

**MEETING DATE: 07/27/15**

**AGENDA ITEM: Introduction of an Ordinance Amending Section 11.15.010, Definitions, of Chapter 11.15, Tobacco Retailer Licensing, of the Culver City Municipal Code, to Require a Tobacco Retailer License for the Sale of any Electronic Smoking Device or Electronic Smoking Device Paraphernalia.**

**ATTACHMENTS**

1. Proposed Ordinance

Pages  
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ORDINANCE NO. 2015-\_\_\_\_\_

AN ORDINANCE OF THE CITY OF CULVER CITY, CALIFORNIA, AMENDING SECTION 11.15.010, DEFINITIONS, OF CHAPTER 11.15, TOBACCO RETAILER LICENSING, OF THE CULVER CITY MUNICIPAL CODE TO REQUIRE A TOBACCO RETAILER LICENSE FOR THE SALE OF ANY ELECTRONIC SMOKING DEVICE OR ELECTRONIC SMOKING DEVICE PARAPHERNALIA.

WHEREAS, on July 13, 2009, the City Council adopted an Ordinance establishing a tobacco retailer licensing program (the "TRL Ordinance"). The TRL Ordinance: (1) requires all sellers of tobacco products and tobacco paraphernalia to have and display a tobacco retailer license; (2) prohibits tobacco product and paraphernalia sales to minors; (3) provides for suspension and revocation procedures and penalties; and (4) establishes the funding of the administration, enforcement, and education of the program by an annual license fee; and,

WHEREAS, at the time of adoption of the TRL Ordinance, the regulation of electronic smoking devices was neither contemplated nor discussed. Electronic smoking devices, commonly known as electronic cigarettes, e-cigarettes, e-cigars, e-cigarillos, e-pipes, e-hookahs, and electronic nicotine delivery systems, etc. (collectively, "E-Cigarettes") are battery operated devices designed to deliver nicotine, flavor, and/or other substances through a vapor inhaled by the user; and,

WHEREAS, since the time of adoption of the TRL Ordinance, the use of electronic smoking devices has increased significantly, as evidenced by the following statistics issued by the California Department of Public Health<sup>1</sup>:

- Among children ages 0 to 5 years old, E-Cigarette poisonings increased sharply from seven in 2012 to 154 in 2014.

<sup>1</sup> California Department of Public Health, California Tobacco Control Program, *State Health Officer's Report on E-Cigarettes: A Community Health Threat*, Sacramento, CA, January 2015.

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- By the end of 2014, E-Cigarette poisonings of young children tripled in one year, making up more than 60% of all E-Cigarette poisoning calls.
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- Nationally, the use of E-Cigarettes by high school students tripled in two years.
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- In California, use among young adults ages 18 to 29 tripled in one year; and,
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7           **WHEREAS**, the City Council of the City of Culver City finds the failure of  
8 tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the  
9 sale of tobacco products (including E-Cigarettes) to minors, presents a threat to the  
10 community's public health, safety, and welfare; and,

11           **WHEREAS**, the City Council desires to ensure the City's TRL Ordinance  
12 clearly states it applies to the sale of E-Cigarettes.

13           **NOW THEREFORE**, the City Council of the City of Culver City, California,  
14 **DOES HEREBY ORDAIN** as follows:

15           **SECTION 1.** The following definitions contained in Section 11.15.010 of the  
16 Culver City Municipal Code are hereby amended to read as follows (deletions indicated by  
17 ~~strikethrough text~~; additions indicated by underlined text):

18           ***TOBACCO PARAPHERNALIA.*** Cigarette papers or wrappers, pipes,  
19 holders of smoking materials of all types, cigarette rolling machines, and any  
20 other instrument or paraphernalia designed for the smoking, preparation,  
21 storing, ingestion or consumption of Tobacco Products. For purposes of this  
22 Chapter, Tobacco Paraphernalia includes an Electronic Smoking Device and  
23 Electronic Smoking Device Paraphernalia.

24           ***TOBACCO PRODUCT.*** Any substance containing tobacco leaf,  
25 including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco,  
26 snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of  
27 tobacco; and any product or formulation of matter containing biologically  
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1 active amounts of nicotine that is manufactured, sold, offered for sale, or  
2 otherwise distributed with the expectation that the product or matter will be  
3 introduced into the human body, ~~but~~ Except as otherwise provided herein,  
4 Tobacco Product does not include any product specifically approved by the  
5 United States Food and Drug Administration for use in treating nicotine or  
6 tobacco dependence. For purposes of this Chapter, Tobacco Product  
7 includes an Electronic Smoking Device and Electronic Smoking Device  
8 Paraphernalia.

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10 **SECTION 2.** The following definitions are hereby added to Section  
11 11.15.010 of the Culver City Municipal Code as follows:

12 **ELECTRONIC SMOKING DEVICE.** An electronic device that can be  
13 used to deliver an inhaled dose of nicotine, or other substances, including  
14 any component, part, or accessory of such a device, whether or not sold  
15 separately. Electronic Smoking Device includes any such device, whether  
16 manufactured, distributed, marketed, or sold as an electronic cigarette, an  
17 electronic cigar, an electronic cigarillo, an electronic pipe, an electronic  
18 hookah, or any other product name or descriptor.

19 **ELECTRONIC SMOKING DEVICE PARAPHERNALIA.** Cartridges,  
20 cartomizers, e-liquid, smoke juice, tips, atomizers, Electronic Smoking Device  
21 batteries, Electronic Smoking Device chargers, and any other item specifically  
22 designed for the preparation, charging, or use of Electronic Smoking Devices.

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24 **SECTION 3.** Pursuant to Section 619 of the City Charter, this Ordinance  
25 shall take effect 30 days after the date of its adoption. Pursuant to Sections 616 and 621  
26 of the City Charter, prior to the expiration of 15 days after the adoption, the City Clerk shall  
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1 cause this Ordinance, or a summary thereof, to be published in the Culver City News and  
2 shall post this Ordinance or a summary thereof in at least three places within the City.

3 **SECTION 4.** The City Council hereby declares that, if any provision, section,  
4 subsection, paragraph, sentence, phrase or word of this Ordinance is rendered or declared  
5 invalid or unconstitutional by any final action in a court of competent jurisdiction or by  
6 reason of any preemptive legislation, then the City Council would have independently  
7 adopted the remaining provisions, sections, subsections, paragraphs, sentences, phrases  
8 or words of this ordinance and as such they shall remain in full force and effect.

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10 **APPROVED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

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12 \_\_\_\_\_  
13 MICHEÁL O'LEARY, Mayor  
14 City of Culver City, California

15 ATTEST:

16 APPROVED AS TO FORM:

17 \_\_\_\_\_  
18 MARTIN R. COLE, City Clerk

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20 CAROL A. SCHWAB, City Attorney

21 A15-00512