

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

An ordinance adding Sections 46.90.1 and 46.90.2 to the Los Angeles Municipal Code to limit the sale of flavored tobacco products and amending Sections 41.50, 46.90, 46.91, 46.92, 46.93, 46.97, 46.98, 46.99, 47.14, and 63.44 of the Los Angeles Municipal Code to update various provisions related to tobacco retailing.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Section 41.50 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 41.50. SMOKING PROHIBITED IN DESIGNATED AREAS.**

A. **Definitions.** As used in this section:

1. **“Bar”** shall mean a business that sells or offers for sale alcoholic beverages pursuant to a license from the Department of Alcoholic Beverage Control (ABC), limits entry to patrons 21 and older and where food service, if any, is only incidental to the sale of alcoholic beverages. A Bar shall not include a business with an ABC license type 41 or type 47, both of which are issued to restaurants and require substantial sales of meals for consumption on the premises.

2. **“Electronic Smoking Device”** shall mean any device that may be used to deliver any aerosolized or vaporized substances to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, vape pen, or e-hookah. Electronic Smoking Device includes any component part of or accessory to the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine.

3. **“Outdoor Dining Area”** shall mean:

a. An outdoor area made available to the general public that is dedicated, designed, established or regularly used as a place for the consumption of food or drinks and all non-enclosed areas within 10 feet thereof. An outdoor dining area shall not include an area that is contiguous to:

(i) a Bar; or

(ii) a restaurant, business or non-commercial building that is completely closed to the general public for a private event.

b. An outdoor area comprised of a 40-foot radius of a business, such as a food kiosk, food cart or mobile food truck, that regularly sells or provides food or drinks but has no area dedicated by the business as a place for the consumption of food or drinks that are regularly sold or provided by that business.

4. **“Smoking”** shall mean inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, cannabis, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an Electronic Smoking Device.

**B. Prohibitions.**

1. Smoking is prohibited in the following places:

a. Any portion of a building owned or leased by the City of Los Angeles;

b. City permitted farmer's markets as defined in Section 12.24.X.6; and

c. Outdoor Dining Areas.

(i) A violation of this section shall also be found when any person authorized to manage or control an Outdoor Dining Area knowingly permits Smoking in violation of this section.

**C. No-Smoking Signs.**

1. Any business or person having the authority to manage and control any area designated as a no smoking area shall post or cause to be posted “No Smoking” signs in conspicuous locations within the designated no-smoking areas. All such signs shall clearly and conspicuously recite the phrase “No Smoking” and use the international no-smoking symbol. The signs shall be posted not less than 5 feet nor more than 8 feet above floor level and shall be of sufficient number and location to ensure that any person in the designated no-smoking area shall see at least one of the signs.

For Outdoor Dining Areas, the following provisions shall also be followed:

a. Any business with an Outdoor Dining Area as defined in Section 41.50 A.3.a, shall post no-smoking signs of sufficient number to ensure that the no-smoking prohibition is clearly visible and readable to patrons in the Outdoor Dining Area and to persons passing outdoors within 10 feet of the Outdoor Dining Area. The no smoking signs shall

state in size 14 font or larger, "No smoking in this Outdoor Dining Area or within 10 feet of this Outdoor Dining Area."

b. Any business with an Outdoor Dining Area as defined in Section 41.50 A.3.b, such as a food kiosk, food cart or mobile food truck, shall post a no-smoking sign located near the cashier that is clearly visible and readable to its customers. The no-smoking sign shall state in size 14 font or larger, "No smoking within 40 feet of this business."

2. It shall be unlawful to willfully mutilate or destroy any signs required by this section.

**D. Penalty.**

Except as otherwise expressly provided herein, violation of any provision or failure to comply with any requirement of this section is an infraction.

Sec. 2. Section 46.90 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 46.90. DEFINITIONS.**

(a) "**Arm's-Length Transaction**" shall mean a Sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A Sale between relatives, related entities or partners, or a Sale for which a significant purpose is avoiding the effect of a violation of this article is not an Arm's-Length Transaction.

(b) "**Delivery Sale**" shall mean the Sale of any Tobacco Product to any person for personal consumption and not for resale when the Sale is conducted by any means other than an in-person, over-the-counter Sale from a Tobacco Retailer in a licensed location. Delivery Sale includes the Sale of any Tobacco Product when the Sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery Sale includes delivery by a licensee or third-party by any means, including curbside pick-up.

(c) "**Electronic Smoking Device**" shall mean any device that may be used to deliver any aerosolized or vaporized substances to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, vape pen, or e-hookah. Electronic Smoking Device includes any component part of or accessory to the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine.

(d) "**Flavored Tobacco Product**" shall mean any Tobacco Product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable

by an ordinary consumer either prior to, or during the consumption of, a Tobacco Product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice. A public statement or claim made or disseminated by the manufacturer of a Tobacco Product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such Tobacco Product, that such Tobacco Product has a taste or smell other than tobacco shall constitute presumptive evidence that a Tobacco Product is a Flavored Tobacco Product.

(e) **“Hookah Lounge”** shall mean a business establishment that qualifies as a smokers’ lounge, as defined in California Labor Code Section 6404.5(e) and in which the entire premises is dedicated exclusively to the Smoking of Shisha Tobacco. To qualify as a Hookah Lounge, the Hookah Lounge must be in compliance with all of the limitations in Section 46.90.2 of this Code and be in possession of a valid Tobacco Retailer’s Permit, pursuant to Section 46.91 of this Code. A business establishment is not eligible to be a Hookah Lounge if it:

(1) Has a license, or engages in activity for which it should have a license, issued by the California Department of Alcohol and Beverage Control (ABC) to sell alcohol; or

(2) Has a permit, or engages in activity for which it should have a Public Health Food Facility Permit, issued by the Los Angeles County Department of Public Health.

(f) **“Hookah Pipe”** shall mean a waterpipe or other pipe used to smoke Shisha Tobacco, which typically has a head, a metal body, a water bowl, and a flexible hose with a mouthpiece that a person puts into their mouth to inhale tobacco smoke.

(g) **“Proprietor”** shall mean a person with ownership or managerial interest in a Tobacco Retailing business. An ownership interest shall be deemed to exist when a person has ten percent or greater interest in the stock, assets or income of a Tobacco Retailing business. A managerial interest shall be deemed to exist when a person can, does, has or shares in the ultimate control over the day-to-day operations of the Tobacco Retailing business.

(h) **“Sale,” “Sell,” or “Sells”** shall mean any transaction where, for any consideration, ownership of a Tobacco Product is transferred from one person to another, including, but not limited to, any transfer or title or possession for consideration, exchange, or barter, in any manner or by any means.

(i) **“Shisha Tobacco,” “Shisha Tobacco Product,” or “Shisha Tobacco Products”** shall include any Tobacco Product only capable of being smoked in a Hookah Pipe whether or not labeled by the manufacturer as hookah tobacco, shisha, waterpipe tobacco maasel, narghile, or argileh. Shisha Tobacco does not include any

Tobacco Product used or capable of use in an Electronic Smoking Device such as, but not limited to, an electronic Hookah Pipe.

(j) **“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, or other plant, whether natural or synthetic, that is intended for inhalation. Smoking includes using an Electronic Smoking Device.

(k) **“Tobacco Product,”** or **“Tobacco Products”** shall mean:

(1) Any product or products containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any means, including, but not limited to, a cigarette, a cigar, or a pipe and also includes chewing tobacco, snuff, or snus;

(2) Any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

(3) Any ancillary item, component, part, or accessory of Subsections (k)(1) or (k)(2) hereof, whether or not the ancillary item, component, part, or accessory contains tobacco or nicotine, including, but not limited to, a filter, rolling paper, blunt or hemp wrap, tobacco pipe, or mouthpiece.

Tobacco Product does not mean a drug, device, or combination product for cessation that is authorized for Sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. Nor does the term Tobacco Product mean a cannabis product as defined by Health and Safety Code Section 11018.1 or cannabis as defined by Business and Professions Code Section 26001, as these laws may be amended from time to time.

(l) **“Tobacco Retailer”** shall mean any person or Proprietor who Sells, offers for Sale, or exchanges or offers to exchange a Tobacco Product for any form of consideration. Tobacco Retailing shall mean engaging in any of the above activities. The definitions here are without regard to the quantity of Tobacco Product sold, offered for Sale, exchanged, or offered for exchange and without regard to whether the Sale is wholesale or retail.

Sec. 3. Subsections 46.90.1 and 46.90.2 are added to the Los Angeles Municipal Code to read as follows:

## **SEC. 46.90.1. FLAVORED TOBACCO SALES PROHIBITED.**

(a) No Tobacco Retailer may Sell or offer for Sale, or possess with the intent to Sell, any Flavored Tobacco Product.

(b) A rebuttable presumption arises that a Tobacco Retailer possesses a Flavored Tobacco Product with the intent to Sell or offer for Sale when the Tobacco Retailer is in possession of four or more Flavored Tobacco Products, including, but not limited to, individual Flavored Tobacco Products, packages of Flavored Tobacco Products, or any combination thereof.

(c) Exception: The Sale of Shisha Tobacco Products which qualify as Flavored Tobacco Products is permissible at any Hookah Lounge with a valid Tobacco Retailer's Permit which was issued pursuant to Section 46.91 of this Code on or before the effective date of this section.

## **SEC. 46.90.2. HOOKAH LOUNGE.**

It shall be unlawful for any Hookah Lounge to engage in, conduct, or carry on, in or upon any premises within the City, the business of Selling Shisha Tobacco, unless the following conditions are met:

(a) The Hookah Lounge has a valid Tobacco Retailer's Permit, pursuant to Section 46.91 of this Code;

(b) Entry is prohibited to anyone under the age of 21 years;

(c) A sign is posted at each entrance reading "No one under the age of 21 years is allowed on these premises;"

(d) Consumption of food and drink, including, but not limited to, alcoholic beverages, is prohibited on the premises;

(e) No person who is obviously intoxicated or under the influence of any intoxicating drug or beverage shall be permitted entry;

(f) No live entertainment, including, but not limited to, singers, musicians, disc jockeys, dancers or comedians shall be allowed to perform at the premises;

(g) All Sales and consumption of Shisha Tobacco occur wholly within the interior of the premises. Operation of outdoor appurtenances, such as barbecues, fire-pits, braziers or lit coals shall not be permitted;

(h) The ventilation system for the premises shall ensure that smoke from the Hookah Lounge is incapable of migrating into any other portion of the

building in which the Hookah Lounge is located or into any other building in the proximate vicinity of the Hookah Lounge; and

(i) The Hookah Lounge shall be in compliance with all City, State, and Federal laws.

Sec. 4. Subsection 46.91 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 46.91. TOBACCO RETAILER'S PERMIT REQUIRED.**

(a) It shall be a misdemeanor for any person or Proprietor within the City of Los Angeles to act as a Tobacco Retailer at a location for which a valid Tobacco Retailer's Permit has not been issued pursuant to this article. A separate Tobacco Retailer's Permit is required for each location at which Tobacco Retailing occurs or has occurred.

(b) No Tobacco Retailer's Permit shall be issued for residences, newsstands, or locations where engaging in Tobacco Retailing is prohibited by federal, state or local law. No Tobacco Retailer's Permit shall be issued to authorize Tobacco Retailing at any place other than a fixed location. Tobacco Retailing from any non-permanent location, including from a vehicle or cart, is prohibited.

(c) All retail Sales of Tobacco Products shall be conducted in-person in the location for which the Tobacco Retailer's Permit was issued. No Tobacco Retailer or any of the Tobacco Retailer's agents or employees may engage in the Delivery Sale of Tobacco Products, or knowingly or recklessly Sell or provide Tobacco Products to any person who intends to engage in the Delivery Sale of the Tobacco Product in the City of Los Angeles.

(d) Notwithstanding the possession by a person, Tobacco Retailer, or Proprietor of a license from the State of California as a Tobacco Products wholesaler or distributor, any Tobacco Retailer, Proprietor or person who does business from a fixed location in the City of Los Angeles must obtain a Tobacco Retailer's Permit pursuant to this article.

(e) No person or Proprietor engaged in Tobacco Retailing or the wholesale distribution of Tobacco Products shall Sell a Tobacco Product to another person without first verifying by means of government-issued photographic identification that the recipient is at least 21 years of age.

(f) No person or Proprietor shall distribute a free or nominally priced Tobacco Product.

(g) A person or Proprietor required to have a Tobacco Retailer's Permit under Subsection (a) or (d) hereof without a valid Tobacco Retailer's Permit, including a

person or Proprietor whose Tobacco Retailer's Permit has been suspended or revoked, shall keep all Tobacco Products out of public view. The public display of Tobacco Products in violation of this subsection shall constitute Tobacco Retailing without a Tobacco Retailer's Permit.

(h) A person or Proprietor required to have a Tobacco Retailer's Permit under Subsection (a) or (d) without a valid Tobacco Retailer's Permit, including a person or Proprietor whose Tobacco Retailer's Permit has been suspended or revoked, shall not display any advertisement relating to a Tobacco Product that promotes the Sale or distribution of such products from the Tobacco Retailer's permitted location or that would lead a reasonable consumer to believe that such products can be obtained at the Tobacco Retailer's permitted location.

(i) No Tobacco Retailer's Permit shall be issued, and no existing Tobacco Retailer's Permit may be renewed, to authorize Tobacco Retailing at a location licensed for commercial cannabis activity by the State of California under Business and Professions Code Division 10.

(j) Each day that a person or Proprietor Sells or offers for Sale a Tobacco Product without a valid Tobacco Retailer's Permit shall constitute a separate violation of this section.

Sec. 5. Section 46.92 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

#### **SEC. 46.92. APPLICATION PROCEDURE.**

(a) An application for a Tobacco Retailer's Permit shall be submitted to the Office of Finance by any Proprietor of a business seeking a Tobacco Retailer's Permit. Each applicant shall be responsible for reviewing the conditions of conducting Tobacco Retailing Sales within the City of Los Angeles and shall agree to abide by the conditions by signing the application under penalty of perjury. Every application shall be submitted on a form supplied by the City and shall contain the following information:

(1) The business name, address, and telephone number of the location for which the Tobacco Retailer's Permit is sought, as well as any website address, Uniform Resource Locator (URL), or social media account of the business;

(2) The name, mailing address, telephone number, and email address of every Proprietor and any person authorized to receive communications and notices required by or authorized by this article. If incomplete information is supplied, each Proprietor shall be deemed to consent to the provision of notice at the business address provided on the application for the Tobacco Retailer's Permit; and



(3) Such other information as the City Attorney deems necessary for implementation and enforcement of this ordinance.

(b) A Tobacco Retailer's Permit must be obtained prior to the retail or wholesale Sale of any Tobacco Product. A new Tobacco Retailer's Permit must be obtained upon change of ownership or upon change of form of ownership prior to the retail or wholesale Sale of any Tobacco Product, including, but not limited to, a Proprietor becoming a corporation.

Sec. 6. Subsection 46.93 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 46.93. ISSUANCE OF PERMIT.**

(a) The Tobacco Retailer's Permit shall state the following on its face:

(1) The name, address, telephone number, and email address for each Proprietor;

(2) Doing Business As (D.B.A.);

(3) Los Angeles Municipal Code section regulating Tobacco Retailer's Permits;

(4) Business address and mailing addresses;

(5) Date permit was issued and permit expiration date; and

(6) Account number.

(b) Upon the receipt of an application for a Tobacco Retailer's Permit and fee payment, the Office of Finance shall issue a Tobacco Retailer's Permit, unless the City Attorney demonstrates one of the following bases for denial:

(1) The application is incomplete or inaccurate;

(2) The application seeks authorization for Tobacco Retailing at a location for which a suspension or revocation is in effect or pending pursuant to Section 46.99;

(3) The application seeks authorization for Tobacco Retailing that is unlawful pursuant to any section of this article or any federal, state, or local law; or

(4) Any other suitable reason the granting of a Tobacco Retailer's Permit to the applicant is not consistent with the public health and welfare,

including the applicant's history of noncompliance with this article and other laws relating to the Sale of Tobacco Products.

(c) A Tobacco Retailer's Permit issued in error or on the basis of false or misleading information supplied by a Proprietor may be revoked.

(d) **City Attorney's Responsibilities.** It shall be the responsibility of the City Attorney or his/her designee to enforce all provisions set forth in this article, which includes, but is not limited to, the following:

(1) Investigate and prosecute Tobacco retailers or others required to obtain a Tobacco Retailer's Permit under this article who fail to obtain and/or maintain a Tobacco Retailer's Permit.

(2) Conduct any and all audits that may be necessary in the investigation of Tobacco retailers and any entity required to obtain a Tobacco Retailer's Permit.

(e) **Office of Finance Responsibilities.** It shall be the duty of the Office of Finance to administer and process the Tobacco Retailer's Permit application; mail renewal notices to Tobacco Retailer permittees; and deposit funds collected for each Tobacco Retailer's Permit into the General Fund.

Sec. 7. Section 46.97 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

**SEC. 46.97. PERMITS NOT TRANSFERRABLE.**

(a) Except pursuant to Subsection (b) hereof, a Tobacco Retailer's Permit is not transferable. If a new person or Proprietor acquires a business engaged in Tobacco Retailing, the person or Proprietor must apply for a new Tobacco Retailer's Permit before engaging in the Sale of any Tobacco Product.

(b) The transfer or Sale of a Hookah Lounge in the possession of a valid Tobacco Retailer's Permit prior to the effective date of this ordinance does not automatically transfer the Tobacco Retailer's Permit associated with the Hookah Lounge. However, the transferee or prospective purchaser may apply for a new Tobacco Retailer's Permit and, if approved, will be deemed to first have been issued the Tobacco Retailer's Permit for purposes of Section 46.90.1(c) prior to the effective date of this section.

Sec. 8. Section 46.98 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

## **SEC. 46.98. VIOLATIONS.**

(a) Except as precluded by state or federal law, any violation of this article, including Sections 46.90.1 or 46.90.2 of this Code, are subject to the penalties set forth in Section 11.00 of this Code.

(b) An administrative violation shall be found when the City Attorney is in receipt of an official record of any court or governmental agency that demonstrates a Tobacco Retailer, or any of the Tobacco Retailer's agents or employees, has violated any federal, state, or local law, including this Code, applicable to Tobacco Retailing, or has allowed Smoking in an enclosed place of employment in violation of California Labor Code Section 6404.5. An official record of any court or governmental agency includes, but is not limited to, an abstract from the State of California Department of Public Health that a Tobacco Retailer has paid a civil monetary penalty imposed for violating the Stop Tobacco Access to Kids Enforcement Act (Business and Professions Code Division 8.5), or a certified court docket reflecting a conviction of a criminal charge involving Tobacco Retailing or California Labor Code Section 6404.5.

(c) The violations set forth in this section are cumulative to, and in addition to any other violations of federal, state, or local law, and shall be punished as specified in Section 46.99 of this Code.

Sec. 9. Section 46.99(a) of the Los Angeles Municipal Code is amended to read as follows:

(a) Any Tobacco Retailer determined by the City Attorney or designee to have violated any provision of this article shall be subject to the penalties of this section. The City Attorney or designee shall notify the Tobacco Retailer of any initial determination of violation of this article, and shall specify the violation and the penalty imposed, including the effective date of the suspension, if any. The notice shall further state that the Tobacco Retailer may, within 15 calendar days of the date of the notice, submit to the City Attorney any written or documentary evidence to contest the initial determination of violation. After receiving and considering the evidence provided, the City Attorney or designee shall prepare a final written decision with findings, and shall serve the final determination upon the Tobacco Retailer. Upon written request, the Tobacco Retailer shall have the right to receive copies of any records upon which the final determination is based. The final determination shall be served within 30 calendar days of the initial determination.

Sec. 10. Section 47.14 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

## SEC. 47.14. SELF SERVICE DISPLAY OF TOBACCO PRODUCTS.

A. **Definitions.** For the purposes of this section, the following definitions shall apply:

1. **“Electronic Smoking Device”** shall mean any device that may be used to deliver any aerosolized or vaporized substances to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, vape pen, or e-hookah. Electronic Smoking Device includes any component part of or accessory to the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine.

2. **“Person”** shall mean any natural person, partnership, cooperative association, domestic or foreign corporation, receiver, trustee, assignee, or any other legal entity.

3. **“Self-Service Display”** shall mean the open display of Tobacco Products to which the public has access without the intervention or assistance of a store employee, including, but not limited to, a rack, shelf, or counter-top display.

4. **“Tobacco Product,”** or **“Tobacco Products”** shall mean:

a. Any product or products containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any means, including, but not limited to, a cigarette, a cigar, or a pipe and also includes chewing tobacco, snuff or snus;

b. Any Electronic Smoking Device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or

c. Any ancillary item, component, part, or accessory of Subsections (4)(a) or (4)(b) hereof, whether or not the ancillary item, component, part, or accessory contains tobacco or nicotine, including, but not limited to, a filter, rolling paper, blunt or hemp wrap, tobacco pipe, or mouthpiece.

Tobacco Product does not mean a drug, device, or combination product for cessation that is authorized for Sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. Nor does the term Tobacco Product mean a cannabis product as defined by Health and Safety Code Section 11018.1

or cannabis as defined by Business and Professions Code Section 26001, as these laws may be amended from time to time.

5. **“Tobacco Retailer”** shall mean any person or Proprietor who Sells, offers for Sale, or exchanges or offers to exchange a Tobacco Product for any form of consideration. “Tobacco Retailing” shall mean engaging in any of the above activities. The definitions here are without regard to the quantity of Tobacco Product sold, offered for Sale, exchanged, or offered for exchange and without regard to whether the Sale is wholesale or retail.

6. **“Tobacco Store”** shall mean a business establishment that is dedicated exclusively to the sale of Tobacco Products. To qualify as a Tobacco Store, the business establishment must be in compliance with all of the limitations in subsection B and be in possession of a valid Tobacco Retailer's Permit, pursuant to Section 46.91 of this Code.

7. **“Vendor-Assisted Sale”** shall mean a sale requiring a direct, face-to-face exchange between the Tobacco Retailer and the customer, in which the Tobacco Retailer or the Tobacco Retailer's employee has access to the Tobacco Product, and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased.

**B. Prohibition.**

No Tobacco Retailer shall sell, permit to be sold, or offer for sale any Tobacco Product by means of a Self-Service Display, or by any means other than a Vendor-Assisted Sale. This prohibition shall not apply to a Tobacco Store.

**C. Tobacco Store.**

It shall be unlawful for any Tobacco Store to have or maintain a Self-Service Display of Tobacco Products on the premises, unless the following conditions are met:

a. The Tobacco Store has a valid Tobacco Retailer's Permit, pursuant to Section 46.91 of this Code;

b. No food or beverages including alcoholic beverages are sold or offered for sale on the premises;

c. Entry is prohibited to anyone under the age of 21 years; and

d. A sign is posted at each entrance reading “No one under the age of 21 years is allowed on these premises.”

D. **Penalty.** Except as precluded by state or federal law, any violation of failure to comply with any requirement of this section is subject to the penalties set forth in Section 11.00 of this Code.

Sec. 11. Section 63.44 of the Los Angeles Municipal Code is amended in its entirety to read as follows:

## **SEC. 63.44. REGULATIONS AFFECTING PARK AND RECREATION AREAS.**

### **A. Definitions.**

As used in this section:

**“Beach”** shall include public seashore and shoreline areas bordering the Pacific Ocean that are owned, managed or controlled by the City.

**“Board”** shall mean the Board of Recreation and Park Commissioners.

**“Electronic Smoking Device”** shall mean any device that may be used to deliver any aerosolized or vaporized substances to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, vape pen, or e-hookah. Electronic Smoking Device includes any component part of or accessory to the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine.

**“Park”** shall include every public park, roadside rest area, playground, zoological garden, ocean, beach or other recreational facility area, together with any parking lot, reservoir pier, swimming pool, golf course, court, field, bridle path, trail, or other recreational facility, or structure thereon, in the City of Los Angeles and under the control, operation or management of the Board of Recreation and Park Commissioners, the Los Angeles County Department of Parks and Recreation, the Los Angeles County Department of Beaches, or the Los Angeles Memorial Coliseum Commission. “Park” does not include any State Historic Park located within the City of Los Angeles.

**“Smoking”** means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, cannabis, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an Electronic Smoking Device.

Sec. 12. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By  \_\_\_\_\_  
CELINA Z. PORRAS  
Deputy City Attorney

Date 9-17-21

File No. 18-1104

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Retailer's Permit.docx

The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

\_\_\_\_\_

\_\_\_\_\_

Ordinance Passed \_\_\_\_\_

Approved \_\_\_\_\_