

LUDLOW ORDINANCE NO. 2025-3

AN ORDINANCE AMENDING THE CITY OF LUDLOW CODE OF ORDINANCES, CHAPTER 156 ZONING CODE, FOR THE PURPOSE OF PROHIBITING THE ESTABLISHMENT AND OPERATION OF VAPE SHOPS WITHIN THE CITY OF LUDLOW

WHEREAS, pursuant to the Kentucky Revised Code, the City of Ludlow has the authority to enact ordinances to protect the public health, safety, and welfare within its jurisdiction; and

WHEREAS, the City of Ludlow finds that it has a substantial governmental interest in protecting the public safety, and welfare of its citizens; and

WHEREAS, the United States Surgeon General and the Centers for Disease Control and Prevention both indicate that vaping and vaping devices pose a significant public health risk, particularly for minors and young adults; and

WHEREAS, the City Council of the City of Ludlow has determined that the establishment and operation of Vape Shops within city limits creates a significant threat to public health, safety, and welfare; and

WHEREAS, the City of Ludlow does not currently have an ordinance addressing Vape Shops within its city limits;

WHEREAS, the prohibition of Vape Shops within the city is consistent with zoning regulations prioritizing the health and well-being of citizens within the city; and

WHEREAS, the City of Ludlow finds that amendments to the City's Zoning Ordinance regarding the prohibition of such businesses within city limits is important to addressing the significant public health, safety and welfare risks normally associated with such shops; and

WHEREAS, the City of Ludlow currently has only limited areas zoned for commercial use, and those areas are small and adjacent to residential areas;

WHEREAS, the City of Ludlow finds that there are no suitable locations for Vape Shops in the City of Ludlow and such businesses should therefore be prohibited; and

WHEREAS, the City of Ludlow City Council deems it to be in the best interests of the health, safety, and welfare of its citizens to prohibit and ban all Vape Shops as a principal permitted use in all zone districts within city limits; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF LUDLOW, IN KENTON COUNTY, KENTUCKY, AS FOLLOWS:

Section §156 of the City of Ludlow Zoning Code is hereby amended by REPEALING any zoning provisions related specifically to Vape Shops and ENACTING Section 156.04 relating to the regulation and prohibition of Vape Shops as hereafter provided:

SECTION I **(FINDINGS OF FACT)**

That the Ludlow City Council hereby finds and declares the following as true:

- A. The facts and other matters set forth in the “Whereas” clauses that form the preamble to this Ordinance are hereby adopted as findings of fact in support of the legislative action of the City of Ludlow in adopting this amendment to the Zoning Ordinance. Upon adoption of this zoning amendment, these shall be incorporated into the Zoning Code by reference to the adopting Resolution.
- B. The proliferation of vape shops in the City of Ludlow city limits poses a significant risk to public health, particularly to youth and young adults.
- C. Prohibiting vape shops will reduce access to and visibility of electronic cigarettes and vaping products, thereby promoting public health.
- D. This ordinance is necessary to protect the health, safety, and welfare of the City of Ludlow residents.
- E. The City Council has carefully considered the potential economic impact of this ordinance and has determined that the public health benefits outweigh the potential economic costs.

SECTION II **(DEFINITIONS)**

For the purposes of this ordinance:

- A. "Vape Shop" means any retail establishment that specializes in selling tobacco-derived and alternative nicotine products or vapor products and accessories. These shops may cater to individuals who use electronic cigarettes (e-cigarettes) or other vaping products and/or devices. It also includes any premises dedicated as a principal business to display, sell, distribute, deliver, offer, furnish, or market electronic smoking devices, liquid nicotine containers or vapor product.
- B. "Electronic cigarette" or “electronic smoking device” means any device, whether manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, or vape pen, or under any other product name or descriptor, that delivers nicotine or other substances through vaporization or aerosolization for human consumption.

C. "Vaping product" means any non-combustible product containing nicotine that employs a heating element, power source, electronic circuit or other electronic, chemical, or mechanical means, regardless of shape and size, that can be used to produce vapor from nicotine in a solution or other form. A "vaping product" includes any component, part, or accessory of an electronic cigarette, electronic cigar, electronic cigarillo, electric pipe or similar product or device, whether or not sold separately, including but not limited to e-liquids, cartridges, atomizers, cartomizers, clearomizers, tank systems, drip tips, and flavorings for such devices.

SECTION III **(PROHIBITIONS)**

This ordinance prohibits the following:

- A. No person, business, or entity shall establish, operate, or maintain a vape shop within the city limits of Ludlow.
- B. The sale, offer for sale, or distribution of electronic cigarettes or vaping products as a primary business activity, is prohibited within the city of Ludlow.
- C. Vape shops are expressly prohibited as uses in all zone districts within the City of Ludlow.

SECTION IV **(EXCEPTIONS)**

This ordinance does not apply to:

- A. The incidental sale of electronic cigarettes or vaping products by general retailers, where such products do not exceed 10% of the establishment's inventory or display space.
- B. The sale of FDA-approved nicotine replacement therapy products when prescribed by a licensed healthcare provider.

SECTION V **(ENFORCEMENT AND PENALTIES)**

- A. The Ludlow Police Department shall be responsible for the enforcement of this ordinance.
- B. Enforcement procedures shall be as follows:
 - 1. Inspections: Authorized representatives of the Ludlow Police Department may conduct inspections of any establishment suspected of violating this ordinance during regular business hours.

2. Notice of Violation: If a violation is found, the Ludlow Police Department shall issue a written Notice of Violation to the owner or operator, specifying the nature of the violation and providing 10 days to correct the violation.
3. Penalties: If the violation is not corrected within the specified time frame, the following penalties shall apply:
 - a. A fine not exceeding \$1,000 for the first violation.
 - b. A fine not exceeding \$2,500 for each subsequent violation.
 - c. Suspension or revocation of applicable business licenses or permits.

C. Due Process: Prior to the imposition of any penalty, the owner or operator shall be given an opportunity to be heard at an administrative hearing before the City Administrative Officer or their designee.

SECTION VI **(CONFLICT OF ORDINANCES)**

All ordinances in conflict with this ordinance shall be, and hereby are, repealed to the extent of said conflict.

SECTION VII **(SEVERABILITY)**

If any part of this ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or applications and, to this end, the provisions of this ordinance are severable.

SECTION VIII **(EFFECTIVE DATE)**

That this ordinance become effective upon its passage and shall be published under KRS 83A.060 (9) and other applicable law. The ordinance may be published in summary.

Passed by the City Council this _____ day of _____, 2025.

CITY OF LUDLOW, KENTUCKY

Chris Wright, Mayor

ATTEST: _____
Laurie Sparks, City Clerk

First Reading: _____ Second Reading: _____ Publication: _____