

**ORDINANCE NO. 5965**  
**AN ORDINANCE OF THE CITY OF GLENDALE, CALIFORNIA**  
**AMENDING SECTIONS 5.94.020 AND 5.94.150 AND ADDING SECTION 5.94.160 TO THE**  
**GLENDALE MUNICIPAL CODE, 1995, BANNING THE SALE OF FLAVORED TOBACCO**  
**PRODUCTS**

**WHEREAS**, pursuant to the City of Glendale's police power, as granted under Article XI, section 7 of the California Constitution, the City Council of the City has the authority to enact and enforce ordinances and regulations for public health, safety and welfare; and

**WHEREAS**, based upon its concerns about the sale of and effects of the use of tobacco products, the City Council of the City of Glendale has previously adopted Glendale Municipal Code Chapter 5.94 – Tobacco Retailers, and Chapter 8.52 – Smoking; and

**WHEREAS**, approximately 480,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and

**WHEREAS**, documents obtained during litigation against the tobacco industry reveal that tobacco companies have used fruit, candy, and alcohol flavors for electronic smoking devices as a means to target youth. Tobacco industry documents stated that "sweetness can impart a different delivery taste dimension which younger adults may be receptive to," that "[i]t's a well known [sic] fact that teenagers like sweet products," and that flavored products would have appeal "in the under 35 age group, especially in the 14-24 group."; and

**WHEREAS**, marketing and public health research shows that flavors such as fruit, candy, and alcohol hold an intense appeal to minors and young adults; and

**WHEREAS**, the City Council has a substantial interest in protecting young people from the harms of tobacco use, curtailing their introduction to tobacco products and reversing the trend of young people using flavored tobacco products; and

**WHEREAS**, while neither federal nor California state laws restrict the sale of menthol cigarettes despite their characterizing flavor, the Tobacco Products Scientific Advisory Committee Report to the FDA noted that menthol cigarettes were used by adolescents at a higher rate than any other age group and their removal from the marketplace would benefit public health; and

**WHEREAS**, the City Council recognizes those dangers of menthol cigarettes to public health and desires to ban menthol cigarettes in the City of Glendale alongside other flavored tobacco products; and

**WHEREAS**, hookah smoking is part of a cultural tradition for many Glendale residents, hookah pipes and their components are generally too large to be concealed, and

hookah tobacco is only useable in a hookah pipe—accordingly the City Council agrees to exempt hookah tobacco from the ban on flavored tobacco products; and

**WHEREAS**, pursuant to its police powers, the City has authority to regulate the sale of flavored tobacco products in the City; and

**WHEREAS**, in order to protect public health, safety, and welfare, the City Council desires to adopt an ordinance which will prohibit the sale of flavored tobacco products.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GLENDALE, CALIFORNIA, DOES ORDAIN AS FOLLOWS:**

**SECTION 1. Recitals.** The City Council finds that all of the facts, findings, and conclusions set forth above in this Ordinance are true and correct and hereby incorporate them by this reference. The adoption of this Ordinance is therefore necessary for the immediate protection of the public safety, health and welfare.

**SECTION 2.** Section 5.94.020 of the Glendale Municipal Code, 1995, entitled "Definitions," is hereby amended to read as follows:

**5.94.020 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them unless otherwise noted:

"Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market, between two (2) informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies, partners, corporate or other entities which have some or all of the same directors and/or principals, or any sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.

"Characterizing flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice. Characterizing flavor includes flavor in any form, mixed with or otherwise added to any tobacco product or nicotine delivery device, including electronic smoking devices.

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains: (a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (b) tobacco in any form, that is functional in the product, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (c) any roll of tobacco wrapped in any substance containing tobacco, which because of its appearance, the type of tobacco

used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in this section.

"Cigarette" also includes "roll-your-own" tobacco, meaning tobacco, which because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as tobacco for making, cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one (1) individual "cigarette."

"Electronic smoking device" means any device that uses electricity to heat or deliver nicotine or other substances, whether natural or synthetic, to the person inhaling from the device, including but not limited to electronic cigarettes, electronic cigars, electronic pipes, electronic hookahs, or vaping devices, commonly known as "E-cigarettes".

"Flavored tobacco product" means any tobacco product, as defined in this Chapter, which imparts a characterizing flavor.

"Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"Premium Cigar" means any cigar that is handmade, is not mass produced by use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, and has a wholesale price of no less than twelve dollars (\$12). A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten (10) percent or greater interest in the stock, assets or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share, ultimate control over the day-to-day operations of a business.

"Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, including hookahs, holders of smoking materials of all types, cigarette rolling machines, electronic smoking devices, and any other item, component, part, or accessory, designed for the smoking or ingestion of tobacco or tobacco products, whether or not sold separately.

"Tobacco product" means (1) any product containing, made, or derived from tobacco or nicotine, whether natural or synthetic, that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, chewing tobacco, pipe tobacco and snuff; or (2) any electronic smoking device, regardless of whether it contains any tobacco or tobacco byproducts. "Tobacco product" does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration for use in treating nicotine or tobacco dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, in public view, tobacco, tobacco products, electronic smoking devices and products, or tobacco paraphernalia. Any person who distributes free or low cost samples of tobacco products or tobacco paraphernalia shall be deemed to be a tobacco retailer under this chapter.

"Use or consumption of tobacco products" means and includes the exercise of any right or power over cigarettes incident to the ownership thereof other than the sale of the cigarettes or the keeping or retention thereof for the purpose of sale.

"Youth decoy" means a person under the age of eighteen (18), but not younger than fifteen (15), who is used by the police department to conduct random onsite sting investigations to determine compliance with tobacco retailing laws.

**SECTION 3.** Section 5.94.150 of the Glendale Municipal Code, 1995, entitled "Compliance monitoring and enforcement," is hereby amended to read as follows:

**5.94.150 Compliance monitoring and enforcement.**

A. The provisions of this chapter shall be enforced by the Glendale police department, neighborhood services inspectors and code enforcement personnel, and permit investigators. Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco and is complying with the ban on selling, offering for sale, or possession with the intent to sell flavored tobacco products. In addition to the enforcement powers established in section 5.04.210 of this code, all police officers and persons charged with the duty of enforcement of this chapter shall have and exercise the power:

1. To conduct investigations and unannounced compliance checks; and to issue warning notices and provide such educational materials that will result in compliance.

2. To enter, free of charge or restriction, at any time, any place of business for which a permit is required by this chapter, and to demand the exhibition of such permit for the current term by any person engaged or employed in the transaction of such business; and if such person shall then and there fail to exhibit such permit, such person shall be liable to the penalty provided for a violation of chapters 5.04 and 5.08

B. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or equity:

Whenever evidence of a violation of this chapter is obtained, in part, through the participation of a youth decoy supervised by a peace officer, the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented. Upon learning of any violation of this chapter or upon learning of any threat to violate or to continue to violate this chapter, the city manager may, with the approval of the city council, direct that an action be brought in the name of the city to enjoin the violation or continued violation of this chapter.

C. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

**SECTION 4.** Section 5.94.160 is hereby added to the Glendale Municipal Code, 1995, regarding the prohibition of sale of flavored electronic smoking products.

**5.94.160 Sale of flavored tobacco products prohibited.**

A. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees, to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored tobacco product or any component, part, or accessory intended to impart, or imparting a characterizing flavor in any form, to any tobacco product or electronic smoking device. This paragraph shall not apply to hookah tobacco in a form that may only be used in a non-electronic hookah pipe or water pipe. This paragraph shall not apply to premium cigars.

B. There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored tobacco products, including but not limited to any components, parts, or accessories intended to impart, or imparting, a characterizing flavor in any form to any tobacco product or electronic smoking device, possesses such flavored tobacco products with intent to sell or offer for sale. "Presumption", as used in this Chapter, means that the court must find the existence of the facts presumed unless and until its nonexistence is proven by a preponderance of the evidence.

C. There shall be a rebuttable presumption that a tobacco product is or contains a flavored tobacco product if a retailer, manufacturer, or any employee or agent of a retailer or manufacturer:

1. Makes or disseminates a public statement or claim to the effect that the tobacco product imparts a characterizing flavor; or
2. Uses text and/or images on the tobacco product's labeling or packaging that explicitly indicate that the tobacco product imparts a characterizing flavor.

**SECTION 5.** The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act ("CEQA") and, therefore, an environmental review is not required under Section 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]; Section 15060(c)(3) [the activity is not a project as defined in Section 15378]; and Section 15061(b)(3)[no possibility exists that the activity in question may have a significant effect on the environment] of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the ordinance:

1. Has no potential for resulting in physical change to the environment, directly or indirectly; and
2. Prevents changes in the environment.


**SECTION 6. Severability.** This Ordinance's provisions are severable. If any portion of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional, that decision does not affect the validity of the Ordinance's remaining portions and the Ordinance's application to other persons and circumstances. The City Council declares that it would have passed the remainder of this Ordinance without the invalid or unconstitutional provision.

**SECTION 7. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage.

Adopted by the Council of the City of Glendale on the 27th day of April, 2021.



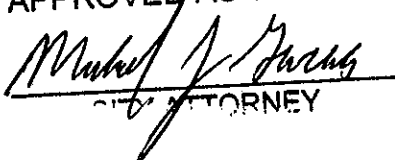
Mayor

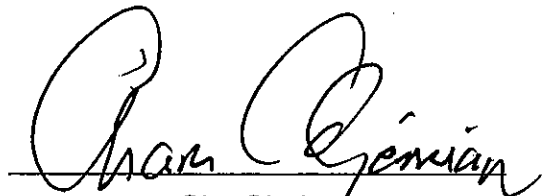
ATTEST:  
  
City Clerk

STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES) SS.  
CITY OF GLENDALE )

I, Aram Adjemian, City Clerk of the City of Glendale, hereby certify that the foregoing Ordinance was adopted by the Council of the City of Glendale, California, at a regular meeting held on the 27th day of April, 2021, and that the same was adopted by the following vote:

Ayes: Agajanian, Brotman, Kassakhian, Najarian, Devine  
Noes: None  
Absent: None  
Abstain: None

APPROVED AS TO FORM  
  
CITY ATTORNEY

  
City Clerk



**CITY OF GLENDALE, CALIFORNIA  
REPORT TO THE SPECIAL CITY COUNCIL**

**AGENDA ITEM**

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Consideration of Ordinance to Ban Sale of Flavored Tobacco Products in the City of Glendale.

1. Ordinance for Introduction Amending Section 5.94.020 and 5.94.150, and Adding Section 5.94.160 Related to Banning the Sale of Flavored Tobacco Products

**COUNCIL ACTION**

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**Item Type:** Action

**Approved for** April 20, 2021 **calendar**

**ADMINISTRATIVE ACTION**

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**Submitted by:**

Philip S. Lanzafame, Director of Community Development

**Prepared by:**

Ani Garibyan, Planning Associate

**Reviewed by:**

Michele Flynn, Director of Finance

Michael J. Garcia, City Attorney

**Approved by:**

Roubik R. Golanian, P.E., City Manager

## **RECOMMENDATION**

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Staff recommends that Council introduce an ordinance to ban the sale of flavored tobacco products.

## **BACKGROUND/ANALYSIS**

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At the October 1, 2019 Glendale City Council Meeting, the Council brought forth the concern regarding flavored electronic tobacco products, specifically on how these products entice youth to begin vaping. Council also discussed the multiple deaths that are believed to be linked to vaping, and how local cities are considering banning flavored vaping products. Council asked staff to conduct further research and produce recommendations.

At the January 21, 2020 City Council meeting, based on the report provided by Community Development, City Council unanimously moved to direct staff to return with a draft ordinance to ban the sale of flavored electronic smoking products.

On August 28, 2020, California State Senate Bill 793 Flavored Tobacco Products was signed into law to take effect January 1, 2021, prohibiting the sale of flavored tobacco products or tobacco product flavored enhancers. This does not apply to flavored hookah tobacco products, premium cigars or loose leaf tobacco. As a result, Council directed staff to postpone bringing forward the proposed ordinance to avoid redundancy or conflict with State laws. This law has since been postponed due to a referendum brought forward by the tobacco industry and will be reintroduced on the November 2022 election ballot. As a result, the item is returning to City Council for consideration of independent action. Action taken regarding this item will not conflict with future legislation.

At the February, 16, 2021 meeting, City Council asked staff to draft an ordinance that would amend sections 5.94.020 and 5.94.150 and add section 5.94.160 to the Glendale Municipal Code, 1995, expanding the proposed ban on the sale of flavored electronic smoking products to include the sale of combustible, flavored tobacco products including menthol, but excluding traditional hookah and premium cigars.

### **Background**

Electronic smoking devices, also known as e-cigarettes, are electric or battery-operated devices that people use to inhale an aerosol or vapor, using heated liquid or cartridges. These cartridges contain nicotine, flavors and other chemicals. Traditional cigarettes contain tobacco, whereas electronic smoking devices and products do not. Yet both still contain other similar chemicals that can cause potential health issues.



The City of Glendale's Municipal Codes 9.10.020 and 30.10.070, already prohibit the dispensing, cultivating, processing, and delivering/distributing marijuana or THC products. This would include any marijuana or THC based vaping product. As such, there is no recommended action related to vaping products containing THC in the draft ordinance.

### **Other Jurisdiction and Agency's Actions**

In 2016, the Food and Drug Administration (FDA) adopted restrictions and provisions on manufacturers and retailers. As of August 8, 2016, it became illegal to sell electric smoking devices and products to people younger than 18 years of age. Retailers are also responsible for requiring age verification from those under the age of 27. Additionally, the FDA has banned the distribution of free tobacco product samples as well as sales in vending machines, except for in strictly adult-only facilities.

In November, 2019, the State of California sued Juul Labs, the largest and most popular manufacturer of electric smoking devices and products, for its marketing and sales practices, which included an inadequate online age verification system, as well as storing emails of minors for continued marketing to teens. The Glendale Unified School District also filed a lawsuit against Juul Labs, on November 26th. Glendale Unified Superintendent Dr. Vivian Ekchian said that the lawsuit was, "to ensure the company cannot continue to influence young consumers, and to recover costs and expenses spent battling the e-cigarette epidemic among students at Glendale Unified School District." The litigation is still in its infancy due to its complexity involving multiple parties.

On December 20, 2019, legislation was signed, raising the federal minimum age of sale of tobacco products from 18 to 21 years (California had already raised the age to 21 in 2016). As of January 2, 2020, the FDA is temporarily banning most fruit and mint flavored electric smoking products, excluding tobacco and menthol flavored products. Companies that do not stop the distribution of these products will risk enforcement action. The ban will stay in place until companies can prove to the FDA that their products are safe to use.

Following the federal ban of certain flavored products (discussed later in the report), the State legislature introduced Senate Bill 793 on January 6, 2020. The bi-partisan bill, that is far stricter than the current federal ban, would prohibit flavored electronic smoking products not covered by the federal ban. This would include menthol-flavored cartridges and refillable, tank-based vaping systems that can be filled with flavored chemicals. The ban would also prohibit flavors for traditional combustible cigarettes and cigars, as well as chewing tobacco and hookah pipes. The measure does not include products sold online or by out-of-state businesses. On August 28, 2020, Senate Bill 793 Flavored Tobacco Products was signed into law to take effect January 1, 2021, prohibiting the

sale of flavored tobacco products or tobacco product flavored enhancers. This does not apply to flavored hookah tobacco products, premium cigars or loose leaf tobacco. As a result, Council directed staff to postpone bringing forward the proposed ordinance to avoid redundancy or conflict with State laws. This State law has since been postponed due to a referendum brought forward by the tobacco-industry-funded California Coalition for Fairness group. California voters will make the final decision during the November 2022 General Elections.

Regionally, policy action regarding the sales and use of these products include the cities of Burbank, Pasadena, Los Angeles, Beverly Hills, Long Beach and West Hollywood and Los Angeles County. In October, 2019, the City of Burbank passed and adopted an amendment to the Burbank Municipal Code, prohibiting the sale of flavored tobacco products excluding hookah. That same month, LA County's Board of Supervisors voted unanimously to adopt an ordinance which took effect 30 days later, banning flavored tobacco and e-cigarettes/vaping products in the county's unincorporated areas. As of January, 2021, the City of Beverly Hills prohibited the sale of flavored tobacco products including e-cigarettes, except for cigars sold at three cigar lounges.

On October 8, 2019, Los Angeles City Councilmember Paul Koretz introduced a motion requesting the City Attorney's Office draft an ordinance that would prohibit the sale of all e-cigarettes/vaping devices until these devices are approved by the FDA and deemed safe. In September prior to the motion, the City Attorney's Office produced a policy options report: *Policy Options for Banning or Restricting the Sale of Flavored Tobacco Products to Youth*, proposing strategies to prohibiting or restricting the sale of flavored tobacco to youth. Since the report and motion, the City of Los Angeles has formed a special committee to conduct further research and to understand which policy options would be best for the City.

The City of Los Angeles has not yet passed a comprehensive flavored tobacco ordinance. On January 12, 2021, there was a motion to refer back to the Health, Education, Neighborhoods, Parks, Arts and River Committee, for a proposed strategy on restricting the sale of flavored e-cigarettes.

The cities of Pasadena, Long Beach and West Hollywood are drafting legislation for Council consideration to ban of the sale of flavored tobacco and e-cigarettes/vaping products.

### **Concerns from Vaping Community and Electronic Smoking Product Retailers**

The vaping community that uses electronic smoking devices and products has been expressing their concerns regarding city and state bans. Vaping products have helped smokers quit traditional cigarettes and these constituents are worried that a ban on these products would result in a return to traditional cigarettes. Some have indicated

that flavored products are what attracted them to vaping and has helped them quit smoking.

Electronic smoking product retailers have also argued that these types of bans can create more sales in counterfeit products in the black market that are not regulated, which can cause further health issues and death. They also argued that authorities should put a limit on the amount of nicotine used in electronic smoking products instead of banning them altogether.

According to the tobacco-industry funded California Coalition for Fairness group, the ban on the sale of flavored e-cigarettes/vaping products would harm the reduction goals of tobacco dependency and will hurt small businesses. According to Matthew Myers, president of the Campaign for Tobacco-Free Kids, "Big Tobacco is going to use every deceptive trick in their playbook just so they can continue to market and profit from hooking young kids on their candy-flavored products."

### **Draft Ordinance**

Per the February 16, 2021 City Council meeting, Council directed staff to amend Chapter 5.94 of the Glendale Municipal Code to ban the sale of any combustible and electronic or battery-powered smoking product which imparts a characterizing flavor (flavored tobacco products). These products include but are not limited to flavored liquids, cartridges, and other compounds used in electronic smoking devices, as well as flavored combustible products. Banned electronic smoking devices include electronic hookah, but banned flavored tobacco products do not include traditional hookah or premium cigars with a wholesale price of no less than twelve dollars.

The ordinance for introduction will amend Sections 5.94.020 and 5.94.150 and add Section 5.94.160 to the Glendale Municipal Code, 1995, banning the sale of flavored tobacco products. Flavors include, but are not limited to, menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

The ordinance will take effect and be enforceable 30 days after the date of its passage. Enforcement will be undertaken by the Glendale police department, Neighborhood Services (code enforcement), and permit investigators. If the referendum to SB-793 is not successful and the bill goes into effect in November of 2022, any local regulations not in conflict with state legislation will remain in place.

### **Environment Review**

Staff conducted environmental review of the ordinance and determined the ordinance is not subject to the California Environmental Quality Act ("CEQA") and, therefore, an

environmental review is not required under Section 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]; Section 15060(c)(3) [the activity is not a project as defined in Section 15378]; and Section 15061(b)(3)[no possibility exists that the activity in question may have a significant effect on the environment] of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the ordinance: (1) has no potential for resulting in physical change to the environment, directly or indirectly; and (2) prevents changes in the environment.

### **FISCAL IMPACT**

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There is no fiscal impact, other than a minor potential loss of sales tax revenue from the lack of sales of flavored tobacco products.

### **ALTERNATIVES**

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Alternative 1: Introduce the ordinance to ban the sale of flavored tobacco products.

Alternative 2: Direct staff to amend the ordinance to ban the sale of flavored tobacco products.

Alternative 3: The Council may consider any other alternative not presented by staff.

### **CAMPAIGN DISCLOSURE**

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There are no campaign disclosures.

### **EXHIBITS**

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None.



**CITY OF GLENDALE, CALIFORNIA  
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<p>Item Type: Action</p> <p>Approved for <u>April 20, 2021</u> calendar</p>
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**ADMINISTRATIVE ACTION**

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Regionally, policy action regarding the sales and use of these products include the cities of Burbank, Pasadena, Los Angeles, Beverly Hills, Long Beach and West Hollywood and Los Angeles County. In October, 2019, the City of Burbank passed and adopted an amendment to the Burbank Municipal Code, prohibiting the sale of flavored tobacco products excluding hookah. That same month, LA County's Board of Supervisors voted unanimously to adopt an ordinance which took effect 30 days later, banning flavored tobacco and e-cigarettes/vaping products in the county's unincorporated areas. As of January, 2021, the City of Beverly Hills prohibited the sale of flavored tobacco products including e-cigarettes, except for cigars sold at three cigar lounges.

On October 8, 2019, Los Angeles City Councilmember Paul Koretz introduced a motion requesting the City Attorney's Office draft an ordinance that would prohibit the sale of all e-cigarettes/vaping devices until these devices are approved by the FDA and deemed safe. In September prior to the motion, the City Attorney's Office produced a policy options report: *Policy Options for Banning or Restricting the Sale of Flavored Tobacco Products to Youth*, proposing strategies to prohibiting or restricting the sale of flavored tobacco to youth. Since the report and motion, the City of Los Angeles has formed a special committee to conduct further research and to understand which policy options would be best for the City.

The City of Los Angeles has not yet passed a comprehensive flavored tobacco ordinance. On January 12, 2021, there was a motion to refer back to the Health, Education, Neighborhoods, Parks, Arts and River Committee, for a proposed strategy on restricting the sale of flavored e-cigarettes.

The cities of Pasadena, Long Beach and West Hollywood are drafting legislation for Council consideration to ban of the sale of flavored tobacco and e-cigarettes/vaping products.

### **Concerns from Vaping Community and Electronic Smoking Product Retailers**

The vaping community that uses electronic smoking devices and products has been expressing their concerns regarding city and state bans. Vaping products have helped smokers quit traditional cigarettes and these constituents are worried that a ban on these products would result in a return to traditional cigarettes. Some have indicated



that flavored products are what attracted them to vaping and has helped them quit smoking.

Electronic smoking product retailers have also argued that these types of bans can create more sales in counterfeit products in the black market that are not regulated, which can cause further health issues and death. They also argued that authorities should put a limit on the amount of nicotine used in electronic smoking products instead of banning them altogether.

According to the tobacco-industry funded California Coalition for Fairness group, the ban on the sale of flavored e-cigarettes/vaping products would harm the reduction goals of tobacco dependency and will hurt small businesses. According to Matthew Myers, president of the Campaign for Tobacco-Free Kids, "Big Tobacco is going to use every deceptive trick in their playbook just so they can continue to market and profit from hooking young kids on their candy-flavored products."

### **Draft Ordinance**

Per the February 16, 2021 City Council meeting, Council directed staff to amend Chapter 5.94 of the Glendale Municipal Code to ban the sale of any combustible and electronic or battery-powered smoking product which imparts a characterizing flavor (flavored tobacco products). These products include but are not limited to flavored liquids, cartridges, and other compounds used in electronic smoking devices, as well as flavored combustible products. Banned electronic smoking devices include electronic hookah, but banned flavored tobacco products do not include traditional hookah or premium cigars with a wholesale price of no less than twelve dollars.

The ordinance for introduction will amend Sections 5.94.020 and 5.94.150 and add Section 5.94.160 to the Glendale Municipal Code, 1995, banning the sale of flavored tobacco products. Flavors include, but are not limited to, menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

The ordinance will take effect and be enforceable 30 days after the date of its passage. Enforcement will be undertaken by the Glendale police department, Neighborhood Services (code enforcement), and permit investigators. If the referendum to SB-793 is not successful and the bill goes into effect in November of 2022, any local regulations not in conflict with state legislation will remain in place.

### **Environment Review**

Staff conducted environmental review of the ordinance and determined the ordinance is not subject to the California Environmental Quality Act ("CEQA") and, therefore, an

environmental review is not required under Section 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment]; Section 15060(c)(3) [the activity is not a project as defined in Section 15378]; and Section 15061(b)(3)[no possibility exists that the activity in question may have a significant effect on the environment] of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because the ordinance: (1) has no potential for resulting in physical change to the environment, directly or indirectly; and (2) prevents changes in the environment.

### **FISCAL IMPACT**

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There is no fiscal impact, other than a minor potential loss of sales tax revenue from the lack of sales of flavored tobacco products.

### **ALTERNATIVES**

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Alternative 1: Introduce the ordinance to ban the sale of flavored tobacco products.

Alternative 2: Direct staff to amend the ordinance to ban the sale of flavored tobacco products.

Alternative 3: The Council may consider any other alternative not presented by staff.

### **CAMPAIGN DISCLOSURE**

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There are no campaign disclosures.

### **EXHIBITS**

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None.