

..Number

221499

..Version

PROPOSED SUBSTITUTE A

..Sponsor

ALD. BROSTOFF, DIMITRIJEVIC AND BORKOWSKI

..Title

A substitute ordinance relating to a moratorium on the issuance of certificates of occupancy for establishments selling electronic smoking devices or electronic smoking device paraphernalia.

..Section

200-42.5 cr

..Analysis

This ordinance creates a moratorium, until after August 1, 2023, on the issuance of certificates of occupancy, temporary certificates of occupancy, and conditional certificates of occupancy for establishments selling electronic smoking devices or electronic smoking device paraphernalia.

..Body

Whereas, The Common Council finds that the availability and use of electronic smoking devices may have harmful impacts on the welfare of Milwaukee residents; and

Whereas, The Common Council wishes to review the City's existing regulatory structure for establishments selling electronic smoking devices, and to develop revised regulations that better serve the interests of the residents of Milwaukee; and

Whereas, It is therefore appropriate to declare a moratorium on the issuance of certificates of occupancy for new establishments that sell electronic smoking devices or electronic smoking device paraphernalia; now, therefore

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1. Section 200-42 .5 of the code is created to read:

**200-42.5. Certificate Moratorium; Electronic Smoking device Establishments.**

**1. PURPOSE.** The city, in the exercise of its authority to issue certificates of occupancy and the administration and enforcement of its building and zoning regulations, strives to follow certificate-issuance procedures and practices that best meet the needs of the residents of Milwaukee while allowing property owners to make reasonable use of their properties. The city recognizes that a proliferation of establishments selling electronic smoking devices or electronic smoking device paraphernalia, as defined in s. 106.30.2, particularly when concentrated geographically, can have a negative impact on public health, safety and welfare. Therefore, the city finds that an in-depth examination of its regulations for establishments selling electronic smoking devices or electronic smoking device paraphernalia is timely and necessary. For that purpose, a temporary moratorium on the issuance of certificates of occupancy, temporary certificates of occupancy and conditional certificates of occupancy for

establishments selling electronic smoking devices or electronic smoking device paraphernalia is established.

**2. MORATORIUM.** a. General. A moratorium on the issuance of certificates of occupancy, temporary certificates of occupancy and conditional certificates of occupancy for establishments selling electronic smoking devices or electronic smoking device paraphernalia is established commencing on the effective date of this ordinance [city clerk to insert date] and terminating after August 1, 2023.

b. Pending Certificate Applications. An application for a certificate of occupancy that was submitted for approval prior to the effective date of this ordinance shall be reviewed under the existing ordinances in place at the time of application, subject to the requirements and limitations of s. 66.10015, Wis. Stats.

c. Exception. This moratorium shall not apply to establishments where 10% or less of the floor space is dedicated to, or 10% or lesser of the stock-in-trade consists of, electronic smoking devices or electronic smoking device paraphernalia.

..LRB

APPROVED AS TO FORM

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Legislative Reference Bureau

Date: \_\_\_\_\_

IT IS OUR OPINION THAT THE ORDINANCE  
IS LEGAL AND ENFORCEABLE

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Office of the City Attorney

Date: \_\_\_\_\_

..Requestor

..Drafter

LRB177842-2

Gunnar Raasch

1/10/2023