STATEMENT ON THE SUBJECT:
The City Council will consider directing staff to draft an ordinance to prohibit the sale of flavored tobacco products and to prohibit the use of coupons and discounts for the sale of tobacco in West Hollywood.

RECOMMENDATIONS:

1) Direct staff to draft an amendment to the Municipal Code to prohibit the sale of flavored tobacco products and to prohibit the use of coupons and discounts in the sale of tobacco products as part of the West Hollywood Tobacco Retail License.

2) Direct staff to present the draft ordinance to the Business License Commission before returning to the City Council for approval.

BACKGROUND / ANALYSIS:
Tobacco use is known to be the cause of serious diseases including heightened risk of cancer, stroke, and heart disease. Despite the State's and City's efforts to limit youth access to tobacco, studies have shown that minors are still able to access tobacco products, with a particular inclination towards those products that are flavored. Smokeless tobacco products, including chewing tobacco, snuff, snus and nicotine solutions (consumed via electronic smoking devices, such as electronic cigarettes) come in dozens of flavors, such as cotton candy, chocolate, and bubble gum, which mask the harsh taste of tobacco. Due to tobacco companies' marketing efforts, youth, communities of color, low-income populations, and members of the LGBTQ communities are significantly more likely to use menthol cigarettes and other flavored tobacco products. These groups disproportionately bear the burden of tobacco-related harm.

According to the Centers for Disease Control and Prevention, tobacco product use is started and established primarily during adolescence. Nearly 9 out of 10 cigarette
smokers first try smoking by age 18, and 98% first try smoking by age 26. Flavorings in tobacco products can make them more appealing to youth. In 2018, 67% of high school students and 49% of middle school students who used tobacco products in the past 30 days reported using a flavored tobacco product during that time. Flavored and mentholated tobacco products can serve as "starter" products that help new users establish daily habits and promote addiction to tobacco products.

This item provides direction to staff to develop an ordinance to prohibit the sale of flavored tobacco products in the City of West Hollywood. This ordinance provides a significant public health benefit to the community by discouraging tobacco use, especially among vulnerable populations. The ordinance would also prohibit the use of tobacco coupons and discounts. Tobacco retailers would not be allowed to honor or redeem a coupon to allow a consumer to purchase a tobacco product for less than the full retail price or sell any tobacco product to a consumer through a discount program.

The federal government introduced a plan to temporarily ban many candy- and fruit-flavored e-cigarettes. The ban is limited and does not extend to refillable, tank-based vaping systems purchased in most vape shops, which users can fill with flavored e-liquid. It also excludes menthol-flavored cartridges. Some states are considering additional restrictions on flavored products. California State Senator Jerry Hill (D-San Mateo) recently introduced SB 793, which would prohibit flavored products not covered by the federal ban, including menthol-flavored cartridges and the refillable, tank-based vaping systems. It would also outlaw flavors for traditional combustible cigarettes and cigars, as well as for chewing tobacco and hookah pipes. Should the bill become law, California would become the second state to adopt a full ban after Massachusetts.

The proposed ordinance is in line with the City's ongoing efforts to deter youth smoking and illegal sales to minors. In 2016, the City Council adopted an ordinance to create a Tobacco Retailer Licensing program in order to ensure that retailers comply with tobacco control laws and the City's business standards, and to prohibit the sale of (flavored) tobacco products to minors. The ordinance intends to protect health, safety, and welfare of City residents by encouraging responsible tobacco retailing and to discourage violations of tobacco-related laws, especially involving the sale or distribution of tobacco and nicotine products to minors. Additionally, in 2018 the City received a $75,000 grant from Proposition 56 funds in order to support local efforts to reduce the illegal sale of tobacco products to minors.

CONFORMANCE WITH VISION 2020 AND THE GOALS OF THE WEST HOLLYWOOD GENERAL PLAN:

This item is consistent with the Primary Strategic Goal(s) (PSG) and/or Ongoing Strategic Program(s) (OSP) of:
• OSP-7: Collaborative Public Safety.
• OSP-11: Community Education.

In addition, this item is compliant with the following goal(s) of the West Hollywood General Plan:

• SN-2: Minimize exposure to hazardous materials.
• SN-7: Utilize law enforcement, fire protection and emergency medical services in a proactive and preventative way.

EVALUATION PROCESSES:
N/A

ENVIRONMENTAL SUSTAINABILITY AND HEALTH:
N/A

COMMUNITY ENGAGEMENT:
The draft ordinance will be presented to the Business License Commission for public input before returning to City Council for consideration.

OFFICE OF PRIMARY RESPONSIBILITY:
DEPARTMENT OF PUBLIC WORKS / CODE COMPLIANCE DIVISION

FISCAL IMPACT:
None at this time.