

**CITY OF UNION, KENTUCKY  
ORDINANCE NO. 2024-09**

**AN ORDINANCE OF THE CITY OF UNION, KENTUCKY REGULATING SMOKING/VAPE  
RETAIL STORES IN THE CITY OF UNION, KENTUCKY**

**WHEREAS**, according to the Centers for Disease Control and Prevention (CDC), smoking is the leading cause of preventable death in the U.S.; and

**WHEREAS**, according to the CDC, if cigarette smoking continues at the current rate among youth in the U.S. 5.6 million of today's Americans younger than 18 will die early from a smoking-related illness. That's about 1 of every 13 Americans aged 17 years or younger who are alive today; and

**WHEREAS**, according to the CDC, electronic smoking devices (e-cigarettes) entered the U.S. Marketplace around 2007, and since 2014, they have been the most commonly used tobacco product among U.S. youth. E-Cigarette use by Kentucky 10<sup>th</sup> graders doubled between 2016 and 2018, from 11.7% to 23.2%, and in 2019, increased again to 27.5%; and

**WHEREAS**, products using an “e-liquid” usually contain nicotine derived from tobacco as well as flavorings, propylene glycol, vegetable glycerin, and other ingredients and the liquid is heated to create an aerosol that is inhaled; and

**WHEREAS**, there are no safe tobacco products, including but not limited to: Vapes, vaporizers, vape pen, hookah pens, electronic cigarettes (e-cigarette or e-cigs), e-cigars, and e-pipes (Electronic Nicotine Delivery Systems).

**WHEREAS**, youth who use e-cigarettes are twice as likely to take up smoking traditional cigarettes and addiction to nicotine may also increase the likelihood of addiction to other substances in the developing adolescent brain; and

**WHEREAS**, a high density of tobacco retailers has been associated with increased smoking rates, particularly among youth; and

**WHEREAS**, the density and proximity of tobacco retailers influence smoking behaviors, including number of cigarettes smoked per day; and

**WHEREAS**, adults who smoke have a harder time quitting when residential proximity to tobacco retailers is smaller and density is higher; and

**WHEREAS**, tobacco retailer location and density also heavily contribute to social inequities as retailers are more prevalent in lower-income areas and communities in which a greater percentage of residents identify as African American or Hispanic, which perpetuates disparities in tobacco use and associated negative health effects; and

**WHEREAS**, there are laws that prevent the sale of product to minors but there are no specific regulations in place to limit the retail locations and their efforts to appeal to minors; and

**WHEREAS**, policies and regulations to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers; and

**WHEREAS**, to date there has been no e-cigarette approved as a cessation device or authorized to make

modified risk claims; and

**WHEREAS**, the FDA is committed to protecting the public health of the United States Population while regulating an addictive product that carries health risks.

**WHEREAS**, given the public health impacts related to smoking and the rise of vaping and e-cigarette use Union City Commission desires to regulate businesses that sell such products and determine the appropriate locations for such businesses.

**WHEREAS**, The FDA has received reports from the public about safety problems associated with vaping products including overheating, fires and explosions, lung injuries and seizures and other neurological symptoms.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY OF UNION, KENTUCKY as follows:**

### **SECTION I – DEFINITIONS**

**Smoking/Vape Retail Store** – A store which is engaged in the primary sale of tobacco, tobacco products and/or Electronic Nicotine Delivery Systems (ENDS)

**Electronic Nicotine Delivery Systems (ENDS)** - Vapes, vaporizers, vape pen, hookah pens, electronic cigarettes (e-cigarette or e-cigs), e-cigars, and e-pipes

### **SECTION II – PERMITTED USE WITH STANDARDS FOR SMOKING/VAPE RETAIL STORES**

A. No Smoking/Vape Retail Store shall be located within one thousand (1,000) feet of the boundary of any parcel occupied by any of the following uses (as measured in a straight line from parcel boundary to parcel boundary);

1. Public or private early childhood, elementary, middle or high school
2. Public and/or private Park
3. Public Playground
4. Community Center
5. Day Care Center
6. Athletic Facility (Indoor and Outdoor)

B. No Smoking/Vape Retail Store shall be located within six hundred (600) feet of a site occupied by another Smoking Retail Store as measured in a straight line from parcel boundary to parcel boundary.

C. The hours of operation for a Smoking/Vape Retail Store shall be no earlier than six (6) A.M. And no later than ten (10) P.M., seven (7) days a week.

### **SECTION III**

It is understood that there are retail stores located within the above referenced distance restrictions which sell tobacco products as an accessory use which generate less than 25% of the stores' gross sales as a result of the sale of tobacco products. In that event that store would be exempt from the distance restrictions set forth hereinabove as long as the store does not provide a smoking area within the store and does not sell Electronic Nicotine Delivery Systems (ENDS).

### **SECTION IV**

This Ordinance supersedes any and all zoning regulations currently in effect and any zoning

regulations adopted subsequent hereto.

**SECTION V PENALTY**

The following penalties shall apply to violations of the ordinance:

Any person, firm, or corporation who violates any provision of this ordinance shall be subject to a civil fine of not less than \$100 per day per violation but not more than \$500 per day per violation. Each day that a violation of this ordinance continues shall be deemed a separate offense.

**SECTION VI**

If approval for this Ordinance shall be held invalid, in whole or in part, by any court of proper jurisdiction, such invalidity shall not affect the validity of any of the other provisions as they are severable from this Ordinance and they are intended to have effect regardless of any invalidity relating to this particular Ordinance.

**SECTION VII**

This Ordinance shall take effect upon its passage and approval.

**SECTION VIII**

Publication of this Ordinance is hereby authorized to be by summary publication in accordance with Kentucky Law.

**FIRST READING:** May 20, 2024

**SECOND READING:** May 21, 2024

**APPROVED:**

  
HON. LARRY K. SOLOMON, MAYOR

**ATTEST:**

  
TAMMY WILHOITE, CITY CLERK

**AYES:** 4

**NAYES:** 0

**ABSTAIN:** 0

**PUBLISHED:** \_\_\_\_\_