



## PACKET

### GLENDALE CITY COUNCIL

#### (STAFF ACCESS ONLY) COUNCIL CHAMBERS

613 E. Broadway, 2nd Floor

Glendale, CA 91206

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**FEBRUARY 16, 2021**

Due to the evolving situation with the COVID-19 novel coronavirus and health recommendations from the LA County Health Department, the Glendale City Council meeting will be available to the public electronically.

Due to social distancing requirements, the public will not be able to attend the meeting. The public is encouraged to watch and participate from the safety of their homes to practice social distancing.

The meeting can be viewed:

On local cable: Charter Cable Channel 6 and AT&T U-verse Channel 99.

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For public comments and questions during the meeting call (818) 937-8100.

City staff will be submitting these questions and comments in real time to the appropriate person during the Glendale City Council meeting.

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## **ROLL CALL**

1. **CLOSED SESSION – 1:00 PM (To Commence at 2:00 PM)**
  - a. **Conference with Legal Counsel – Anticipated Litigation: Significant exposure litigation pursuant to paragraph subdivisions (d)(2) and (e)(2) of Section 54956.9: One (1) potential case**
  - b. **Public Employee Appointment – City Manager**
2. **REGULAR BUSINESS AGENDA – 6:00 PM**

**Roll Call**

  - a. **Flag Salute: Council Member**
  - b. **Invocation: City Clerk, Aram Adjemian**
  - c. **Report of City Clerk, re: Posting of Agenda. The Agenda for the February 16, 2021 Regular Meeting of the Glendale City Council was Posted on Tuesday, February 9, 2021 on the Bulletin Board Outside City Hall**
3. **PRESENTATIONS AND APPOINTMENTS**
  - a. **Agenda Preview for the Meetings of Tuesday, February 23, 2021**
  - b. **Appointment of Board and Commission Member (Najarian, 2/9/21)**
    1. **Haig Kartounian, Sustainability**
4. **CONSENT ITEMS (Including Minutes)**

The following are Routine and May be Acted Upon by One Motion. Any Member of Council or the Audience Requesting Separate Consideration May do so by Making Such Request Before Motion is Proposed.

  - a. **Fire Department, re: Regarding Annual Weed Abatement Program for 2021**
    1. Resolution declaring that noxious weeds on certain properties are a public nuisance; that the City intends to cause abatement by removal; that a hearing will be held on March 2, 2021 for objections to removal
  - b. **Public Works, re: On-Call Sewer and Storm Drain Repair Services, Adopt Plans and Specifications**
    1. Resolution adopting the Specifications for the On-Call Sewer and Storm Drain Repair services, Specification No. 3877 and directing the City Clerk to Advertise for Bids
  - c. **Public Works, re: Traffic Signal Installations and Modifications at Various Locations Phase 2 Project**
    1. Resolution adopting the Plans and Specifications for the Traffic Signal Installations and Modifications at Various Locations Phase 2 Project, Specifications No. 3843, Plan Nos. 1-3085, 49-250, 50-661R, 50-674, 50-675, 50-676, 50-677; and directing the City Clerk to Advertise for Bids
  - d. **Public Works, re: Fiscal Year 2020-21 Street Resurfacing and Sewer Repair Project, Specification No. 3819, Adopt Plans and Specifications**

1. Resolution adopting the Plans and Specifications for the Fiscal Year 2020-21 Street Resurfacing and Sewer Repair Project, Specifications No. 3819, Plan Nos. 1-3054, 1-3076, 1-3080, 1-3081, 3-1571, 3-1578, 49-248, 49-249; and directing the City Clerk to Advertise for Bids

**e. Community Development, re: Letter opposing Griffith Park Aerial Transit System**

1. Motion authorizing the City Manager to send letter drafted by staff opposing Griffith Park Aerial Transit System

**5. CITY COUNCIL/STAFF COMMENTS**

**6. COMMUNITY EVENT ANNOUNCEMENTS (3-Minutes)**

**7. ADOPTION OF ORDINANCES**

**8. ACTION ITEMS**

**a. Community Development, re: Consideration of Ordinance to Ban Sale of Flavored Electronic Smoking 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 Electronic Smoking Products

**b. Public Works, re: Contract Extension for Parking Citation Processing, Delinquent Collection, and Preferential Parking Permit Services**

1. Resolution dispensing with competitive bidding and authorizing the Interim City Manager or his designee to execute an amendment to the contract #C105754A with Duncan Solutions for Parking Citation Processing, Delinquent Collection and Preferential Parking Permit Program Services extending the duration for one year and increasing the amount by \$187,500

**c. City Attorney, re: Request to Review Incident of City Board Member Drinking Alcoholic Beverage During Board Meeting (DRB, Smith)**

1. Motion to Note and File  
2. Motion Providing Direction to Staff

**9. HEARINGS**

**a. Community Development, re: Public Hearing on Appeal of Design Review Board Case No. PDR2004976 located at 2941-2943 Honolulu Avenue**

1. Motion to sustain the Design Review Board's decision to approve the Design Review Board application with conditions  
2. Motion to continue, directing City Attorney to draft findings supporting denial of the Design Review Board application  
3. Motion to remand the case to the Design Review Board for further consideration

**10. REPORTS - INFORMATION**

**11. WRITTEN COMMUNICATIONS**

**12. ORAL COMMUNICATIONS**

Discussion is Limited to Items NOT a Part of this Agenda. Council May Question or Respond to The Speaker But There Will be no Debate or Decision. The City Manager May Refer the Matter to the Appropriate Department for Investigation and Report.

**13. NEW BUSINESS**

**14. ADJOURNMENT**



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

### **AGENDA ITEM**

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Public Hearing: Consideration of Ordinance to Ban Sale of Flavored Electronic Smoking 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 Electronic Smoking Products

### **COUNCIL ACTION**

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**Item Type:** Public Hearing

**Approved for** February 16, 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., Interim City Manager

## **RECOMMENDATION**

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Staff recommends that Council introduce an ordinance to ban the sale of flavored electronic smoking 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 Department, City Council unanimously directed 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 law. The implementation of this law has since been postponed due to a referendum brought forward by the tobacco industry which will be reintroduced on the November 2022 election ballot. As a result, the item is back before the City Council for consideration of an independent action.

### **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. Electronic smoking devices vary in size and look. These devices can resemble traditional tobacco cigarettes, pipes, cigars and pens or USB memory sticks. The phenomenon has also found its way into use with hookah; electronic hookah creates vapor similar to an electronic smoking devices which is inhaled, acting as a substitute for the smoke found in traditional hookah. While there have not been the same reports related to e-hookah, it uses the same process as electronic smoking devices.

The electronic smoking device was introduced to the US market in 2007, and its popularity has grown rapidly in the past few years. What makes electronic smoking

devices and products appealing to youth and young adults is the way the products are being designed and manufactured, as well as the flavors used such as bubblegum, gummy bears, donuts, and others that may be appealing to younger potential users. Furthermore, according to Yale Medicine, 3.6 million middle and high school students are using electronic smoking devices and products in the U.S., and the primary reason is because they believe vaping is harmless. Some of these devices can be hidden easily in the palm of a hand, and since smoke is not the byproduct, youth can use these devices in a discreet manner, without it being easily detected by teachers or adults.

The Centers for Disease Control and Prevention (CDC) reported that the “e-cigarette, or vaping product use-associated lung injury (EVALI) outbreak began in June 2019.” September 2019 had the largest number of weekly hospitalizing cases. There has been a gradual decline in hospitalization cases since then. According to the CDC, reasons for this may be because of increased public awareness about this issue, the removal of E-acetate from some products, and law enforcement actions related to illicit products.

According to the CDC, as of February 18, 2020, there have been 2,807 patients hospitalized due to EVALI, with a total of 68 confirmed deaths. 82% of patients reported the use of tetrahydrocannabinol (THC) containing electronic smoking products. 78% of patients reported that they acquired these THC containing products from informal sources. The CDC stopped collecting data from states as of February 2020 because of a decline in the number of cases, but continues to monitor emergency department data.

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 that includes any marijuana or THC based vaping product. As such, there is no recommended action related to vaping products containing THC, in the draft ordinance.

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 electronic 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 electronic 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 26, 2019. Glendale Unified Superintendent Dr. Vivian Ekchian noted 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.

### California Senate Bill 793

Following the federal ban of certain flavored products (discussed later in the report), the State legislature introduced Senate Bill (SB) 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 June 29, 2020, the bill was referred to the Health Committee. On August 28, 2020, SB 793 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 funded California Coalition for Fairness group. California voters will make the final decision during the November 2022 General Elections. Action taken regarding this item will not conflict with future legislation.

### Other Legislation and Policy

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.

Regionally, policy action regarding the sales and use of these products include the Cities of Burbank, Pasadena, Los Angeles, Beverly Hills, Long Beach and Los Angeles County. In October, 2019, the City of Burbank adopted an amendment to the Burbank Municipal Code, prohibiting the sale of flavored tobacco products excluding hookah.

On October 8, 2019, Los Angeles Councilmember Paul Koretz introduced a motion requesting the City Attorney’s Office to 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. Prior to the motion, on September 18, 2019, 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 City of Pasadena has been drafting a staff report on the potential ban of the sale of flavored e-cigarettes/vaping products.

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.

In October, 2019, LA County's Board of Supervisors voted unanimously to adopt an ordinance which took effect 30 days later, banning flavored tobacco, e-cigarettes and vaping products in the county's unincorporated areas.

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

The vaping community that uses electronic smoking devices and products has expressed their concerns regarding city and state bans, noting that 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 argue 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**

The City Council has directed to staff to amend Chapter 5.94 of the Glendale Municipal Code to ban the sale of flavored electronic vaping products. These products include any electronic or battery powered smoking product which imparts a characterizing flavor. These products include but are not limited to flavored liquids, cartridges, and other compounds used in electronic smoking devices. Electronic smoking devices include electronic hookah, but tobacco products do not include traditional hookah.

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 electronic smoking devices and 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 SB793 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 a review of the ordinance and determined the it 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 ban of sales of flavored electronic smoking products.

## **ALTERNATIVES**

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Alternative 1: Introduce the ordinance to ban the sale of flavored electronic smoking devices and products.

Alternative 2: Direct staff to amend ordinance to ban the sale of flavored electronic smoking devices and products.

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

### **CAMPAIGN DISCLOSURE**

There are no campaign disclosures.

### **EXHIBITS**

None.

**ORDINANCE NO. \_\_\_\_\_**  
**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 ELECTRONIC**  
**SMOKING 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**, electronic smoking devices often mimic conventional tobacco products in shape, size, and color, with the user exhaling a smoke-like vapor similar to the exhaled smoke from cigarettes and other conventional tobacco products; and

**WHEREAS**, nationwide, electronic smoking device usage has increased at alarming rates since the first products became available, and while there have been many successful efforts to reduce underage tobacco use, the growing availability of electronic smoking devices has reversed those positive trends; 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 electronic products; and

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

**WHEREAS**, in order to protect public health, safety, and welfare, the City Council desires to adopt an ordinance will prohibit the sale of flavored electronic smoking 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, other than the taste or aroma of tobacco, imparted prior to or during consumption of an electronic smoking device or any byproduct produced by the device 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, to be used with 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 or battery power 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 an “E-cigarette”.

“Flavored electronic smoking product” means any liquid, cartridge, or other flavored compounds used with any electronic smoking device system that imparts a characterizing flavor.

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

“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 ~~products prepared from tobacco products, whether or not sold separately.~~

“Tobacco product” means 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. ~~any substance made from the tobacco leaf including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, hookah tobacco, dipping tobacco, smokeless tobacco, bidis, or products prepared from tobacco and designed for smoking or ingestion and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body.~~ “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 electronic smoking 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 electronic smoking 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 electronic smoking product or any component, part, or accessory intended to impart, or imparting a characterizing flavor in any form, to any nicotine delivery electronic device, including electronic smoking devices.

B. There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored electronic smoking products, including but not limited to individual flavored electronic smoking products, packages of flavored electronic smoking products, or any combination thereof, possesses such flavored electronic smoking 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 an electronic smoking device is or contains a flavored electronic smoking 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 electronic smoking device imparts a characterizing flavor; or

2. Uses text and/or images on the electronic smoking device's labeling or packaging that explicitly indicates that the electronic smoking device 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 \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
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 \_\_\_\_\_ day of \_\_\_\_\_, 2020, and that the same was adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

\_\_\_\_\_  
City Clerk