

Item H-1

PUBLIC HEARING: Consider an ordinance approving an amendment to the City of Keller Unified Development Code (UDC), adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article 3 – Definitions and Article 8 - Zoning Districts, Development Standards, Tree Preservation, related to CBD, Vape and Smoke Shops; authorizing publication; provide for penalties; and establishing an effective date. City of Keller, applicant. (UDC-22-0002)

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Background

- Jan. 2022: Keller Police Department Criminal Investigations Division (CID) reviewed data related to medical calls at Keller High related to substances derived from the cannabis plant via edibles, vape devices, etc.
- Feb. 2022: CID detectives identified 8 Keller businesses that sold vaping products along with tobacco, and conducted an undercover sting operation that resulted in 2 citations for separate businesses selling tobacco to minors
- March 2022: City Council requested a work session to learn more about the topic, and directed staff to prepare a UDC Amendment that would restrict CBD, Vape and Smoke Shops to the Retail and Commercial zoning districts and require them to obtain an SUP

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What is CBD?

- Cannabis sativa L. is the plant from which both marijuana and hemp are derived.
- CBD, or cannabidiol, is one of many naturally occurring chemical compounds of Cannabis sativa L., is non-intoxicating, and is effective in treating a variety of medical conditions.
- Tetrahydrocannabinol, or THC, is another compound of the cannabis plant.
- The main difference between hemp and marijuana is the amount of THC, which is the chemical compound that creates the “high” effect.

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What is Delta-8?

- Delta-8 tetrahydrocannabinol, also known as delta-8, is a psychoactive substance found in the Cannabis sativa plant (Marijuana and Hemp)
- Delta-8 THC is one of over 100 cannabinoids produced naturally by the cannabis plant but is not found in significant amounts in the cannabis plant. As a result, concentrated amounts of delta-8 are typically manufactured from hemp-derived cannabidiol (CBD). “5 Things to Know about Delta-8,” FDA.gov
- Delta-8 THC is not a substitute for CBD (non-intoxicating) as delta-8 still has intoxicating effects (high)
- Popular due to being viewed as a *legal* way to attain the same high marijuana gives

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Delta-8 Confusion

- 2018 Federal Farm Bill and House Bill 1325: legalized hemp containing less than 0.3 percent. THC-Delta-8 falls into this category.
- Department of Health and Human Services (DHHS) later finds delta-8 is a Schedule I controlled substance. This category is used for drugs that have no accepted medical use, such as heroin or cocaine.
- October 2021-Texas Department of Health and Human Services publicizes the same information and lists delta-8 as a Schedule I controlled substance. This made it effectively illegal in the State of Texas.
- Retailers file suits to block the criminalization of delta-8 (Travis County Case)
- Retailers obtain a temporary injunction on the State ban of delta-8

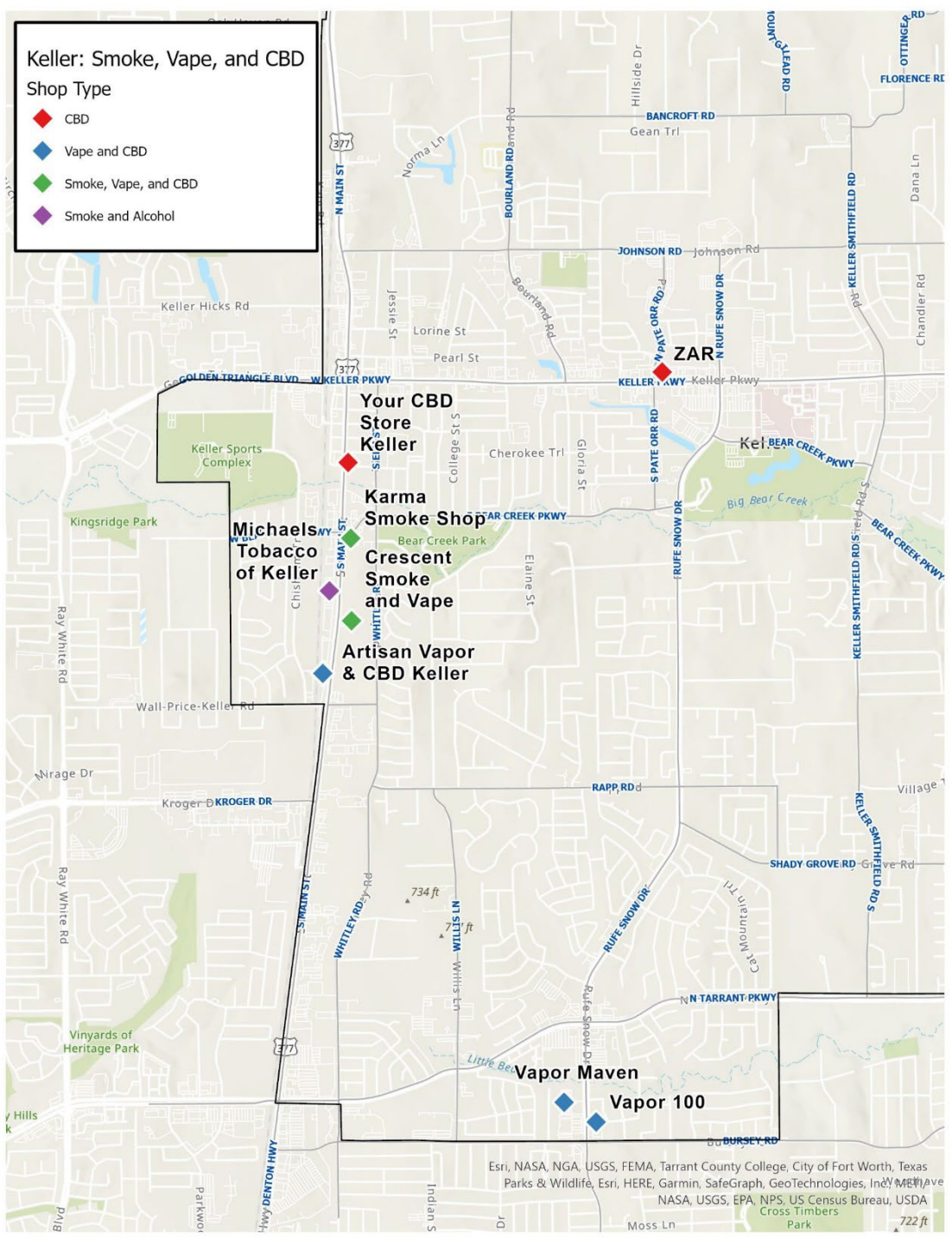
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Legal Limbo

- Temporary injunction upheld by appellate courts
- Texas DSHS asked the Texas Supreme Court to rule on the temporary injunction while the case made its way through the court system, but the Court refused.
- Final hearing for the case was set for January of 2022 but before the case was heard, it was reset for an undetermined date
- Currently no laws expressly prohibit the use of Delta-8
- No laws legitimately legalize its use, either

Keller: Smoke, Vape, and CBD Shop Type

- ◆ CBD
- ◆ Vape and CBD
- ◆ Smoke, Vape, and CBD
- ◆ Smoke and Alcohol



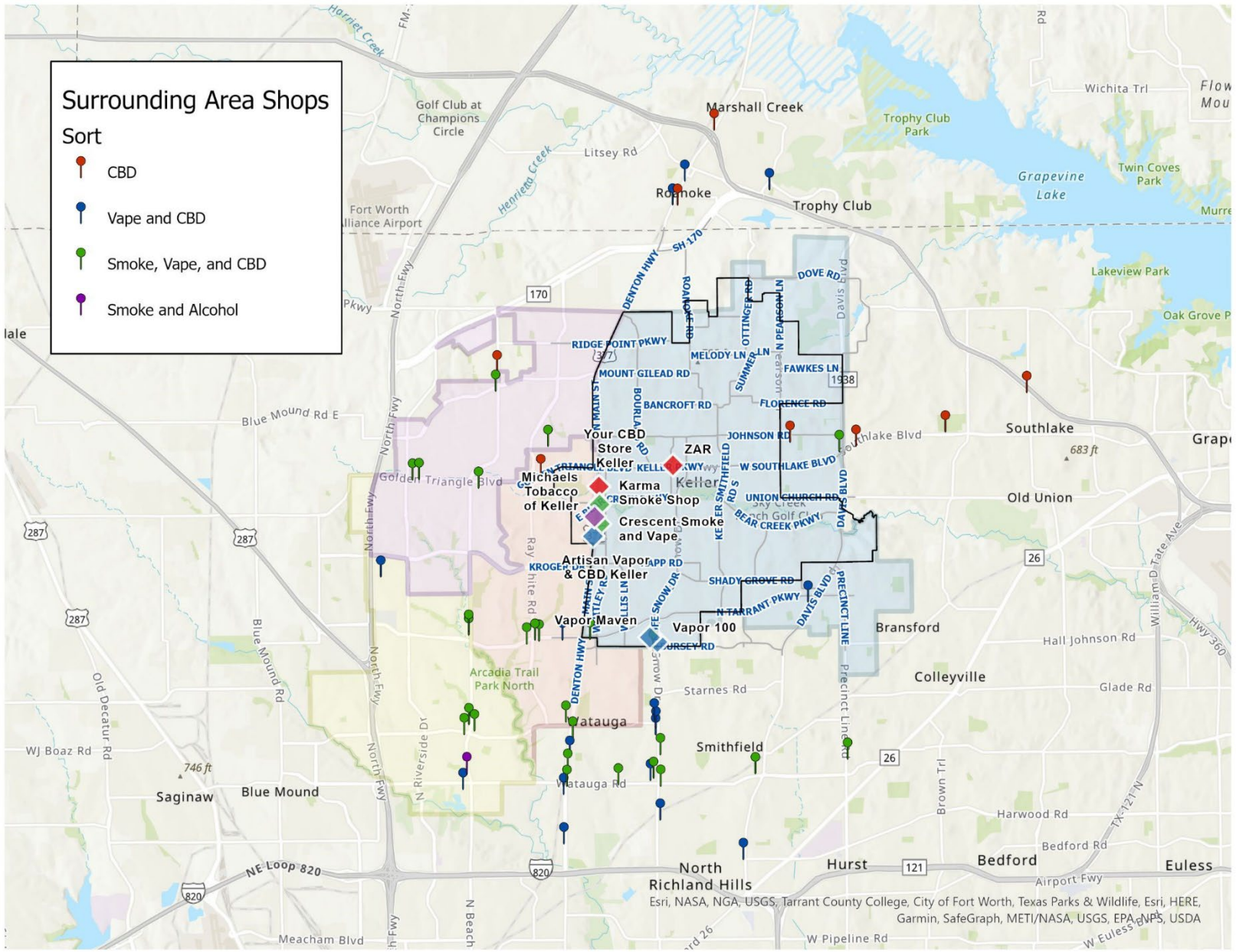
Esri, NASA, NGA, USGS, FEMA, Tarrant County College, City of Fort Worth, Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, GeoTechnologies, Inc., Microsoft, NASA, USGS, EPA, NPS, US Census Bureau, USDA Cross Timbers Park



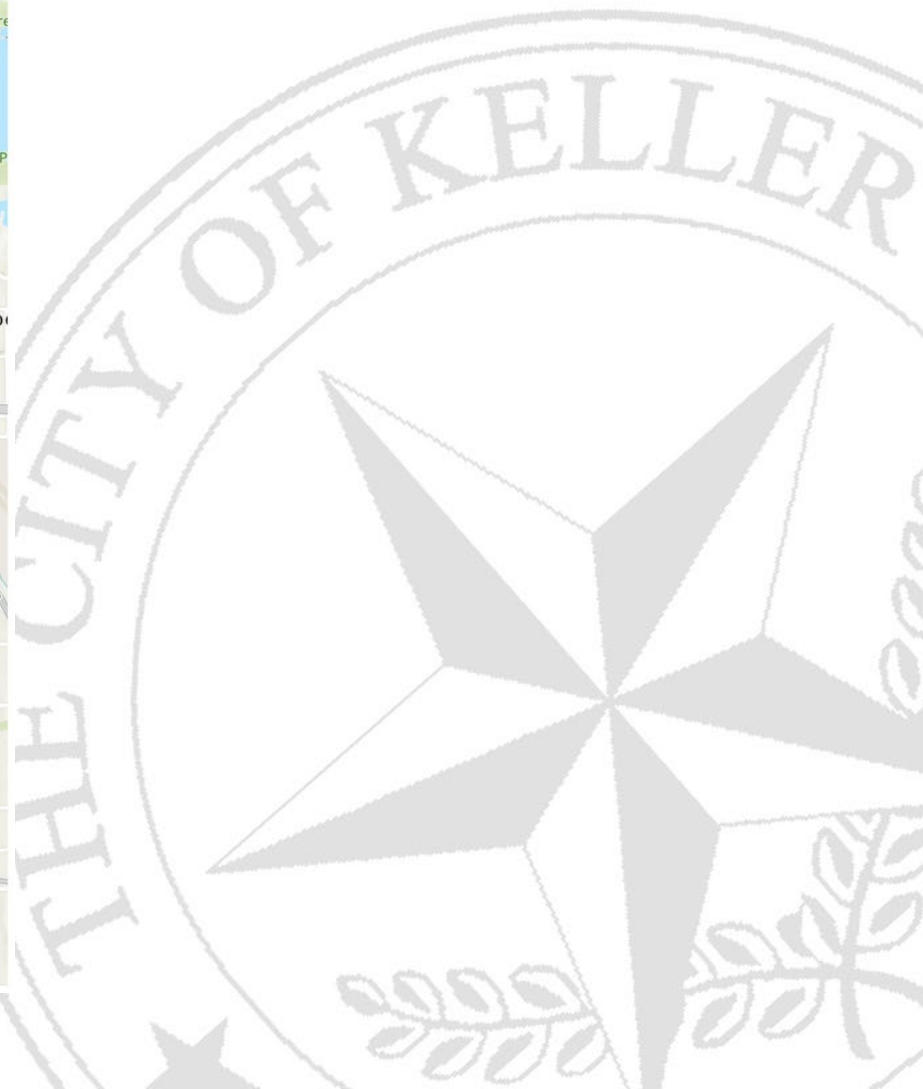
Surrounding Area Shops

Sort

-  CBD
-  Vape and CBD
-  Smoke, Vape, and CBD
-  Smoke and Alcohol



Esri, NASA, NGA, USGS, Tarrant County College, City of Fort Worth, Texas Parks & Wildlife, Esri, HERE, Garmin, SafeGraph, METI/NASA, USGS, EPA, NPS, USDA



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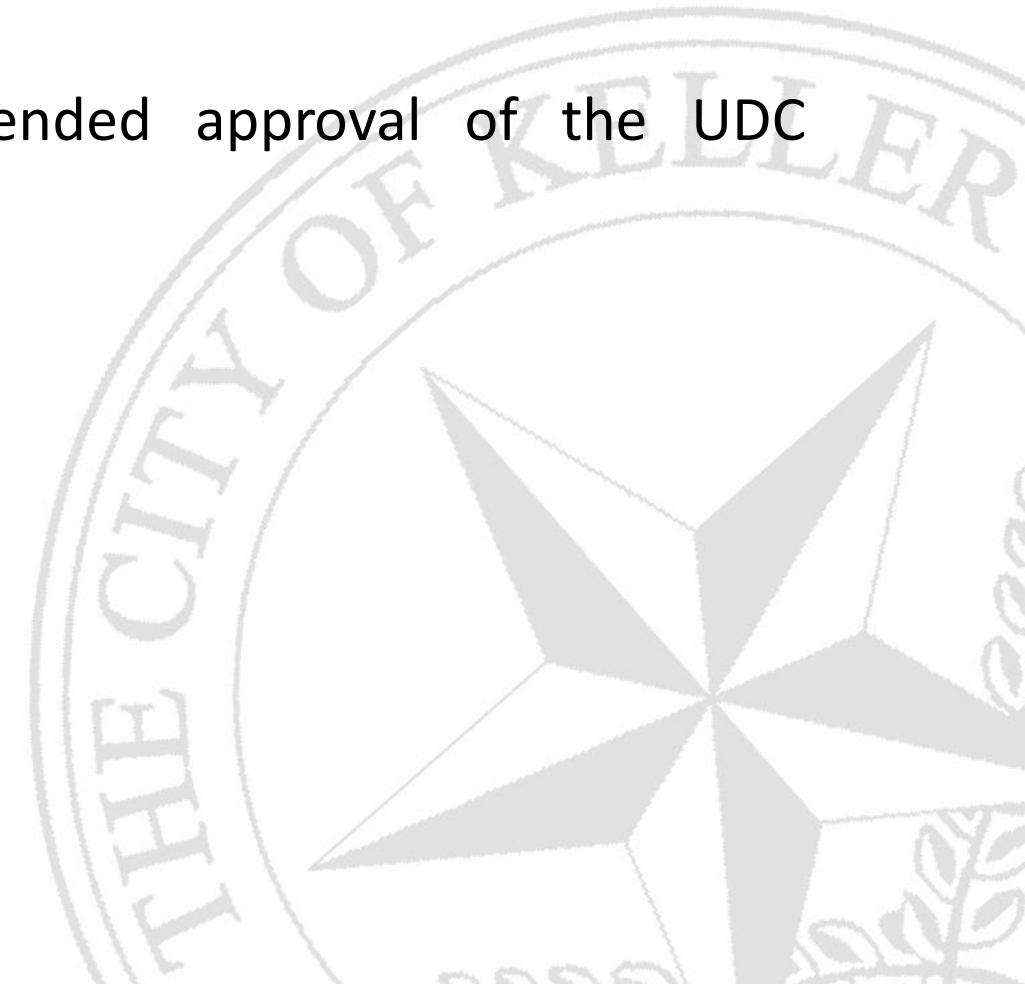
Summary of Proposed Amendments:

1. Definitions for “Consumable Hemp Product (CHP)”, “E-cigarette” and “Retail sales of CHP, tobacco, e-cigarettes or non-traditional smoking-related products.”
2. Adding “retail sales of CHP, tobacco, e-cigarettes and/or non-traditional smoking-related products” to the use charts for the Retail and Commercial zoning districts as a use that may be approved with a Specific Use Permit.
3. Adding language to the Light Industrial zoning district clearly prohibiting “retail sales of CHP, tobacco, e-cigarettes and/or non-traditional smoking-related products.”

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Planning and Zoning Commission Recommendation:

On April 12, 2022, the Commission recommended approval of the UDC amendment as presented by a vote of 7-0.



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The City Council has the following options when considering a Unified Development Code Amendment:

- Approve as presented (Planning and Zoning Commission recommendation)
- Approve with modifications or additional amendment(s)
- Table the agenda item to a specific date with clarification of intent and purpose
- Deny



Questions?

Keller Police Captain Jared Lemoine

817-743-4542

jlemoine@cityofkeller.com

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