



Legislation Details (With Text)

File #: 221499 **Version:** 1
Type: Ordinance **Status:** Passed
File created: 1/17/2023 **In control:** COMMON COUNCIL
On agenda: **Final action:** 2/7/2023

Effective date:

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.

Sponsors: ALD. BROSTOFF, ALD. DIMITRIJEVIC, ALD. BORKOWSKI, ALD. CHAMBERS JR., ALD. SPIKER, ALD. PEREZ, ALD. STAMPER

Indexes: SMOKING

Attachments: 1. Proposed Substitute A, 2. City Attorney Opinion, 3. Letter in Support -- VARIOUS, 4. Documents Related to Support Letter -- VARIOUS, 5. Hearing Notice List, 6. Motion by Ald Brostoff, 7. Notice published 2/24/2023

Date	Ver.	Action By	Action	Result	Tally
1/13/2023	0	COMMON COUNCIL	ASSIGNED TO		
1/31/2023	0	ZONING, NEIGHBORHOODS & DEVELOPMENT COMMITTEE	RECOMMENDED FOR PASSAGE	Pass	5:0
2/7/2023	0	COMMON COUNCIL	SUBSTITUTED	Pass	12:0
2/7/2023	1	COMMON COUNCIL	PASSED	Pass	12:0
2/15/2023	1	MAYOR	SIGNED		
2/24/2023	1	CITY CLERK	PUBLISHED		

221499

SUBSTITUTE 1

ALD. BROSTOFF, DIMITRIJEVIC, BORKOWSKI, CHAMBERS JR., SPIKER, PEREZ AND STAMPER

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.

200-42.5 cr

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.

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. DEFINITIONS. In this section:

- a. "Electronic smoking retailer" means an establishment selling electronic smoking devices or electronic smoking device paraphernalia that has 10 percent or more of the establishment's floor space dedicated to, or more than 10 percent of the establishment's stock-in-trade consisting of, electronic smoking devices or electronic smoking device paraphernalia.
- b. "Department" means the department of neighborhood services or any department to which the department of neighborhood services' functions or duties under this section have been delegated pursuant to a memorandum of understanding.

3. MORATORIUM. a. General. A moratorium on the issuance of certificates of occupancy, temporary certificates of occupancy, and conditional certificates of occupancy for electronic smoking retailers is established commencing on the effective date of this ordinance [city clerk to insert date] and terminating on August 1, 2023.

b. Pending Certificate Applications. An application for a certificate of occupancy for an electronic smoking retailer that has been 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.

4. ENFORCEMENT. a. Both the department and the police department shall have the authority to inspect any electronic smoking retailer during operating hours and to enforce the provisions of this section.

b. Failure of an establishment to comply with the requirements of this section may constitute grounds for the suspension, revocation or nonrenewal of licenses issued by the city to operate the establishment.

APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

LRB177842-3

Gunnar Raasch

2/6/2023