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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director Legislative Policy Division

DATE: October 3, 2025 

RE: Questions on Detroit Ordinances and Policies Regarding the Use of Vape Products

The Legislative Policy Division has been requested by Council Member Mary Waters to provide answers to the following questions regarding existing policies and regulations related to the use of nicotine vape products:

Does the City of Detroit code treat the use of so-called ‘vape’ products the same way as it treats regular tobacco products?

The 2019 Detroit City Code does not regulate vape products in the same way as tobacco products. The Code currently defines tobacco products as “any cigarette, cigar, non-cigarette smoking tobacco, or smokeless tobacco as defined in Section 2 of the Michigan Tobacco Products Tax Acts, being MCL 205.422.”¹ “Smokeless tobacco” under the Michigan Tobacco Products Tax Acts “means snuff, snus, chewing tobacco, moist snuff, and any other tobacco that is intended to be used or consumed, whether chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested, by any means other than smoking or combustion.”²

Since nicotine vapes do not contain tobacco, they do not appear to fit within the definition of a tobacco product under the ordinance. When City Council passed an ordinance in March of 2025 banning marijuana and vaping advertisements near City schools and playgrounds, it added a definition for

¹ 2019 Detroit City Code, Chapter 4, Article I, Section 4-1-1.

² MCL 205.422.

“electronic nicotine delivery system[s],” which are defined as “products which are designed to deliver nicotine, flavorings and other additives to the use via an inhaled aerosol including but not limited to vapes, vaporizers, vape pens, hookah pens, electronic cigarettes, electronic pipes, hookahs, and pipes.”³

The term “electronic nicotine delivery system” does not appear within the various provisions of the Code regulating tobacco products.⁴ Michigan state law also specifically refers to nicotine vapes alongside tobacco products, which demonstrates that they do not fall under the general definition of tobacco products. For example, the Youth Tobacco Act provides that “[a] person shall not sell, give, or furnish a tobacco products, vapor products, or alternative nicotine product to a minor...”⁵ Therefore, nicotine vapes are not treated the same as tobacco products under the Detroit City Code or state law.

Is there a difference between how the City of Detroit treats the use of ‘vapes’ versus the use of tobacco products?

As stated in response to the previous question, the Detroit City Code only regulates electronic nicotine delivery systems in the recent ordinance prohibiting vape products from being advertised near City schools and playgrounds. Other references in the Code regulating tobacco products do not include vapor products.

Does the City of Detroit currently have regulations that prohibit the use of ‘vape’ products on city-owned property?

The Detroit City Code does not prohibit the use of vape products on city-owned property generally. Notably, Michigan’s Smoke-Free Indoor Air Law, which prohibits smoking in certain public places, has not been updated to include vape products.⁶ This may be because the Smoke-Free Indoor Air Law was intended to protect members of the public against secondhand smoke, which has been proven to have harmful effects on health. While some studies have found that there may be a correlation between exposure to secondhand aerosol vapor and certain negative health effects, there do not appear to be any broad consensus among researchers.⁷

The Code prohibits individuals from smoking any substance, including an “e-cigarette” on streetcars or at streetcar stations.⁸ Smoking on City busses is prohibited, however the Code provision does not include e-cigarettes.⁹

If there are currently prohibitions on the usage of ‘vapes’ on city-owned property, does that include the interior of buildings only, or does it extend to outside spaces and places such as parks?

There is currently no general prohibition in the Detroit City Code on the use of vapes on City-owned property. State law prohibits the use of tobacco products in a “public place” which is defined as:

³ 2019 Detroit City Code, Chapter 4, Article I, Section 4-1-1.

⁴ See for example Chapter 29, Article III, Division 4; Chapter 11, Article I; Chapter 19, Article III, Division 4; Chapter 47, Article II, Division 1, Section 47-2-2; Chapter 47, Article IV, Section 47-4-7.

⁵ MCL 722.641.

⁶ MCL 333.12601 *et seq.*

⁷ Islam T, Braymiller J, Eckel SP, Liu F, Tackett AP, Rebuli ME, Barrington-Trimis J, McConnell R. Secondhand nicotine vaping at home and respiratory symptoms in young adults. *Thorax*. 2022 Jul;77(7):663-668. doi: 10.1136/thoraxjnl-2021-217041. Epub 2022 Jan 10. PMID: 35013000; PMCID: PMC9203939.

⁸ 2019 Detroit City Code, Section 47-8-24.

⁹ *Id.* Section 47-2-2.

- (i) An enclosed, indoor area owned or operated by a state or local governmental agency and used by the general public or serving as a meeting place for a public body, including an office, educational facility, home for the aged, nursing home, county medical care facility, hospice, hospital long-term care unit, auditorium, arena, meeting room, or public conveyance.
- (ii) An enclosed, indoor area that is not owned or operated by a state or governmental agency, is used by the general public, and is any of the following:
 - a. An educational facility
 - b. A home for the aged, nursing home, county medical care facility, hospice, or hospital long-term care unit
 - c. An auditorium
 - d. An arena
 - e. A theater
 - f. A museum
 - g. A concert hall
 - h. Any other facility during the period of its use for a performance or exhibit of the arts.¹⁰

If there are currently prohibitions, what are the current penalties for violators?

The only current prohibition on smoking vape products is Section 47-8-24 which prohibits the use of e-cigarettes on streetcars or the streetcar system. Violators may be issued a misdemeanor pursuant to 47-1-2 of the Code.

If there are not any prohibitions currently in statute, what would need to happen to establish explicit prohibitions for members of the public to prevent them from utilizing such ‘vape’ products inside, around, or on city-owned properties, including recreational centers and parks?

As stated above, there are no broad prohibitions on vaping in public places under Michigan law. To the extent vape products are regulated, it is related to prohibitions on selling products to minors and minors possessing vape products.¹¹ The City may pass an ordinance or ordinances that prohibit the use of “electronic nicotine delivery systems.” This could mirror the locations covered by the Michigan Smoke-Free Indoor Air Law, or it could potentially go further to cover additional areas in the interest of protecting the public from secondhand exposure to nicotine vapor.

¹⁰ MCL 333.12601

¹¹ MCL 722.641 & MCL 722.642.