



Agenda Report

February 3, 2020

TO: Honorable Mayor and City Council

FROM: Public Health Department

SUBJECT: PROPOSED MUNICIPAL CODE AMENDMENTS TO UPDATE LOCAL SMOKING REGULATIONS AND RESTRICT THE SALE AND DISTRIBUTION OF FLAVORED AND MENTHOLATED TOBACCO PRODUCTS AND TOBACCO LOOK-ALIKE PRODUCTS

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed action is exempt from the California Environmental Quality Act (CEQA) pursuant to state CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption);
2. Direct the City Attorney to prepare amendments to update the local Pasadena Municipal Code ("PMC") to align with current state and federal definitions related to tobacco products, tobacco paraphernalia, tobacco use, and age identification requirements and tobacco sales; and
3. Prohibit the sale and distribution within the city of mentholated cigarettes and/or other flavored tobacco products, including flavored products for electronic smoking devices ("ESD"), including ESD liquids, flavored little cigars, and tobacco look-alike products.

EXECUTIVE SUMMARY:

On March 26, 2018, local youth kicked-off National Public Health Week by presenting to City Council information about the dangers of tobacco, flavored tobacco products, and e-cigarettes/vaping. City Council requested staff return with recommendations to protect youth from new and emerging tobacco products. For example, the tobacco industry has launched new products targeting youth, such as devices resembling flash drives and a vape watch. These products are appealing to youth and difficult for parents and school officials to detect. In the December 2018 Surgeon General's Advisory on E-cigarette

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Use Among Youth, Dr. Jerome Adams states “the recent surge in e-cigarette use among youth, which has been fueled by new types of e-cigarettes that have recently entered the market, is a cause for great concern. We must take action now to protect the health of our nation’s young people.”

The Public Health Department is recommending amendments to the Tobacco Use Prevention Ordinance to update the local Pasadena Municipal Code (PMC) to align with state and federal definitions of tobacco products, tobacco paraphernalia, and tobacco use. These updates will further protect youth from tobacco use and new and emerging tobacco products, such as electronic cigarettes or JUULs.

The Department is also recommending that the city prohibit the sale and distribution of mentholated cigarettes and/or other flavored tobacco products, including flavored products for electronic smoking devices (“ESD”), such as ESD liquids, flavored little cigars, and tobacco look-alike products.

BACKGROUND:

More than 50 communities in California and 250 throughout the nation have taken formal action to discourage children, teenagers, and young adults from smoking. The emphasis of these actions has been on new and emerging flavored and menthol tobacco products (See Attachment A). Proposed staff recommendations will limit access to specific tobacco products by children, teenagers, and young adults. As of January 14, 2020, a total of 2,668 hospitalized E-cigarette or Vaping Product Use-Associated Lung Injury (EVALI) cases or deaths have been reported to the United States (US) Centers for Disease Control and Prevention (CDC) from all 50 states, the District of Columbia, and two US territories (Puerto Rico and US Virgin Islands). Sixty deaths have been confirmed in 27 states and the District of Columbia.

According to the California Department of Public Health (CDPH), the vast majority of teenagers say their first use of a tobacco product was flavored. A “flavored tobacco product” is defined as any tobacco product that contains a component that imparts a characterizing flavor. Mentholated cigarettes is an example of a flavored tobacco product. Ninety-five percent of African-American teens 12-17 years of age who smoked cigarettes in the last 30 days smoked menthols. (Giovino GA, et al. 2015)

Local Assessment Data

The rates of e-cigarette usage is high compared to other substances among Pasadena Unified School District (PUSD) students according to the California Department of Education. The California Healthy Kids survey (2014-2015; 2017-2018) found PUSD 11th grade students are five times as likely to have ever used an e-cigarette compared to a traditional cigarette.

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PMC PROPOSED CHANGES:

The proposed amendments to the local PMC will align with state and federal definitions related to tobacco products, tobacco paraphernalia and tobacco use. Proposed changes include updated definitions of "smoking" and "tobacco product," smokefree housing and smoking "designated areas;" and age identification requirements.

The final recommended change is to prohibit within the city the sale and distribution of mentholated cigarettes and/or other flavored tobacco products, including flavored products for electronic smoking devices ("ESD"), such as ESD liquids, flavored little cigars, and tobacco look-alike products.

ENFORCEMENT:

Community members will continue to report Tobacco Use Prevention Ordinance complaints to the smoking complaint line and Citizen Service Center. The Pasadena Public Health Department Environmental Health Services Division will also field and respond to complaints resulting from changes to the PMC. The proposed changes will be enforced by the Public Health Officer or her designee. Staff will also review and consider proposing an increase in the Tobacco Retail License fee for the FY 2021 budget in order to cover the costs of implementation and enforcement of the new PMC amendments.

COUNCIL POLICY CONSIDERATION:

The proposed action is consistent with the City Council's strategic planning goal to ensure public safety by protecting youth from tobacco use and from new and emerging tobacco products such as e-cigarettes and JUULs.

ENVIRONMENTAL ANALYSIS:

The actions proposed herein have been determined to be exempt from the CEQA pursuant to State CEQA Guidelines Section 15061(b)(3), the common sense exemption (formerly the "general rule") that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed Municipal Code amendments and restrictions on certain tobacco-related products do not involve any direct physical changes in the environment. Any indirect effects (e.g., customers leaving Pasadena to purchase such products) would be immeasurably small and clearly do not have the potential to cause a significant effect on the environment. Therefore, the actions proposed herein are exempt from CEQA per Section 15061(b)(3) (common sense exemption).

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FISCAL IMPACT:

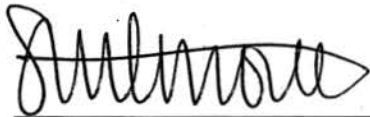
Staff estimates the cost of enforcement and implementation will include administrative costs, educational materials and supplies for mailing notifications, and costs related to compliance check operations. These costs are reflected in the Public Health Department's FY 2020 operating budget for the Pasadena ACTION (Actively Countering Tobacco In Our Neighborhoods) Enforcement Grant as appropriated by City Council in September 2019. The proposed actions result in a net zero impact to the PPHD FY 20 operating budget.

Respectfully submitted,



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