



# County of San Diego

NICK MACCHIONE, FACHE  
AGENCY DIRECTOR

HEALTH AND HUMAN SERVICES AGENCY  
PUBLIC HEALTH SERVICES  
3851 ROSECRANS STREET, MAIL STOP P-578  
SAN DIEGO, CA 92110-3134  
(619) 531-5800 • FAX (619) 542-4186

WILMA J. WOOTEN, M.D., M.P.H.  
PUBLIC HEALTH OFFICER

June 19, 2020

Dear Tobacco Retailer:

This letter is a follow-up to the letter sent to you on February 28, 2020, regarding San Diego County Ordinance No. 10647, which places restrictions on the sale of certain tobacco products in the unincorporated area of San Diego County.

As a reminder, the following restrictions will be in place on July 1, 2020:

**1. The sale or distribution of flavored smoking products is prohibited.**

- a. "Distribution" means to give smoking products to the general public at no cost, or at nominal cost, or to give coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers for smoking products to the general public at no cost or at nominal cost.
- b. "Flavored Smoking Product" is a product containing, made, or derived from tobacco or nicotine that is intended for smoking, and that emits a taste or smell, other than the taste or smell of tobacco, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, candy, dessert, alcoholic beverage, herb, or spice.
- c. "Shisha", which is a flavored smoking product that is traditionally mixed with molasses, honey, fruit pulp, or dried fruits and is sold for use in a water pipe known as a hookah, is exempted from these restrictions.

**2. The sale or distribution of electronic smoking devices is prohibited until February 28, 2021 or an earlier date dependent on the results of the Centers for Disease Control and Prevention's ongoing vaping illness investigation.**

- a. E-hookah devices are not exempted from the temporary device ban.

These local restrictions are different from the United States Food and Drug Administration (FDA) enforcement policy regarding flavored e-cigarette products. The new FDA policy regarding flavored e-cigarette products includes flavored cartridge-based e-cigarettes but does not include tobacco- or menthol-flavored e-cigarette products, or other e-cigarette devices that are not cartridge-based (such as tank-based devices that use liquid flavoring). The FDA policy is not characterized as a ban of these products since it already considers most e-cigarette products to be out of compliance with FDA requirements. Instead, the policy just sets forth enforcement priorities which are subject to change at any time.

June 19, 2020

Page 2 of 2

**The County's restrictions go beyond the FDA's policy and includes bans of all flavored smoking products and all electronic smoking devices, regardless of type. The Ordinance addresses local sales of flavored smoking products, not the commercial manufacture of such products.**

On September 29, 2020, County of San Diego Board of Supervisors will consider actions to:

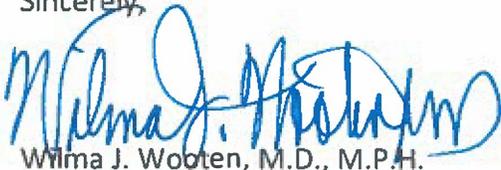
- Include smokeless tobacco in the prohibition on flavored tobacco products.
- Further review the hookah exemption.
- Establish a Tobacco Retail Licensing Program to strengthen enforcement of minimum age sale laws and to facilitate compliance monitoring of retailers.
- Revise applicable sections of County Administrative Code related to tobacco control regulation to align with State law and resolve any inconsistencies and duplications.
- Report back on a targeted vaping public health awareness campaign within the existing Tobacco Control Resource Program, and in coordination with the California Department of Public Health.

After further review, County of San Diego Board of Supervisors may make changes that could impact the existing exemptions. If any changes are made to the exemptions, additional information will be provided to the impacted facilities.

The County of San Diego's Tobacco Control Resource Program webpages contain resources that may be useful to you as you prepare for compliance. Visit [www.sandiegocounty.gov/hhsa/tobacco](http://www.sandiegocounty.gov/hhsa/tobacco) for the fact sheet and informational presentation. Enclosed is a copy of the fact sheet.

If you have any questions about the Ordinance, contact the County of San Diego's Tobacco Control Resource Program by e-mail at [tobacco@sdcounty.ca.gov](mailto:tobacco@sdcounty.ca.gov) or call (619) 542-4178.

Sincerely,



Wilma J. Wooten, M.D., M.P.H.  
Public Health Officer and Director  
Public Health Services