

ORDINANCE No. 135-262

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PELHAM, ALABAMA, APPENDIX A-ZONING, ARTICLE XV–B-2 GENERAL BUSINESS DISTRICT BY DELETING SECTION 14 IN ITS ENTIRETY AND REPLACING WITH A NEW SECTION 14 AND DELETING SECTION 16 IN ITS ENTIRETY

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PELHAM,
ALABAMA AS FOLLOWS:**

SECTION A. Be it ordained by the Mayor and City Council of the City of Pelham, Alabama that Appendix A – Zoning, Article XV – B-2 General Business District, Section 14 City of Pelham Code of Ordinances be deleted in its entirety and replaced as follows:

Sec. 14. Additional regulations for CBD/vape shops in B-2 zones.

CBD/vape shops shall be allowed only within a B-2 zoning district that is not located within any of the corridor overlay areas, and in addition to all other rules and regulations established by this ordinance, the following regulations in this section shall apply.

1. Purpose. The general purpose and intent of these regulations are to provide separation, development and operational standards for CBD/vape shops in the City of Pelham in order to mitigate the negative impacts associated with smoking and vaping uses and to serve the public health, safety, and welfare of residents and businesses within the City.
2. Applicability. For the purposes of this section, the standards of this section apply to new establishments of CBD/ vape shops. An establishment is considered new when no previous CBD/ vape shop existed at that location for a period of 90 consecutive days or greater immediately preceding the filing date of an application for permit under this section. This ordinance shall not apply to a business that sells conventional cigarette and tobacco products, pipes, or cigars, chewing, rolling or dipping tobacco. Any properly licensed CBD/ vape shop legally operating at the effective date of this ordinance that is not in compliance with this section shall be considered a legal nonconforming use and shall be subject to the provisions of Article XXVI (Nonconforming Uses of Lands and Buildings) of this ordinance.
3. Discontinuance and termination. Any CBD/vape shop, whether existing or subsequently granted under this section, that voluntarily discontinues active operation for more than 90 consecutive days; does not maintain a valid city business license for more than 90 consecutive days; or ceases to be licensed by the State of Alabama or any other applicable licensing authority, shall be considered a termination of the use and all privileges and rights held therein.
4. Definitions. As used in this section, the following words and phrases will have the following meanings:
 - a. *CBD (Cannabidiol (CBD)).* Cannabidiol, a chemical compound from the species *Cannabis Sativa L.*, of the family *Cannabaceae*.
 - b. *Electronic cigarette (E-cigarette).* An electronic or battery-operated device, whether or not such device is shaped like a cigarette, that uses an atomizer, aerosol or similar device that allows users to inhale nicotine vapor or flavored vapor, without fire, smoke or ash. An electronic cigarette includes but is not limited to any electronic nicotine delivery system, electronic vaping device, personal vaporizer, electronic pipe, electronic hookah, or vapor pen.
 - c. *Vape product.* Includes any substance derived from tobacco to include any substance used in electronic cigarette and vaping devices including but not limited to, e-juice, e-liquid, e-nicotine, smoke juice, snus, nicotine gel, nicotine lollipops, or any other preparation of tobacco; and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body.

d. *CBD/Vape/E-cigarette shop*. A free-standing business establishment for which more than 10% (ten percent) of the gross sales is from the sale, use and storage of CBD/vape products, including electronic cigarettes and related accessories. Related accessories include any apparatus, equipment or instrument used for smoking and/or inhaling vapor from nicotine enriched solutions and/or the burning or vaporizing of controlled substances.

e. *Vaping*. To inhale vapor from any electronic oral device, such as one composed of a heating element, battery, and/or electronic circuit, which provides a vapor of nicotine or any other substances, and the use or inhalation of which simulates smoking.

5. *Locational requirements.*

a. No retail establishment or any type of business engaging in any sales of CBD/Vape products established after the date of this section shall be located within a Corridor Overlay District, as designated in Article XXI of this Chapter.

b. No CBD/vape shop (as described and detailed within this section) established after the date of this section shall be located within 2,500 linear feet of any other CBD/ vape shop. The method of measurement that shall be used is a straight line measured from the property line of the site of the proposed business to the closest property line that is already occupied by these businesses.

c. No CBD/vape shop shall be located within 1000 feet of a residentially zoned district, as measured by a straight line from the property line of the site of the proposed business to the property line of the closest residentially zoned property.

d. No CBD/vape shop shall be located within 1000 feet of a public building, public or private school, day care center, nursery, preschool, park or playground, church, or place of worship, as measured by a straight line from the property line of the site of the proposed business to the property line of the property that is occupied by one of the uses.

6. *Development and operational standards.*

a. Hours of operation. The hours of operation shall be limited to the hours between 9:00 a.m. and 9:00 p.m.

b. A CBD/vape shop shall not allow product use or vaping on the premises.

c. CBD/vape products, paraphernalia, electronic cigarettes and vaping devices shall be kept and displayed in a secure and locked enclosure, which can only be accessed with the assistance of a clerk. Self-service displays of products and paraphernalia are prohibited.

d. CBD/vape products, paraphernalia, electronic cigarettes and vaping devices, and electronic cigarette and vaping accessories shall not be visible through storefront windows.

e. CBD/vape shops shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the shop. It shall be unlawful for a CBD/vape shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.

f. No part of any windows or doors of an establishment used for retailing shall bear advertising or signs of any sort to ensure that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance to the premises. A store is allowed one (1) 'open' sign in the upper corner of a window.

g. New store operators shall submit a floor plan, drawn to scale and professionally prepared by an architect, designating all interior dimensions of the premises, the proposed use of all spaces, identification of limited access areas, and

areas of ingress and egress. The purpose of the floor plan is to serve as fire protection/life safety/accessibility drawing for review and comment by the fire chief or fire marshal.

h. All store operators shall abide by the signage and lighting regulations. There shall be no use of string lighting, flashing or blinking lighting within or around the windows.

7. Other requirements.

- a. No permit may be issued to locate a CBD/vape shop within an existing building unless all applicable regulations according to Article XXIII – Off-Street Parking and Loading Regulations can be met.
- b. No permit may be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.
- c. No permit may be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.
- d. It is unlawful for a CBD/vape shop to knowingly allow or permit a minor, not accompanied by his or her parent or legal guardian, to enter or remain within any CBD/vape shop.

SECTION B: Be it ordained by the Mayor and City Council of the City of Pelham, Alabama that Appendix A – Zoning, Article XV – B-2 General Business District, Section 16 City of Pelham Code of Ordinances be deleted in its entirety.

Sec. 16. Deleted in its entirety.

SECTION C: All other ordinances or provisions of the Code of Ordinances, City of Pelham, Alabama, contrary to the provisions of this Ordinance are hereby specifically repealed.

SECTION D: The provisions of this Ordinance are severable, and if any part of this Ordinance is declared invalid or unconstitutional, that declaration shall not affect the remainder of this Ordinance, which shall remain in full force and effect.

SECTION E: This ordinance shall become effective upon its passage and publication or posting as required by law.

THEREUPON _____, a councilmember moved and _____, a councilmember seconded the motion that Ordinance No. 135-262 be given vote. The roll call vote on said motion was as follows:

Maurice Mercer, Council President	_____
David Coram, Councilmember	_____
Chad Leverett, Councilmember	_____
Rick Wash, Councilmember	_____
Michael Harris, Jr., Councilmember	_____

Ordinance No. 135-262 passed by majority roll call vote of the Council and the President of the Council declared the same passed and adopted.

ADOPTED this 17th day of June 2024.

Maurice Mercer, Council President

David Coram, Councilmember

Chad Leverett, Councilmember

Rick Wash, Councilmember

Michael Harris, Jr., Councilmember

[SEAL]

ATTEST

APPROVED:

Tom Seale, MMC, City Clerk/Treasurer

Gary W. Waters, Mayor Date

POSTING AFFIDAVIT

I, the undersigned qualified City Clerk/Treasurer of the City of Pelham, Alabama, do hereby certify that the above and foregoing ORDINANCE No. 135-262 was duly ordained, adopted, and passed by the City Council of the City of Pelham, Alabama at a regular meeting of such Council held on the 17th day of June 2024 and duly published by posting an exact copy thereof on the 18th day of June 2024 at four public places within the city, including Pelham City Hall, Pelham Recreation Center, Pelham Water Works, the Pelham Public Library, and on the city’s website at www.pelhamalabama.gov. I further certify that said Ordinance is on file in the Office of the City Clerk/Treasurer and a copy of the full Ordinance may be obtained from the Office of the City Clerk/Treasurer during normal business hours.

Tom Seale, MMC, City Clerk/Treasurer

[SEAL]