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## **COMPTON CITY COUNCIL**

### **AGENDA**

**05/12/2020**

**5:30 PM**

### **WORKSHOP**

**4:00 P.M. PUBLIC WORKSHOP - FINANCING OPTIONS FOR THE CITY'S  
CRITICAL STREET INFRASTRUCTURE AND PUBLIC FACILITIES**

### **HEARING**

**6:00 P.M. PUBLIC HEARING - TO RECEIVE COMMENTS ON THE PROPOSED  
ANNUAL ACTION PLAN AND CONSOLIDATED PLAN**

### **OPENING**

### **ROLL CALL**

### **PUBLIC COMMENTS ON AGENDA ITEMS AND NON-AGENDA MATTERS**

## **CONSENT AGENDA**

Consent items are routine and expected to be non-controversial. They will be acted upon by the Council at one time without discussion unless a Council Member requests an item be removed or discussed.

### **CITY MANAGER/CITY ATTORNEY/CITY CONTROLLER/CITY TREASURER REPORTS**

1. INVESTMENT REPORT - MARCH 31, 2020 (Receive and File)

### **CITY MANAGER**

2. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMPTON AUTHORIZING THE ISSUANCE OF PURCHASE ORDERS FOR PAYMENT OF CITY'S MEMBERSHIP DUES TO LEAGUE OF CALIFORNIA CITIES (\$24,841)

## **REGULAR AGENDA**

### **REPORTS OF OFFICERS, BOARDS, COMMISSIONS AND COMMITTEES AND CITY COUNCIL**

3. REMOVAL OF OFFICERS, COUNCIL MEMBERS, BOARDS/COMMISSIONS AND COMMITTEES

REMOVAL OF PERSONNEL BOARD COMMISSIONERS

Angela Burrell

Deidra Duhart

Jennifer Grant

Gregory Haynes

Gregory Pitts

4. APPOINTMENT(S) OF OFFICERS, COUNCIL MEMBERS, BOARDS/COMMISSIONS AND COMMITTEES

PERSONNEL BOARD COMMISSIONERS

### **CITY MANAGER'S REPORT**

5. ORAL REPORT/POWER POINT PRESENTATION - SHERIFF'S CONTRACT DISCUSSION

### **UNFINISHED BUSINESS**

6. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMPTON AMENDING SECTION 7-23A (TOBACCO RETAILER PERMIT) OF THE COMPTON MUNICIPAL CODE (SECOND READING)

**NEW BUSINESS**

7. A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COMPTON  
DECLARING THE MONTH OF MAY AS LUPUS AWARENESS MONTH IN THE  
CITY OF COMPTON

**COUNCIL COMMENTS**

**ADJOURNMENT**

*NEXT REGULAR MEETING: 5/19/2020 @ 5:30 PM*

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**MAY 12, 2020**

**TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS**

**FROM: CITY ATTORNEY**

**SUBJECT: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMPTON AMENDING SECTION 7-23A (TOBACCO RETAILER PERMIT) OF THE COMPTON MUNICIPAL CODE**

### **SUMMARY**

On November 19, 2019, the City Council requested that the City Attorney bring forward an ordinance prohibiting the retail sale of flavored tobacco products in the City of Compton. On January 7, 2020, the City held a public hearing and Council requested that the City Attorney return with additional policy options to consider. On April 21, 2020, the City Attorney presented various options for the Council to consider in making amendments to Section VII of the Compton Municipal Code related to the regulation of tobacco products.

City Council will now consider adopting an ordinance amending various sections of Chapter VII of the Compton Municipal Code so as to prohibit the retail sale of flavored tobacco products in the City of Compton.

### **BACKGROUND**

Tobacco use remains a significant public health problem and impediment to health equity in California and the United States. Each year, tobacco-related diseases cause the deaths of approximately 40,000 Californians<sup>1</sup> and nearly half a million individuals in the United States, making tobacco use the nation's leading cause of preventable death.<sup>2</sup> For decades, governments at the federal, state, and local levels have advanced various policies intended to address this significant public health crisis.

On July 10, 2007, the City of Compton adopted Ordinance No. 2,159 (codified as Section 7-23A in the Compton Municipal Code) regulating the sale of tobacco within the City. As the result of this Ordinance, the City requires businesses to obtain a Tobacco Retailer's Permit (in addition to a business license) for the sale of tobacco products and paraphernalia in the City. At the time of adoption, the City expressed its commitment to discourage the illegal purchase of tobacco products among minors. The Tobacco Retailer Permit Program allows the City to establish its own stricter local tobacco regulations and helps fund administration and enforcement costs through an annual permit fee.

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<sup>1</sup> Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs—2014*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. [https://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/pdfs/2014/comprehensive.pdf](https://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf).

<sup>2</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

In 2011, the City again took steps to address the negative health consequences of tobacco products when adopting Ordinance No. 2,225. The City added Section 7-28 to the Municipal Code to prohibit smoking and the use of tobacco related products (including electronic cigarettes) in certain areas within the City.

Although progress has been made to reduce youth access to cigarettes, electronic cigarettes (also known as “e-cigs,” “e-hookahs,” “mods,” and “vape pens”) entered the marketplace around 2007, and since 2014, have been the most frequently used tobacco product amongst youth in the United States. The U.S. Surgeon General declared youth vaping (use of an electronic cigarette) an epidemic in 2018.<sup>3</sup> The Center for Disease Control and Prevention (CDC), state and local health departments are currently investigating an outbreak of lung injuries associated with the use of electronic cigarettes and vaping products. As of February 18, 2020, the CDC reported 2,807 hospitalized cases or deaths of electronic cigarette, vaping, product use associated lung injuries (EVALI). Research suggests that products containing tetrahydrocannabinol (THC – the compound in marijuana that produces a “high”) played a significant role in the outbreak. The liquid inside devices associated with lung illnesses, however, include THC, nicotine and cannabidiol (CBD) or a combination of these ingredients. Investigation is on-going and to date, no single ingredient has been determined to be the cause of EVALI. The outbreak may ultimately implicate more than one ingredient.<sup>4</sup>

## **STATEMENT OF THE ISSUE**

Electronic cigarettes create an aerosol by using a battery to heat a liquid containing nicotine, flavorings or other additives (such as THC and CBD). The appeal to youth is the subtle shape and flavoring options of electronic cigarettes.<sup>2</sup> With over 15,500 unique flavors (chocolate chip cookies, cotton candy, gummi bear, etc.) for a teenager to choose from, the flavor disguises the severity of cigarette smoke and nicotine.<sup>5</sup> One of the popular electronic cigarettes sold today is JUUL, an electronic cigarette shaped like a USB flash drive. The average JUUL cartridge known as a “pod” includes as much nicotine as a pack of twenty (20) cigarettes. Electronic cigarette use increased to 20.8% of high school students in 2018 and includes 3.6 million young individuals. Demographically, users consist of 1 in 5 high school students and 1 in 20 middle school students.<sup>1</sup>

In response to the outbreak of EVALI, more than 40 cities and/or counties in California have restricted the sale of tobacco products in one way or another<sup>6</sup>. While there are certain exemptions in place, the County of Los Angeles along with the cities of Long Beach, Burbank, Manhattan Beach, Redondo Beach, Hermosa Beach have all placed a ban on the sale of flavored tobacco products while the City of San Francisco and the County of Santa Clara have banned the sale of electronic cigarettes in their entirety. In light of the serious health concerns involving youth vaping, staff recommends that the City also prohibit the retail sale of flavored tobacco products (including menthol) in the City of Compton.

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<sup>3</sup> Surgeon General's Advisory on E-Cigarette Use Among Youth (2008). <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<sup>4</sup> Outbreak of Lung Injury Associated with E-cigarette Use, or Vaping. (April, 2020) [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html)

<sup>5</sup> Campaign for Tobacco Free Kids - Electronic Cigarettes An Overview of Key Issues. <https://www.tobaccofreekids.org/assets/factsheets/0379.pdf>

<sup>6</sup> States and localities that have restricted the sale of flavored tobacco products. <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>

**Staff Report – Ordinance Amending CMC Section 7-23A  
Tobacco Retailer Permit  
May 12, 2020**

The purpose of this Staff Report and Ordinance is to propose amendments revising various subsections of Chapter VII, Section 7-23A, which will specifically preclude access to flavored tobacco products that contribute to the recent rise in vaping amongst youth. Based on comments and instructions from the Council, attached hereto are two (2) proposed Ordinances, identical in all provisions except as follows:

1. Proposed Ordinance (Attachment A) - contains the following provisions within **Section 7-23A.8(g)** (Permit Violation – Compliance Monitoring), which exempts certain qualifying retailers from the Ordinance’s ban on sale of menthol cigarettes:
  - g.** Paragraph (e) of this subsection shall not apply to any retailer that meets all of the following criteria:
    - (i) Primarily sells tobacco products;
    - (ii) Generates more than 60 percent of its gross revenues annually from the sale of tobacco products;
    - (iii) Does not permit any person under 21 years of age to be present or enter the premises at any time, unless accompanied by the person's parent or legal guardian, as defined in Section 6903 of the Family Code;
    - (iv) Does not sell alcoholic beverages or food for consumption on the premises; and
    - (v) Posts a sign outside the retail location that clearly, sufficiently, and conspicuously informs the public that persons under 21 years of age are prohibited from entering the premises.

**FISCAL IMPACT**

The City currently has seventy-four (74) active tobacco retailers that sell tobacco products. It is likely that businesses will be negatively affected by reduced sales of flavored tobacco products. Presumably, the loss of sales to retailers would also result in a reduction of sales tax and business license revenue annually collected by the City. Because sales in flavored tobacco products are not separately reported from tobacco products, it is difficult to calculate the fiscal impact to the City at this time.

**RECOMMENDATION**

No recommendation is offered by staff.

**DAMON BROWN  
CITY ATTORNEY**

**APPROVED FOR FORWARDING:**

**CRAIG J. CORNWELL  
CITY MANAGER**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COMPTON  
AMENDING SECTION 7-23A (TOBACCO RETAILER PERMIT) OF THE  
COMPTON MUNICIPAL CODE**

**WHEREAS**, the City of Compton (hereinafter referred to as “the City”) has a substantial interest in protecting the health and safety of its residents, including the youth of the community, from potentially dangerous products such as tobacco; and

**WHEREAS**, tobacco use remains a significant public health problem and impediment to health equity in California and the United States;

**WHEREAS**, each year, tobacco-related diseases cause the deaths of approximately 40,000 Californians<sup>1</sup> and nearly half a million individuals in the United States, making tobacco use the nation’s leading cause of preventable death<sup>2</sup>; and

**WHEREAS**, for decades, governments at the federal, state, and local levels have advanced various policies intended to address this significant public health crisis; and

**WHEREAS**, on July 10, 2007, the City of Compton adopted Ordinance No. 2,159, which added Section 7-23A to the Compton Municipal Code, to require businesses to obtain a Tobacco Retailer’s permit (in addition to a business license) for the sale of tobacco products and paraphernalia in the City; and

**WHEREAS**, the Tobacco Retailer Permit Program allows the City to establish its own stricter local tobacco regulations and helps fund administration and enforcement costs through an annual permit fee; and

**WHEREAS**, in 2011, the City also took steps to address the negative health consequences of tobacco products when adopting Ordinance No. 2,225, which added Section 7-28 to the Municipal Code to prohibit smoking and the use of tobacco related products (including electronic cigarettes) in certain areas within the City; and

**WHEREAS**, the City Council has become aware of the growing epidemic of electronic cigarette (“e-cigarette”) use, including their use by youth and the accompanying health risks posted by these products<sup>3</sup>; and

**WHEREAS**, electronic cigarettes (also known as “e-cigs,” “e-hookahs,” “mods,” and “vape pens”) entered the marketplace around 2007, and since 2014, have been the most frequently used tobacco product amongst youth in the United States<sup>3</sup>; and

**WHEREAS**, the U.S. Surgeon General declared youth vaping (use of an electronic cigarette) an epidemic in 2018<sup>3</sup>; and

**WHEREAS**, the Center for Disease Control and Prevention (CDC), state and local health departments are currently investigating an outbreak of lung injuries associated with the use of electronic cigarettes and vaping products<sup>4</sup>; and

**WHEREAS**, investigation is on-going and to date, no single ingredient has been determined to be the cause of electronic cigarette, vaping, product use associated injuries (EVALI) and the outbreak may ultimately implicate more than one ingredient<sup>4</sup>; and

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<sup>1</sup> Centers for Disease Control and Prevention. *Best Practices for Comprehensive Tobacco Control Programs—2014*. U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. [https://www.cdc.gov/tobacco/stateandcommunity/best\\_practices/pdfs/2014/comprehensive.pdf](https://www.cdc.gov/tobacco/stateandcommunity/best_practices/pdfs/2014/comprehensive.pdf).

<sup>2</sup> U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2014. <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf>.

<sup>3</sup> Surgeon General's Advisory on E-Cigarette Use Among Youth (2008). <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<sup>4</sup> Outbreak of Lung Injury Associated with E-cigarette Use, or Vaping. (April, 2020) [https://www.cdc.gov/tobacco/basic\\_information/e-cigarettes/severe-lung-disease.html](https://www.cdc.gov/tobacco/basic_information/e-cigarettes/severe-lung-disease.html)



**WHEREAS**, the appeal to youth is the subtle shape and flavoring options of electronic cigarettes and with over 15,500 unique flavors (chocolate chip cookies, cotton candy, gummi bear, etc.) for a teenager to choose from, and the flavor disguises the severity of cigarette smoke and nicotine<sup>5</sup>; and

**WHEREAS**, in response to the outbreak of EVALI, more than 65 cities and/or counties in California have restricted the sale of tobacco products in one way or another<sup>6</sup>; and

**WHEREAS**, in light of the serious health concerns involving youth vaping, the City Council requested that that the City Attorney bring forward an ordinance prohibiting the retail sale of flavored tobacco products in the City of Compton; and

**WHEREAS**, this proposed Ordinance will (1) prohibit the sale of flavored tobacco products except for menthol cigarettes which will be allowed to be sold by certain retailers; (2) prohibit the sale of sale of little cigars and cigarillos individually or in packages of less than 20 units; (3) place limitations on storefront advertising; and (4) amend the penalties for a violation of the ordinance.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMPTON DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** That Section 7-23A.1 (Definitions) of Chapter VII of the Compton Municipal Code is hereby amended in its entirety to read as follows:

**§7-23A.1 Definitions. For purposes of this section, the following definitions shall apply:**

*Accessory* shall mean equipment, products, or materials that are used, intended for use, or designed for use in smoking, vaping, inhaling, or otherwise introducing tobacco or tobacco products into the human body and can be an object or device that is not essential in it itself but adds to the beauty, convenience or effectiveness of something else.

*Authorized Enforcement Officer* shall mean any employee or agent of the City who is authorized to enforce any provision of this Code and any designated representative of the law enforcement agency or agencies authorized by the City to enforce the laws of the City of Compton.

*Characterizing flavor* shall mean a taste or aroma, other than the taste or aroma of tobacco, imparted either 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 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* shall mean any roll of tobacco wrapped in paper or in any substance not containing tobacco, or any roll of tobacco wrapped in any substance containing tobacco which is likely to be offered to, or purchased as a cigarette, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling.

*Cigarillo* shall mean any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand units. Cigarillo includes, but is not limited to, tobacco products known or labeled as small cigar or little cigar.

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<sup>5</sup> Campaign for Tobacco Free Kids - Electronic Cigarettes An Overview of Key Issues. <https://www.tobaccofreekids.org/assets/factsheets/0379.pdf>

<sup>6</sup> States and localities that have restricted the sale of flavored tobacco products. <https://www.tobaccofreekids.org/assets/factsheets/0398.pdf>

*City* shall mean the City of Compton or any authorized department or public agency designated in the City to perform various investigative, enforcement and resolution functions pursuant to this Section.

*Component* shall mean any item intended or reasonably expected to be used with or for the human consumption of a tobacco product.

*Electronic Smoking Device* shall mean an electronic device, including limited to an electronic cigarette, electronic cigar or cigarillo, electronic pipe, electronic hookah, vaping device, or any other product name or descriptor, which can be used to deliver an inhaled dose of nicotine or other substances, including any component, part, or accessory of such a device, whether manufactured, distributed, marketed, or sold as such.

*Flavored Tobacco Product* shall mean any tobacco product that imparts a characterizing flavor.

*Little Cigar* shall mean any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand units. “Little Cigar” includes, but is not limited to, tobacco products known or labeled as small cigar or cigarillo.

*Menthol Cigarette* shall mean a cigarette with a characterizing flavor of menthol, mint, or wintergreen, including cigarettes advertising, labeled, or described by the manufacturer as possessing a menthol characterizing flavor.

*Package or Packaging* shall mean a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale.

*Part* shall mean a piece or segment of something, which combined with other pieces makes up the whole.

*Person* shall mean any natural person, partnership, cooperative association, domestic or foreign corporation, personal representative, authorized agent, receiver, trustee, assignee, or any other legal entity.

*Proprietor* shall mean 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 share ultimate control over the day-to-day operations of a business.

*Tobacco Paraphernalia* shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, characterizing flavors in any form mixed with or otherwise added to any tobacco product or nicotine delivery device including electronic smoking devices and any other item designed for the smoking, ingestion, preparation, storing, or consumption of tobacco products.

*Tobacco Product* shall mean:

- (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, little cigars, chewing tobacco, pipe tobacco, and snuff; or

(2) Any electronic smoking device that delivers nicotine or other substances, whether, natural or synthetic, to the person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, or vaping device.

(3) Notwithstanding any provision of subsection (1) and (2) to the contrary, "tobacco product" includes any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.

(4) Tobacco Product does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

*Tobacco Retailer* shall mean any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low-cost samples of tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

**Section 2.** That Section 7-23.A2, "Requirements for Tobacco Retailer's Permit" is hereby amended as follows:

**§7-23A.2 (Requirements for Tobacco Retailer's Permit).**

g. Exterior facing advertisements of tobacco products may not occupy an area larger than 14 square feet. Such advertisements may not be placed next to any other outward facing advertisement so as to create a single mosaic type advertisement larger than 14 square feet. It is a violation of this Chapter to violate any local, State, or federal law regulating storefront window or door advertising.

**Section 3.** That Section 7-23A.3 b (4) (Application Procedure) of Chapter VII of the Compton Municipal Code is hereby amended as follows:

**§7-23A.3 (Application Procedure).**

b. The application shall be sought in the name of the person proposing to conduct retail tobacco sales and shall be signed by such person or, in the case of a business, by an authorized agent thereof. A valid City business license is also required before a Tobacco Retailer's Permit may be issued. Each person applying for a Tobacco Retailer's Permit shall be responsible for reviewing the conditions of conducting retail tobacco sales within the City and shall agree to abide by these conditions by signing the application under penalty of perjury. All applications shall be submitted on the form supplied by the Business and License Division and shall contain, at a minimum, the following information:

4. Proof that the location or locations for which a Tobacco Retailer's Permit is sought has been issued a valid State Tobacco Retailer's License by the California Department of Tax and Fee Administration.

**Section 4.** That Section 7-23A.8 (Permit Violation) – Compliance Monitoring of the Compton Municipal Code is hereby amended in its entirety as follows:

**§7-23A.8 Permit Violation – Compliance Monitoring.**

- a. In the course of tobacco retailing or in the operation of the business or maintenance of the location or locations for which a permit issued, it shall be a violation of this section for any permittee, or his or her agents or employee, to violate any local, State or Federal tobacco-related law.
- b. Compliance with this section shall be monitored by the Business License Division and/or other City employee authorized to enforce provisions of this Code. Notwithstanding the forgoing, any City peace officer or Authorized Enforcement Officer is authorized to enforce the provisions of this section. An Authorized Enforcement Officer and/or other City employee authorized to enforce provisions of this Code shall check compliance of each tobacco retailer at least once per twelve (12) month period. 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. When appropriate, the compliance checks shall determine compliance with other laws, applicable to tobacco retailing. Nothing in this paragraph shall create a right of action in any permit or other person against the City or its agents.
- c. An Authorized Enforcement Officer may use youth decoys and shall comply with protocols for the compliance checks developed in consultation with Los Angeles County Department of Health Services. The City shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of such person's age (herein "youth decoy") if the potential violation occurs when the youth decoy is participating in a compliance check supervised by a peace officer, an Authorized Enforcement Officer or an agent of another governmental agency.
- d. After ninety (90) days of the effective date of this Ordinance, it shall be a violation of this Section for a tobacco retailer, its agent (s) or employee(s) to sell or offer for sale, or to possess with the 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 nicotine delivery device, including electronic smoking devices.
- e. After ninety (90) days of the effective date of this Ordinance, it shall be a violation of this Section for a tobacco retailer, its agent (s) or employee(s) to sell or offer for sale, or to possess with the intent to sell or offer for sale, any menthol cigarette.
- f. No tobacco retailer or its agent(s) or employee (s) may sell or offer for sale any little cigar or cigarillo unless it is sold in a package of at least 20 little cigars or cigarillos. Little cigars or cigarillos may not be sold individually or in packages of less than 20 units.
- g. Paragraph (e) of this subsection shall not apply to any retailer that meets all of the following criteria:
  - (i) Primarily sells tobacco products;
  - (ii) Generates more than 60 percent of its gross revenues annually from the sale of tobacco products;
  - (iii) Does not permit any person under 21 years of age to be present or enter the premises at any time, unless accompanied by the person's parent or legal guardian, as defined in Section 6903 of the Family Code;
  - (iv) Does not sell alcoholic beverages or food for consumption on the premises; and
  - (v) Posts a sign outside the retail location that clearly, sufficiently, and conspicuously informs the public that persons under 21 years of age are prohibited from entering the premises.

h. No tobacco retailer, its agents, or employee(s) may sell or offer for sale any little cigar or cigarillo unless it is sold in a package of at least twenty (20) little cigars or cigarillos. Little cigars or cigarillos may not be sold individually or in packages of less than 20 units.

**Section 5.** That Section 7-23A.9 (a) and (a)(1) (Suspension or Revocation of Permit) of the Compton Municipal Code is hereby amended as follows:

**§7-23A.9 Suspension or Revocation of Permit.**

a. In addition to any other penalty authorized by law, a Tobacco Retailer's Permit may be suspended or revoked if the City finds, or any court of competent jurisdiction determines, after notice to the tobacco retailer permittee and an opportunity for the permittee to be heard, that the permittee, or his or her agents or employees, has violated any of the provisions of this section or any other local, State or Federal law relating to tobacco, or in a different legal proceeding, has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in this section. Furthermore, a Tobacco Retailer's Permit shall be revoked if the City finds, after the permittee is afforded reasonable notice and an opportunity to be heard, that one or more of the bases for denial of a permit under subsection 7-23A.3 existed at the time application was made or at any time before the license issued. Upon a finding by the City of a violation of any provision of this article, within any three-year period, the Business and License Division may suspend or revoke a Tobacco Retailer Permit as follows:

1. Upon finding by the City of a first permit violation of any provision of this article, within any three-year period, the Tobacco Retailer's Permit may be suspended for up to thirty (30) days.
2. Upon finding by the City of a second permit violation of any provision of this article, within any three-year period, the Tobacco Retailer's Permit may be suspended for up to one (1) year.
3. Upon finding by the City of a third permit violation of any provision of this article, within any three-year period, the Tobacco Retailer's Permit may be permanently revoked.

**Section 6.** That Section 7-23A.10 (Tobacco Retailing Without A Permit) is hereby amended in its entirety as follows:

**§7-23A.10 Tobacco Retailing Without A Permit.**

a. In addition to any other penalty authorized by law, if the City finds, or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at any location without a valid Tobacco Retailer's Permit, either directly or through the person's agent or employees, the person shall be ineligible to apply for or be issued a Tobacco Retailer's Permit for that location as follows:

1. After the first violation of this section at a location within any eighteen (18) month period, no new permit may issue for the person at the location until thirty (30) days have passed from the date of the violation.
2. After the second violation of this section at a location within any eighteen (18) month period, no new permit may issue for the person at the location until six (6) months have passed from the date of the violation.
3. After the third violation of this section at a location within any eighteen (18) month period, no new permit may issue for the person at the location until one (1) year has passed from the date of the violation.

b. Tobacco products and tobacco paraphernalia offered for sale or exchange in violation of this section are subject to seizure by any Authorized Enforcement Officer or any peace officer and shall be forfeited after the permittee and any other owner of the tobacco products or tobacco paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the tobacco products or tobacco paraphernalia were not offered for sale or exchange in violation of this section. The decision by the City may be appealed pursuant to the procedures set forth in subsection 7-23A.11. Forfeited tobacco products and tobacco paraphernalia shall be destroyed.

c. For the purposes of the civil remedies provided in this section, whichever is greater, shall constitute a separate violation of this section:

1. Each day on which a tobacco product or tobacco paraphernalia is offered for sale in violation of this section; or

2. Each individual retail tobacco product and each individual retail item of tobacco paraphernalia that is distributed, sold, or offered for sale in violation of this section.

**Section 7.** That Section 7-23A.11 (Notification and Appeals) is hereby amended in its entirety as follows:

**§7-23A.11 Notification and Appeals.**

a. Any notice of denial, suspension or revocation of a Tobacco Retailer's Permit shall state the reasons for such action and the appropriate remedy or cure, if applicable.

b. Any notification to be given pursuant to subsection 7-23A.3, shall be deemed given once the notice is sent by facsimile to the facsimile number listed on the application, or if no number is listed, when notice is placed, postage prepaid in the United States mail, addressed to the applicant at the address shown on the permit application.

c. Any applicant or permittee aggrieved by a decision or action of the City under this section shall have the right to appeal such decision to the City Council.

d. Any appeal that is filed pursuant to this subsection 7-23A.11 shall be filed, and all appropriate fees, as set forth by resolution, shall be paid, with the City Clerk within fourteen (14) calendar days after notice of denial, approval or revocation is given by the City. The City Council shall act upon any such appeal within twenty-eight (28) business days of the filing of the appeal.

e. Upon receipt of an appeal that is filed pursuant to this subsection 7-23A.11, the City Clerk shall set a date for a hearing of the matter and give notice of the date, time and place of the hearing to the applicant/appellant. Prior to such hearing, the Authorized Enforcement Officer shall transmit to the City Clerk a report of its findings. At the hearing, the City shall present all documents on file with respect to the matter being appealed.

f. The City Council shall consider the record and such additional evidence as may be offered and may affirm, reverse or modify, in whole or in part, the action that was appealed. The City Council may also make or substitute additional decisions or determinations as it finds warranted under the provisions of this section and may waive any requirement of subsection 7-23A.3, where it is found to be in the public interest. The City Clerk shall transmit a written copy of the City Council's decision to the applicant/appellant within five (5) business days of the hearing.

**Section 8.** That Section 7-23A.12 (b) (Settlement In Lieu of Hearing) is hereby amended as follows:

**§7-23A.12 Settlement In Lieu Of Hearing.**

b. Notice of any settlement shall be provided to the Business and License Division and no hearing shall be held.

**Section 9.** That a copy of this Ordinance shall be filed in the offices of the City Clerk, City Manager, City Attorney, City Manager's Office (Code Enforcement Division), Business License Division, City Controller, and the Los Angeles County Sheriff's Department, Compton Station.

**Section 10.** That this Ordinance and the rules, regulations, provisions, requirements, orders and matters established and adopted hereby shall take effect and be in full force and effect thirty (30) days after the date of its final passage and adoption by the City Council.

ORDINANCE NO. \_\_\_\_\_

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**Section 11.** That the Mayor shall sign and the City Clerk shall attest to the adoption of this Ordinance and shall cause the same to be published as required by law.

**ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
**MAYOR OF THE CITY OF COMPTON**

**ATTEST:**

\_\_\_\_\_  
**CITY CLERK OF THE CITY OF COMPTON**

STATE OF CALIFORNIA       )  
COUNTY OF LOS ANGELES   ) ss  
CITY OF COMPTON            )

I, Alita Godwin, City Clerk of the City of Compton, hereby verify that the foregoing Ordinance was adopted by the City Council, signed by the Mayor, and attested by the City Clerk at a regular meeting thereof held on the \_\_\_\_\_ day of \_\_\_\_\_, 2020.

That said Ordinance was adopted by the following vote. to wit:

**AYES:           COUNCIL MEMBERS-**  
**NOES:           COUNCIL MEMBERS-**  
**ABSTAIN:       COUNCIL MEMBERS-**  
**ABSENT:        COUNCIL MEMBERS-**

\_\_\_\_\_  
**CITY CLERK OF THE CITY OF COMPTON**