

ORDINANCE NO. 920

AN ORDINANCE AMENDING THE CODE OF THE CITY OF WESTMINSTER, TO ADD SECTION 106-22, “VAPING PROHIBITED”, TO CHAPTER 106, “PEACE AND GOOD ORDER”, ARTICLE V, “MISCELLANEOUS OFFENSES”, TO PROHIBIT SMOKING OF TOBACCO AND MARIJUANA IN PLACES OF PUBLIC ACCOMMODATION, EXCEPT FOR VAPE SHOPS, LICENSED CANNABIS DISPENSARIES AND OTHER SIMILAR BUSINESSES LAWFULLY ESTABLISHED FOR THE PRIMARY PURPOSE OF ALLOWING INDIVIDUALS TO SMOKE OR VAPE OR TO SAMPLE SMOKING OR VAPING PRODUCTS

WHEREAS, pursuant to the Local Gov’t Art., § 5-206 of the Maryland Annotated Code, the Mayor and Common Council of Westminster (“the City”) has the authority to enact ordinances to assure the good government of the municipality; protect and preserve the municipality's rights, property, and privileges; preserve peace and good order; secure persons and property from danger and destruction; and protect the health, comfort, and convenience of the residents of the municipality; and

WHEREAS, pursuant to Local Gov’t Article, § 5-209(c), the City has the specific authority to prevent and remove nuisances; and

WHEREAS, pursuant to this authority, the City enacted Chapter 106 which prohibits certain specified conduct in certain places; and

WHEREAS, medical studies have shown that exposure to secondhand smoke from tobacco causes illness and disease, including lung cancer, heart disease, and respiratory illness and the Common Council recognizes that smoke from tobacco and other noxious substances poses a grave and substantial threat to the public health, safety and welfare, and causes annoyance and discomfort to many members of the public; and

WHEREAS, the City has an interest in protecting members of the public generally from the adverse impacts of secondhand tobacco smoke and from the annoyance and other adverse impacts of other noxious gases and vapors; and

WHEREAS, the Mayor and Common Council deem the adoption of prohibitions on smoking of tobacco and other potentially noxious substances in places of public accommodation in the City is a necessary and appropriate measure to protect the residents of the City and employees of business establishments in the City from exposure to second-hand smoke.

Section 1. NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and Common Council of Westminster, that Chapter 106, “Peace and Good Order”, Article V, “Miscellaneous Offenses”, be and hereby is amended to add Section 106-22, “Vaping prohibited”, to read as follows:

SEC. 106-22. VAPING PROHIBITED.

A. DEFINITIONS.

1. “SMOKING” HAS THE MEANING GIVEN TO THE TERM IN SECTION 10.19.04.02 OF THE CODE OF MARYLAND REGULATIONS.

2. “VAPING” IS THE HEATING OF NICOTINE, CANNABIS, OR OTHER SUBSTANCES BY MEANS OF A DEVICE THAT VAPORIZES AND RELEASES THE SUBSTANCE INTO THE AIR.

B. PROHIBITED CONDUCT.

1. ~~VAPING~~ SMOKING, VAPING, AND POSSESSING LIGHTED OR IGNITED NICOTINE OR CANNABIS PRODUCTS, IS PROHIBITED IN EVERY PLACE WHERE SMOKING IS PROHIBITED BY STATE OR LOCAL LAW OR REGULATION.

2. A BUSINESS ESTABLISHMENT SHALL NOT PERMIT ANY PERSON TO ENGAGE IN SMOKING OR VAPING IN OR UPON ITS PREMISES IN VIOLATION OF THIS SECTION.

C. EXCEPTION. NOTWITHSTANDING THE PROVISIONS OF SUBSECTION B OF THIS SECTION, SMOKING, VAPING AND POSSESSING LIGHTED OR IGNITED TOBACCO, NICOTINE OR CANNABIS PRODUCTS ARE PERMITTED INSIDE A LAWFULLY ESTABLISHED VAPE SHOP, LICENSED CANNABIS DISPENSARY, OR OTHER SIMILAR BUSINESS ESTABLISHED FOR THE PRIMARY PURPOSE OF PERMITTING PATRONS TO SMOKE OR VAPE OR TO SAMPLE SMOKING OR VAPING PRODUCTS.

D. OTHER LAWS. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED TO AUTHORIZE SMOKING OR VAPING IN VIOLATION OF ANY FEDERAL OR STATE LAW OR REGULATION.

E. VIOLATIONS AND PENALTIES.

1. A PERSON WHO VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF FIFTY DOLLARS (\$50.00).

2. ANY BUSINESS ESTABLISHMENT THAT VIOLATES THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A MISDEMEANOR, PUNISHABLE BY A FINE OF ONE HUNDRED DOLLARS (\$100.00) FOR A FIRST VIOLATION; TWO HUNDRED DOLLARS (\$200.00) FOR A SECOND VIOLATION WITHIN ANY TWELVE-MONTH PERIOD; AND FIVE HUNDRED DOLLARS (\$500.00) FOR EACH ADDITIONAL VIOLATION WITHIN ANY TWELVE-MONTH PERIOD.

3. AN ADDITION TO THE PENALTIES PROVIDED IN SUBSECTION E.2. OF THIS SECTION, MULTIPLE VIOLATIONS OF THIS SECTION BY A BUSINESS ESTABLISHMENT ARE DECLARED TO BE A PUBLIC NUISANCE, WHICH MAY BE ABATED BY THE CITY BY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION, OR OTHER MEANS PROVIDED FOR BY LAW, AND THE CITY MAY TAKE ACTION TO RECOVER THE COSTS OF THE NUISANCE ABATEMENT.

UNDERLINED SMALL CAPS : Indicate matter added to existing law.
~~Double strikethrough~~ : Indicates matter deleted from ordinance after introduction.
Double underlining : Indicates matter added to ordinance after introduction.

Section 2. **BE IT FURTHER ORDAINED** by the Mayor and Common Council of Westminster that this Ordinance shall take effect on July 1, 2020, unless it is returned unsigned by the Mayor at the next meeting of The Mayor and Common Council, together with the Mayor's reasons for withholding his signature therefrom, and is not passed thereafter by the votes of four-fifths of the members of the Common Council, and further provided that it is posted after adoption for not less than two (2) weeks in some conspicuous location in the City Hall and recorded in a book provided for that purpose.

INTRODUCED this 13 day of January, 2020

Shannon Visocsy, City Clerk

PASSED this _____ day of February, 2020

Shannon Visocsy, City Clerk

APPROVED this _____ day of February, 2020

Joe Dominick, Mayor

Approved as to form and legal sufficiency
this _____ day of February, 2020

Elissa D. Levan, City Attorney

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