

RESOLUTION NO. 20-066

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, TEMPORARILY POSTPONING THE ENFORCEMENT OF ORDINANCE NO. 19-1940 AGAINST EXISTING TOBACCO AND ELECTRONIC CIGARETTE PERMITTEES

WHEREAS, pursuant to Article XI, Section 7 of the California Constitution, the City of Carson (“City”) has the police power to make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City has discretion over enforcement of its laws and, pursuant to Section 818.2 of the California Government Code, is immune from injury caused by failure to enforce any law; and

WHEREAS, on January 14, 2020, the City Council unanimously adopted Ordinance No. 19-1940 (the “Ordinance”), which amended Carson Municipal Code Section 63150.5 *et seq.* to prohibit the retail sale of: (1) electronic cigarettes and other vaping devices that have not been approved by the FDA for introduction into interstate commerce, and (2) flavored tobacco products, including menthol and flavored hookah products, in order to protect the public health, safety and welfare of the residents and visitors of the City; and

WHEREAS, Ordinance No. 19-1940 became effective on February 13, 2020; and

WHEREAS, significant public input and comments received by the City have indicated that many of the City business owners who are existing “tobacco and electronic cigarette permit” permittees under Carson Municipal Code Section 63150.5 *et seq.* (“Permittees”) are facing economic hardships in regards to complying with Ordinance No. 19-1940, and that providing additional time to comply would alleviate this hardship by allowing Permittees to exhaust their existing inventory of products prohibited by Ordinance No. 19-1940; and

WHEREAS, the onset of the COVID-19 pandemic, which gave rise to a state-wide state of emergency declared by the State of California on March 4, 2020, and a local state of emergency declared by the City of Carson on March 17, 2020, has resulted in economic hardship to Permittees arising from (without limitation) the “stay at home” order issued by Governor Newsom and the general public health obligation of every person to avoid leaving their homes for non-essential purposes. These hardships, while unrelated in origin to Ordinance No. 19-1940, have interfered with the ability of Permittees to exhaust their existing inventories of products the sale of which is prohibited by Ordinance No. 19-1940. Additionally, in light of the severity and indefinite duration of the economic hardships caused to Permittees by the COVID-19 pandemic, the Council wishes to provide Permittees additional time to comply with Ordinance No. 19-1940 so as not to compound these hardships; and

WHEREAS, based on the foregoing, the City Council desires to provide a grace period to the enforcement of the Ordinance by postponing its enforcement against existing tobacco and electronic cigarette permittees until the end of the 2020 calendar year to allow such permittees

sufficient time to exhaust their existing inventories of electronic cigarettes and flavored tobacco products and come into compliance with Ordinance No. 19-1940.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference as though set forth in full as findings of fact.

SECTION 2. Based on the foregoing findings, and to diminish economic hardship on existing tobacco and electronic cigarette permittees with respect to effectiveness of Ordinance No. 19-1940, the City Council hereby approves a grace period, commencing retroactively from the effective date of said ordinance (February 13, 2020) and continuing until the end of the 2020 calendar year, for existing tobacco and electronic cigarette permittees to come into compliance with Ordinance No. 19-1940. City staff is hereby directed to postpone enforcement of Ordinance No. 19-1940 against such existing permittees until January 1, 2021, at which point enforcement shall resume in full with no exceptions.

SECTION 3. The City Council, by this resolution, does not intend to amend or alter the provisions or effectiveness of Ordinance No. 19-1940, which remains valid and in full force and effect.

SECTION 4. This resolution shall be effective immediately upon its adoption.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

[signatures on the following page]

PASSED, APPROVED and ADOPTED by the City Council of the City of Carson, California, at a regular meeting held on the 7th day of April, 2020.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE-ALDANA

APPROVED AS TO FORM:

SUNNY K. SOLTANI, CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Donesia Gause-Aldana, City Clerk of the City of Carson, California, do hereby certify that the whole number of members is five; that the foregoing resolution, being Resolution No. 20-066 was duly and regularly adopted by said City at a regular meeting duly and regularly held on the 7th day of April 2020, and that the same was passed and adopted by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

By: _____
City Clerk Donesia Gause-Aldana