of _____, 2025.

M A Y O R

Ron Nirenberg

ATTEST:

Debbie Racca-Sittre, City Clerk

APPROVED AS TO FORM:

Andrew Segovia, City Attorney