



City of Palo Alto

COLLEAGUES MEMO

DATE: December 9, 2019

TO: City Council Members

FROM: Council Members Cormack, Fine, and Tanaka

SUBJECT: COLLEAGUES' MEMO FROM COUNCIL MEMBERS CORMACK, FINE, AND TANAKA REGARDING ANTI-VAPING MEASURES

Objective

Address the health impacts of electronic cigarettes by eliminating access to vape devices, pods, and liquids in stores in Palo Alto and identifying programs to help people, especially students, in our community develop healthy habits.

Recommendation

We recommend that our colleagues direct staff to immediately:

- Prepare an urgency ordinance prohibiting the sale and distribution of all electronic cigarettes, in alignment with the County of Santa Clara's recent approach, with as few exemptions as possible;
- Identify avenues to support legislation making it harder for minors to successfully order electronic cigarette products online (e.g. needing a signature of a 21-year-old at delivery);
- Provide an update on the County's recent enforcement activities of the existing Tobacco Retail Permit Ordinance; and
- Provide funding in the amount of \$25,000 from the Council Contingency Fund to the Healthy City/Healthy Community working group to develop programs to educate and inform teens and families about the health effects of electronic cigarettes and to address the conditions that lead to teens using them for social reasons or for stress relief.

Background

The health impacts of using electronic cigarettes, generally known as vaping, are significant, particularly for our young people whose brains are still developing. Vaping one JUUL pod means a person ingests approximately the same amount of addictive, neurotoxic nicotine as smoking 41 cigarettes (source: <http://med.stanford.edu/tobaccopreventiontoolkit.html>). The liquids in electronic cigarettes are unregulated and contain many chemicals whose safety, when heated and breathed into the lungs, has not been tested. The current outbreak of significant lung disease related to vaping is still being analyzed, but the risks of death, lung damage, and organ transplant are already known.

According to data presented at Hooked, the 2019 Santa Clara County summit to reverse the vaping epidemic, more than 1 in 6 Santa Clara county high school students who buy e-cigarettes in a store report getting them at a vape shop. According to the presentation by Adolescent Counseling Services for the Human Relations Commission, "Just Say No" and scared-straight programs are generally ineffective, while comprehensive teen and family programs are considered the best approach to reducing substance abuse.

Resource Impact

Palo Alto has two types of tobacco regulations: restrictions on where tobacco products (including smoking and vaping) may be *used*, and restrictions on where they may be *sold*.

The City prohibits tobacco use in designated public spaces, including outdoor dining areas, entryways, parks, places of employment, public events, recreation areas, service areas and multi-family residential units (See Palo Alto Municipal Code, Chapter 4.64.). Palo Alto Police and Public Works staff are primarily responsible for informing the public of these restrictions and taking enforcement action, and do so as they are able in light of all other activities and priorities. Neither department has sufficient resources for robust proactive enforcement.

With respect to sales, Palo Alto participates in Santa Clara County's tobacco retailer program. Beginning in 2016, Palo Alto adopted the County's model retailer permit ordinance and entered into an agreement with the County for the County to administer and enforce the retail requirements (See PAMC, Chapter 9.14.). In November 2019, the County updated its retailer permit ordinance to add additional restrictions on sellers, including:

- expanding the prohibition on the sale of flavored tobacco products to include adult-only "smoke shops" selling 60% or more tobacco products, which were exempted from the previously-existing ban; and
- banning the sale of electronic devices (e.g. vaping devices), phased in as annual retail permits are renewed.

The expanded prohibition on flavored products will have a greater impact in Palo Alto, where seven establishments currently qualify for the "smoke shop" exception, than it has had in the unincorporated County.

Existing resources will be sufficient if Council updates the City's sales regulation in alignment with the County's updated ordinance and continues its agreement for the County to handle permitting and most enforcement activities. If Council were to direct staff to take on responsibility for administering permits and enforcing retail tobacco sales restrictions, additional City resources would need to be identified.

The Healthy City/Healthy Community working group is focusing its efforts on convening organizations and experts who are working on or interested in issues related to vulnerable populations. The working group selected youth vaping as the first issue of focus. An event is being planned for late January 2020 to bring community leaders and experts together to share information, facilitate discussion on best practices, and identify gaps and opportunities. Staff recommends returning to Council in February 2020 to share what was learned at the vaping forum, including any recommended actions or best practices, and identification of the level of funding that would be needed for City staff to implement those actions. This would include a recommendation as to which program or group would take the lead on implementation (e.g., Healthy City working group, HSRAP, emerging needs, etc.).