



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 11

Agenda Date: May 8, 2025

In Control: City Council A Session

DEPARTMENT: Development Services Department

DEPARTMENT HEAD: Michael Shannon

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Ordinance amending Chapter 35 Unified Development Code in response to a Council Consideration Request by Councilmember John Courage (District 9) on B.R.E.A.T.H. (Building Regulations Enhancing Anti-Vaping Trends & Habits) by creating mandatory spacing requirements for tobacco and vape shops near public or private schools, daycare centers, and institutions of higher learning.

SUMMARY:

Ordinance amending Chapter 35 Unified Development Code in response to a Council Consideration Request by Councilmember John Courage (District 9) on B.R.E.A.T.H. (Building Regulations Enhancing Anti-Vaping Trends & Habits) by creating mandatory spacing requirements for tobacco and vape shops near public or private schools, daycare centers , and institutions of higher learning.

BACKGROUND INFORMATION:

The Council Consideration Request seeks to update Chapter 35 of the City Code, Unified Development Code (UDC), Article III, Zoning, to add a regulation prohibiting the establishment of tobacco retail stores, including vape shops, within 1,000 feet of a school, daycare, and institutions of higher learning.

Similar buffer zones have been added to the UDC for Sexually Oriented Businesses (SOB) and gas stations, which were adopted as part of the 2021 UDC amendment program.

As part of the 89th Texas Legislative Session, several bills have been introduced that seek to enact similar distance provisions, which are summarized below:

HB 1816 – Prohibit sale within 1,000 feet of primary/secondary school campus.

HB 3965 (Companion – SB 1315) – Prohibit sale within 1,000 feet of primary/secondary school campus or within 300 feet of a church.

SB 464 – Prohibit sales within 1,000 feet of primary or secondary school campus.

Staff conducted research and identified approximately 225 shops that meet the definition of vape shop. Of these, 36% (82) are located within 1,000 feet of a school, daycare, and institutions of higher learning.

If Council chooses to adopt this prohibition locally, the Supplemental Use Regulations in Article III (Zoning) of the UDC would be amended as follows:

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 to do so by City Council, in accordance with Sec. 35-423.

(b) Measurement. The method of measurement 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.

Appendix A: Definitions:

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

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.

ISSUE:

The City could adopt the 1,000 foot prohibition for sales of such products within 1,000 feet of a school, daycare, and institutions of higher learning, but it is possible that the code may need to be adopted pending the outcome of legislation currently being considered.

ALTERNATIVES:

Alternatively, the city could monitor the legislation currently under consideration and implement any laws adopted in the 89th legislative session.

FISCAL IMPACT:

There is no fiscal impact.

RECOMMENDATION:

Staff recommends that the UDC be amended to prohibit the operation of tobacco and vape shops within 1,000 feet of a public or private school, daycare, and institutions of higher learning.