

BUILDING REGULATIONS ENHANCING ANTI-VAPING TRENDS & HABITS (VAPE SHOP ORDINANCE) FACT SHEET

WHY THE CHANGE?

A Council Consideration Request (CCR) was submitted by Council District 9 requesting the Development Services Department (DSD) to update the zoning code's regulations for tobacco stores and vape shops.

WHAT IS CONSIDERED A TOBACCO OR VAPE SHOP?

A **tobacco store** is a retail outlet whose main purpose is selling tobacco products, as defined by the Food and Drug Administration, and smoking equipment. It may also be referred to as a hookah lounge or smoking room.

A **vape shop** is a retail outlet whose main purpose is to sell 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 for 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.

WHAT IS THE NEW ORDINANCE?

The new ordinance approves a zoning regulation change prohibiting tobacco or vape shops near certain uses. **No tobacco or vape shops are allowed within 1,000 ft. of a public or private school, daycare, or institution of higher learning unless the City Council grants a Specific Use Authorization ("S") (Sec. 35-398.02).**

Existing locations within 1,000 feet of such uses are considered legal, nonconforming (grandfathered).

This impacts specifically businesses whose main purpose is the sale of tobacco and vaping products. It will not affect other businesses that sell the products as accessories, such as convenience stores, gas stations, and grocery stores.

Only the City Council can approve zoning changes in the City of San Antonio.

EXISTING TOBACCO OR VAPE SHOPS WITHIN 1,000 FT. OF A SCHOOL

Existing tobacco stores and vape shops within this boundary, are now considered a "nonconforming use", and will need to register as per Section 35-705 for future permits (Certificates of Occupancy, building permits) and comply with "nonconforming use" regulations as per Sec 35-705 and 35-706.

Here are some items to keep in mind:

- We may deny any registration if submitted evidence does not support the valid opening of business, or does not show the existence of prior nonconforming use before adoption of this ordinance.
- Nonconforming use registration can be terminated if the business changes its use, if the tobacco or vape shop is not operated for 12 or more consecutive months, or if the structure is damaged or destroyed and the cost of repairing the damage exceeds 50% of the appraised value of such structure.
- Nonconforming use can be amended with the new business owner.

BUILDING REGULATIONS ENHANCING ANTI-VAPING TRENDS & HABITS (VAPE SHOP ORDINANCE) FACT SHEET

CERTIFICATES OF OCCUPANCY AND BUILDING PERMITS

To submit for a new Certificate of Occupancy for a tobacco store or vape shop, you must have:

- A certified survey map of the property prepared within the past year by a licensed Texas surveyor or state-licensed engineer showing the **location is not within 1,000 ft. of schools or daycares.**
 - The Texas Health and Human Services - Texas Child Care Licensing website can be used to search for registered providers and to verify distance requirements (https://childcare.hhs.texas.gov/Child_Care)
- A notarized affidavit, confirming the applicant's knowledge of the locational requirements

HOW IS THE DISTANCE MEASURED?

The distance is measured from the property line of your location to the property line of the schools or daycares closest to you.

The method of measurement used shall be 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.

SUBMITTING A REZONING REQUEST

If you want to rezone to request the Specific Use Authorization that is required, follow the process detailed in UDC Sec 35-423:

- Submit a Rezoning Application, requesting the Specific Use Authorization to permit a tobacco store or vape shop within 1,000 feet of a public or private school, daycare, or institution of higher learning.
- The public process includes presentations to the Zoning Commission for recommendation and City Council for final decision.
- Property owners and registered neighborhood associations within 200' of the subject property will be notified.

CONTACT US

Staff is always ready to help you with questions or any information you need. Email us at:

DSD.Zoning@sanantonio.gov