

Ordinance No. 05-17

ORDINANCE:

To amend Chapter 13 of the Rockville City Code entitled "Miscellaneous Provisions and Offenses" by adding a new Article II entitled "Smoking and Vaping in Outdoor Serving Areas of Eating and Drinking Establishments"

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE, MARYLAND, that Chapter 13 of the Rockville City Code entitled "Miscellaneous Provisions and Offenses" be amended by adding a new Article II entitled "Smoking and Vaping in Outdoor Serving Areas of Eating and Drinking Establishments" to read as follows:

CHAPTER 13. MISCELLANEOUS PROVISIONS AND OFFENSES

ARTICLE I. RESERVED

ARTICLE II. SMOKING AND VAPING IN OUTDOOR SERVING AREAS OF EATING AND DRINKING ESTABLISHMENTS

Section 13-21. Prohibitions on smoking and vaping in outdoor serving areas.

(a) For the purpose of this section:

Electronic smoking device means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the product. The term includes any such 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.

Food service facility means any enterprise that prepares or sells food or drink for human consumption on or off the premises that is regulated under Chapter 15 of the Montgomery County Code.

Outdoor serving area means a patio, deck, porch, or other outdoor seating or serving area, whether partially enclosed or open to the sky, that is permitted for outdoor eating or drinking under the control of a food service facility.

Smoking or smoke means the act of inhaling, exhaling, burning, lighting, or carrying any lighted or heated cigar, cigarette, hookah, or pipe, or any other lighted or heated tobacco or plant

product intended for inhalation, including marijuana, whether natural or synthetic, in any manner or in any form.

Vaping or vape means the act of using an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in this section.

(b) Smoking and vaping are prohibited in an outdoor serving area.

(c) The owner, manager, or other person in control of a food service facility with an outdoor serving area and the employees of any such person:

- (1) May not knowingly permit any person to smoke or vape or possess any lighted tobacco product where smoking and vaping are prohibited in an outdoor serving area.
- (2) Must refuse to wait upon, serve, seat, or accommodate any person who is smoking or vaping where smoking and vaping are prohibited in an outdoor serving area.
- (3) Must request a person to extinguish any lighted tobacco product or not use electronic smoking device where smoking and vaping are prohibited in an outdoor serving area.
- (4) Must request the person to leave the building or area if the person continues to smoke or vape in an outdoor serving area after the person has been requested to extinguish the lighted tobacco product or not use an electronic smoking device in an outdoor serving area.

(d) A food service facility with an outdoor serving area shall post conspicuous signs regarding the prohibition on smoking and vaping in outdoor serving areas.

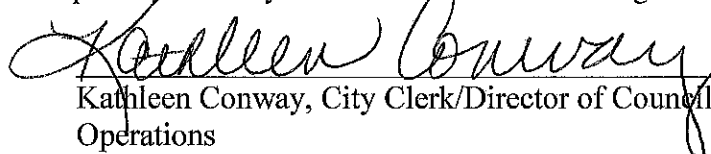
(e) Any officer of the Rockville Police Department is hereby authorized to enforce the provisions of this section 13-21 by issuing a municipal infraction citation.

(f) The provisions of this Section 13-21 are in addition to the provisions of Montgomery County Code Section 24-9 prohibiting smoking and vaping in certain public places.

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NOTE: Underlining indicates material added by this ordinance  
Asterisks \*\*\* indicate material unchanged by this ordinance

I hereby certify that the foregoing is a true and correct copy of an Ordinance adopted by the Mayor and Council at its meeting of May 22, 2017.

  
Kathleen Conway, City Clerk/Director of Council  
Operations