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**DEVELOPMENT SERVICES
DEPARTMENT**

Jeffrey M. Polkowski, AICP
Director

Dave Hills
*Superintendent of Building
Division*

Scott Alef
CDBG Coordinator

MEMORANDUM

Date: November 27, 2024

To: Honorable Township Board Members
From: Jeffrey M. Polkowski, Director of Development
RE: 2025-Z-004
Establishing a Moratorium on the Approval of New Vape and Smoking Stores

Over the course of several weeks during 2024, the Waterford Township Police Department has identified nineteen of the sixty three vape and smoke shops that violated State law by selling vape products to a person under the age of twenty-one.

In addition to federal and state regulations governing the sale and advertising of tobacco products, the Township has the authority to impose certain local regulations related to the time, place, and manner of such businesses. The Centers for Disease Control (CDC) has raised concerns about the health impacts of tobacco and e-cigarette use, particularly among youth and young adults. In response to these concerns, the Township Board seeks to establish regulations that prioritize public health and safety while addressing the growing presence of vape and smoking stores within the Township.

This proposed moratorium would impose a temporary suspension on the acceptance of applications for site plan approval and business registration for new vape and smoking stores in Waterford Township. This moratorium will allow Township Staff and the Township Attorney ample time to draft potential amendments to the Township's Zoning Ordinance and Code of Ordinances regarding the location and regulation of such establishments.

The proposed definition of vape and smoking shops to be considered for this moratorium is as follows:

VAPE AND SMOKING STORE. A retail establishment in which articles for sale are primarily limited to a range of tobacco or other nicotine related products and/or paraphernalia for the administration of tobacco or other nicotine related products. To complement such items these establishments may also include the limited retail sale of food and drink items.

By imposing this moratorium, Waterford Township will be able to take the necessary time to make informed decisions regarding regulations that are in the best interest of the community.

Planning Commission Recommendation and Findings

The Planning Commission reviewed this proposed zoning ordinance amendment and resolution at the regularly scheduled meeting on November 27, 2024, and resolved unanimously to forward a favorable recommendation to the Township Board.

Motions

Based upon the Planning Commission's favorable recommendation at the November 27, 2024 regular meeting of the Planning Commission, should the Board want to consider adopting the zoning ordinance amendment, the appropriate motion would be to introduce the attached Ordinance and schedule it for possible adoption at the January 13, 2025 meeting. However, if the Board does not want to adopt the zoning ordinance amendment, the appropriate motion would be to not introduce the ordinance and deny the zoning amendment.

In addition to the proposed zoning ordinance amendment, it is recommended that the Board of Trustees adopt a resolution imposing a six-month moratorium on accepting applications for site plan approval and business registration for new vape and smoking stores within the Township. This moratorium will end either after six months or when repealed by the Board, whichever occurs first. During this period, the Board, Planning Commission, and relevant staff will review and recommend potential zoning and ordinance amendments to address public health, safety, and welfare concerns. Property or business owners affected by the moratorium may request a hearing within 45 days to demonstrate that it prevents viable economic use of their property or violates state or federal law. If the Board determines the request is valid, relief from the moratorium may be granted.

Please let me know if you have any questions prior to the meeting.

STATE OF MICHIGAN
COUNTY OF OAKLAND
CHARTER TOWNSHIP OF WATERFORD
ORDINANCE NO. 2025-Z-004

TEXT AMENDMENT TO ZONING ORDINANCE

An Ordinance to amend Waterford Township Zoning Ordinance No. 135-A (“Zoning Ordinance”) for the purpose of adding a definition and to impose a temporary moratorium on applications.

THE CHARTER TOWNSHIP OF WATERFORD ORDAINS:

Section 1 of Ordinance

The definition of Vape Shop shall be added to Section 1-007 of the Zoning Ordinance to read as follows:

VAPE AND SMOKING STORE. A retail establishment in which articles for sale are primarily limited to a range of tobacco or other nicotine related products and/or paraphernalia for the administration of tobacco or other nicotine related products. To complement such items these establishments may also include the limited retail sale of food and drink items.

Section 2 of Ordinance

The Board of Trustees has imposed a temporary moratorium on applications under Section 4-004 of the Zoning Ordinance for site plan review of Vape and Smoking Shops for a period of six (6) months, or as may be extended, in order to review and consider possible necessary regulations.

Section 3 of Ordinance

All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect, and the Waterford Township Code of Ordinances shall remain in full force and effect, amended only as specified above.

Section 4 of Ordinance

If any section, clause or provision of this Ordinance shall be declared to be unconstitutional, void, illegal or ineffective by any Court of competent jurisdiction, such section, clause or provision declared to be unconstitutional, void or illegal shall thereby cease to be a part of this Ordinance, but the remainder of this Ordinance shall stand and be in full force and effect.

Section 5 of Ordinance

All proceedings pending and all rights and liabilities existing, acquired, or incurred at the time this Ordinance takes effect are saved and may be consummated according to the law in force when they were commenced.

Section 6 of Ordinance

The effective date of this Ordinance shall be on the 8th day after publication, or a later date as provided in the Michigan Zoning Enabling Act for when a petition for voter referendum on this Ordinance and/or a notice of intent to submit such a petition is timely filed with the Township Clerk.

CERTIFICATION

I certify that this Zoning Ordinance Text Amendment was adopted by a majority vote of the members of the Board of Trustees of the Charter Township of Waterford at a meeting duly called and held on _____, 2024.

Date

Kimberly Markee, Township Clerk

CHARTER TOWNSHIP

RESOLUTION ESTABLISHING A MORATORIUM ON THE APPROVAL OF NEW VAPE AND SMOKING STORES WITHIN WATERFORD TOWNSHIP

WHEREAS, the Charter Township Act, Public Act 359 of 1947, MCL 42.15 authorizes a township board to enact ordinances necessary to provide for the health and safety of people within the Township.

WHEREAS, the Township currently has approximately nineteen retail establishments that primarily sell only a limited range of tobacco or other nicotine related products and/or paraphernalia for the administration of tobacco or other nicotine related products.

WHEREAS, the Center for Disease Control, (“CDC”) states on its website www.cdc.gov that no tobacco products, including e-cigarettes are safe and that e-cigarettes should not be used by youth, young adults, or women who are pregnant. The CDC also states that in 2021, 61.4% of adults 18-24 years of age reported they have vaped.

WHEREAS, there are several federal and state laws, which regulate the sale and advertising of tobacco products, however, there are certain time, place, and manner regulations a municipality may put in place.

WHEREAS, the Board of Trustees finds that it is beneficial to the health and safety of its residents to consider standards to regulate the location of and advertising by new vape and smoking stores as well as determine if there are other appropriate legally permissible regulations for new vape and smoking stores that wish to locate within the Township.

WHEREAS, the Board of Trustees finds that it is in the public interest to impose a temporary moratorium on applications for site plan approval under the Zoning Ordinance for vape and smoking stores in order to review and consider necessary regulations.

BE IS RESOLVED, by the Waterford Township Board of Trustees that a moratorium be imposed barring the acceptance of applications for site plan approval and business registration for new vape and smoking stores to locate within the Township for a period of six (6) months, or the date that the Board of Trustees repeals this Resolution, whichever occurs first.

BE IT FURTHER RESOLVED, that during the 6-month moratorium, or any extension thereof, the Board of Trustees, along with the Planning Commission and appropriate staff and consultants, shall attend to reviewing and making recommendations on amendments to the Zoning Ordinance and Code of Ordinances, considering the public health, safety, and welfare of its residents, and if amendments are determined to be necessary, preparing and recommending such amendments for consideration by the Board of Trustees.

BE IT FURTHER RESOLVED, that an aggrieved property owner or business owner may request and be entitled to a hearing by the Board of Trustees for the purpose of attempting to

demonstrate that the moratorium will preclude all viable economic use of their property or otherwise violate applicable provisions of state or federal law. Said petitioner shall, in writing and directed to the Township Clerk, request a hearing that describes the grounds of the request. The hearing shall be held during a Board of Trustee meeting within forty-five (45) days of receipt of the request. Upon concluding the hearing, the Board of Trustees shall determine whether the petitioner has made the required demonstration and if so, shall grant relief from the moratorium.

BE IT FURTHER RESOLVED, that notice of this Resolution shall be posted at the Township Hall and on the Township website throughout the moratorium period, or any extension granted herein.

CERTIFICATION

I hereby certify that this Resolution was adopted by the Charter Township of Waterford Board of Trustees at a regular meeting on _____.

Charter Township of Waterford

Date

Kimberly Markee, Township Clerk