

ORDINANCE NO. 14-23

ORDINANCE: To establish a moratorium until August 31, 2024, on the acceptance, processing, and approval of any application for a building permit or occupancy permit for any commercial or retail uses that devote at least 10% of their floor area to the sale or display of “electronic smoking devices” as that term is defined in Section 13-21 of the Rockville City Code or any floor area to the use of electronic smoking devices by customers or patrons

WHEREAS, national, state, and local health organization, including the Centers for Disease Control and Prevention, the Maryland Department of Health, and the Montgomery County Department of Health and Human Services, have recognized the harmful health effects of e-cigarette or electronic smoking device use, also known as “vaping,” particularly on children, teenagers, and young adults; and

WHEREAS, in response to these recognized health risks, the Montgomery County Council has adopted several laws regulating the distribution, possession, use, and sale of e-cigarettes and other electronic smoking devices, including the establishment of zoning restrictions on commercial establishments classified as “vape shops”: and

WHEREAS, Section 13-21 of the Rockville City Code defines an electronic smoking device as “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”; and

WHEREAS, while Section 13-21 of the Rockville City Code prohibits the use of an electronic smoking device in outdoor serving areas within the City, and while certain County

laws regarding e-cigarettes and vaping apply within the corporate limits of the City of Rockville, the Rockville City Code currently does not specifically regulate the location of commercial or retail establishments devoted to the sale or use of e-cigarettes or electronic smoking devices; and

WHEREAS, the Mayor and Council has directed the City of Rockville Department of Community Planning and Development Services to undertake an examination of the impacts of such commercial or retail establishments on the wider community, particularly on adjacent or nearby residential properties, schools, parks, day-care facilities, houses of worship, and other uses frequented by children, teenagers, and young adults; and

WHEREAS, on March 27, 2023, the Mayor and Council adopted Ordinance No. 05-23 to establish a nine-month moratorium on the acceptance, processing, and approval of any application for a building permit or occupancy permit for any commercial or retail uses that devote at least 25% of their floor area to the sale, display, or use of electronic cigarettes or other electronic smoking devices or products; and

WHEREAS, based on the preliminary analysis of the City's Department of Community Planning and Development Services of this topic, it is the desire of the Mayor and Council to refine and extend the moratorium established by Ordinance No. 05-23 in order for the Department to develop proposals to adequately address the impacts of commercial or retail establishments devoted to the sale or use of e-cigarettes or electronic smoking devices on the wider community, particularly on adjacent or nearby residential properties, schools, parks, day-care facilities, houses of worship, and other uses frequented by children, teenagers, and young adults; and

WHEREAS, pursuant to Article VI, Section 1 of the Rockville City Charter, the Mayor and Council of Rockville has the power to pass all such ordinances as it may deem necessary for,

among other things, the protection and promotion of the health, safety, and welfare of the residents of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE that:

- I. A moratorium is hereby established on the acceptance, processing, and approval of any application for a building permit or occupancy permit for any commercial or retail uses in the City of Rockville that devote at least 10% of their floor area to the sale or display of “electronic smoking devices” as defined in Rockville City Code Section 13-21 or any floor area to the use of electronic smoking devices by customers or patrons (hereinafter referred to as a “Vape Shop”). The Department of Community Planning and Development Services is hereby directed not to accept, process, or approve any building permit or occupancy permit for a Vape Shop until August 31, 2024; and
- II. Ordinance 05-23, adopted by the Mayor and Council on March 27, 2023, is hereby rescinded.

BE IT FURTHER ORDAINED BY THE MAYOR AND COUNCIL OF ROCKVILLE that this ordinance shall be effective immediately upon adoption.

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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 July 31, 2023


Sara Taylor-Ferrell, City Clerk/Director of Council Operations