

ORDINANCE NO. 6611

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING SECTION 18.16.090 (TOBACCO RETAIL PERMIT) TO TITLE 18 OF THE ANAHEIM MUNICIPAL CODE TO ESTABLISH REQUIREMENTS AND PROCEDURES FOR TOBACCO RETAIL PERMITS, IMPOSE REGULATIONS ON TOBACCO RETAILERS, PROHIBIT THE SALE OF ILLEGAL ITEMS AND ACTIVITIES, AND AUTHORIZE INSPECTIONS AND ENFORCEMENT TO ENSURE COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

WHEREAS, in 2003, the State Legislature enacted the Cigarette and Tobacco Products Licensing Act (Bus. & Prof. Code § 22970 et seq.) finding and declaring that the licensing of tobacco retailers helps stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products and that enforcement of tobacco retailer licensing provisions is necessary to stop unlawful distributions and untaxed sales of tobacco products by organized crime syndicates, street gangs, and international terrorist groups; and

WHEREAS, the California Legislature has also acknowledged the critical need to regulate tobacco products and prevent access by minors, implementing measures such as the Stop Tobacco Access to Kids Enforcement (STAKE) Act (Bus. & Prof. Code § 22950 et seq.) and Penal Code § 308, which generally prohibit the sale of tobacco products to individuals under the age of 21, except for active-duty military personnel who are at least 18 years of age; and

WHEREAS, research has demonstrated that the availability and aggressive marketing of tobacco products significantly increase their appeal to youth, leading to early nicotine addiction and lifelong tobacco use; and

WHEREAS, the Cigarette and Tobacco Products Licensing Act allows the City of Anaheim (“City”) to adopt and implement local tobacco permitting laws, including provisions for the suspension and revocation of a local tobacco retail permit for any violation of State tobacco control laws; and

WHEREAS, in promoting the health, safety and general welfare of its residents, the City has a substantial interest in encouraging compliance with federal, State, and local laws regulating tobacco sales and use; discouraging the purchase of and use of tobacco products by anyone under the age of 21; increasing compliance with laws prohibiting the sale of tobacco products to anyone under the age of 21; and protecting children from being lured into nicotine and tobacco use through the illegal sale of products, including vaping products; and

WHEREAS, the City has a substantial interest in regulating tobacco retailers not only to control the sale of tobacco products and paraphernalia but also to address the illegal activities frequently associated with certain tobacco retail establishments operating within the City, including the sale of controlled substances, drug paraphernalia, and illegal weapons, as well as

unlawful gambling, all of which contribute to increased crime and negatively impact neighboring businesses and the community at large; and

WHEREAS, the illegal sale of controlled substances at tobacco retail establishments, including, in some instances, methamphetamine and psilocybin, is currently posing significant risks to public health, safety, and welfare by contributing to substance abuse, criminal activity, and adverse impacts on the community; and

WHEREAS, the ongoing sale of drug paraphernalia, including meth pipes, at certain tobacco retail establishments in the City poses a serious and immediate threat to public health, safety, and welfare by facilitating drug abuse and contributing to criminal activity and the deterioration of the community; and

WHEREAS, the sale of knives that violate State law within certain tobacco retail establishments in the City heightens public safety concerns, particularly when coupled with the sale of drug paraphernalia and controlled substances, further endangering community welfare; and

WHEREAS, illegal gambling activities have become pervasive in tobacco retail establishments in the City, contributing to loitering and creating ongoing public safety concerns, which are negatively impacting the quality of life for residents and the viability of surrounding businesses; and

WHEREAS, the State of California has a limited number of investigators to inspect and enforce the State's tobacco regulations, and the Anaheim Police Department contends that local regulations that implement operational standards will address the continued issues with tobacco retailers including perpetuating the sale of controlled substances, drug paraphernalia, illegal weapons, and allowance for unlawful gambling to occur on-site; and

WHEREAS, the City now desires to require retailers that are dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia to obtain a tobacco retail permit and adhere to strict operating regulations in order to reduce crime, prevent public nuisances, and promote the safety and well-being of all residents; and

WHEREAS, the City now desires to establish a minimum distance requirement for tobacco retail establishments from sensitive areas, such as schools, community centers, parks, libraries, and city or county mental health facilities, to reduce youth exposure to tobacco products and prevent the clustering of tobacco retailers in vulnerable neighborhoods; and

WHEREAS, the City now desires to require a minimum distance between tobacco retail establishments to prevent over-concentration, which has been associated with increased crime, loitering, and negative impacts on surrounding businesses and neighborhoods; and

WHEREAS, the City now desires to restrict the operating hours of tobacco retail establishments by prohibiting the sale of tobacco products and paraphernalia after midnight to reduce the likelihood of illegal activities, such as the sale of controlled substances, illegal weapons,

and drug paraphernalia, as well as unlawful gambling, which are more prevalent after midnight and that contribute to public safety concerns; and

WHEREAS, gas stations, convenience stores, and markets, may sell or display tobacco products as only as an ancillary sale to a diverse range of goods and services that serve the adjacent neighborhood and public and surrounding area and are not dedicated to the display and sale of tobacco products; and

WHEREAS, Smoking Lounges are defined in the Anaheim Municipal Code as businesses dedicated, in whole or in part, to the smoking of tobacco or other substances. The City specifically regulates smoking lounges in Anaheim Municipal Code Section 18.16.080, which establishes smoking lounges as a use permitted in specified zones, subject to approval of a regulatory permit with operating standards specific to smoking lounges and, depending on location and operations, may require a conditional use permit; and

WHEREAS, the City now desires to ensure that inspections and enforcement mechanisms are in place as essential tools for the effective regulation of tobacco retail establishments, to ensure compliance with federal, State, and local tobacco-related laws, and to prevent illegal activities such as gambling, the sale of controlled substances, drug paraphernalia, and illegal weapons, thereby reducing crime and enhancing the quality of life for residents and surrounding businesses; and

WHEREAS, the intent of this Ordinance is to encourage responsible tobacco retailing by enforcing responsible business and public health-related practices on businesses dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; and

WHEREAS, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.; herein referred to as “CEQA”) and the State of California Guidelines for Implementation of the California Environmental Quality Act (commencing with Section 15000 of Title 14 of the California Code of Regulations; herein referred to as the “State CEQA Guidelines”), the City is the “lead agency” for the preparation and consideration of environmental documents for this ordinance; and

WHEREAS, the City Council finds and determines that this ordinance is not subject to the requirements to prepare environmental documentation pursuant to CEQA Guidelines Sections 15060(c)(2) and 15060(c)(3) because the proposed amendments will not result in a direct or reasonably foreseeable indirect physical change in the environment and are not a “project,” as that term is defined in Section 15378 of the State CEQA Guidelines. Further, this ordinance is covered by the common sense exemption pursuant to Section 15061(b)(3), which is that CEQA applies only to projects that have the potential for causing a significant effect on the environment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ANAHEIM AS FOLLOWS:

SECTION 1. Anaheim Municipal Code Section 18.16.090 is new and hereby added to read in full as follows:

18.16.090 TOBACCO RETAIL PERMIT.

.010 Definitions. The definitions set forth below shall apply only to the provisions of this Section.

.0101 “Arm’s Length Transaction” means a Sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) or more informed and willing parties, neither of which is under any compulsion to participate in the transaction. A Sale between relatives, related companies or partners, or a Sale for which a significant purpose is avoiding the effect of violations of this Section is not an Arm’s Length Transaction.

.0102 “Characterizing Flavor” has the meaning set forth in Health and Safety Code Section 104559.5, as may be amended from time to time.

.0103 “Community Center” means a facility that is publicly owned or operated by a non-profit organization, open to the public, and primarily used for recreational, social, or cultural activities, including sports, fitness, arts, and educational programs.

.0104 “Constituent” has the meaning set forth in Health and Safety Code Section 104559.5, as may be amended from time to time.

.0105 “Electronic Cigarette Products” means any of the following products:

.01 Any device or delivery system that can be used to deliver nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah.

.02 Any component, part, or accessory of such a device or delivery system that is used during its operation.

.03 Any flavored or unflavored liquid or substance containing nicotine, whether sold separately or sold in combination with any device or delivery system that could be used to deliver nicotine in aerosolized or vaporized form.

.04 Any product for use in an electronic nicotine device or delivery system whether or not it contains nicotine or tobacco or is derived from nicotine or tobacco.

.05 Electronic Cigarette Products shall not include any battery, battery charger, carrying case, or other accessory not used in the operation of the device if sold separately. Electronic Cigarette Products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. See 21 U.S.C. § 387(a). As used in this subsection, nicotine does not include any food products as that term is defined pursuant to Section 6359 of the California Revenue and Taxation Code.

.0106 “Flavored Tobacco Product” has the meaning set forth in Health and Safety Code Section 104559.5, as may be amended from time to time.

.0107 “Library” means a facility that maintains a collection of books, periodicals, and other informational and educational materials for public use and lending.

.0108 “Loose Leaf Pipe Tobacco” consists of cut or shredded pipe tobacco, usually sold in pouches, excluding any Tobacco Product, which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes, including roll-your-own cigarettes.

.0109 “Mental Health Facility” means any facility that provides mental health services, including counseling, therapy, or related wellness programs.

.0110 “Park” means an open space that is designated for recreational use by the public, which may include playgrounds, sports fields, trails, and picnic areas.

.0111 “Permittee” means any person who holds a tobacco retail permit or is required to have a tobacco retail permit under this Section, regardless of whether such person actually possesses a permit.

.0112 “Person” means any person, firm, association, organization, partnership, business trust, company, corporation, public agency, school district, the State of California, its political subdivisions and/or instrumentalities thereof.

.0113 “Premises” means any building or portion of any building where Tobacco Retailing is occurring.

.0114 “Premium Cigar” means any cigar that is handmade, is not mass produced by the use of mechanization, has a wrapper that is made entirely from whole tobacco leaf, and has a wholesale price of no less than twelve dollars (\$12). A Premium Cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

.0115 “Sale” and “Sold” include any sale, exchange, barter or offer for sale.

.0116 “Self-Service Display” means the open display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the Tobacco Retailer or the Tobacco Retailer’s agent or employee and without a direct person-to-person transfer between the purchaser and the Tobacco Retailer or Tobacco Retailer’s agent or employee. A vending machine is a form of Self-Service Display.

.0117 “Tobacco Paraphernalia” means cigarette papers or wrappers, blunt wraps as defined in Penal Code Section 308, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of Tobacco Products.

.0118 “Tobacco Product” means any product as defined in Health and Safety Code Section 22950.5(d)(1), as may be amended from time to time. Tobacco Product does not include a product that has been approved by the United States Food and Drug Administration for sale

as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

.0119 “Tobacco Product Flavor Enhancer” has the meaning set forth in Health and Safety Code Section 104559.5, as may be amended from time to time.

.0120 “Tobacco Retailer” means any person who sells, offers for sale, or does or offers to exchange for any form of consideration Tobacco Products or Tobacco Paraphernalia for off-premise consumption, where fifteen (15) percent or more of the total floor area or visible inventory is dedicated to the sale or display of Tobacco Products or Tobacco Paraphernalia, and which does not provide facilities for the on-site consumption of these products. This definition shall exclude activities conducted within a Smoking Lounge regulated pursuant to the provisions of Section 18.16.080 and to the extent a Smoking Lounge has an accessory use related to the off-premise sale or exchange of any form of Tobacco Product or Tobacco Paraphernalia, the provisions of Section 18.16.080 shall govern in lieu of the permit required by this Section.

.0121 “Tobacco Retailing” means engaging in any of those activities of a Tobacco Retailer as a primary use directly to individual consumers. This definition shall exclude activities conducted within a Smoking Lounge regulated pursuant to the provisions of Section 18.16.080 and to the extent a Smoking Lounge has an accessory use related to the off-premise sale or exchange of any form of tobacco produce or Tobacco Paraphernalia, the provisions of Section 18.16.080 shall govern in lieu of the permit required by this Section.

.020 Tobacco Retail Permit Required. It shall be unlawful for any Tobacco Retailer to engage in Tobacco Retailing in the City without first obtaining and maintaining a valid tobacco retail permit from the Planning Director for each location at which Tobacco Retailing is to occur. Engaging in Tobacco Retailing without a valid tobacco retail permit constitutes a public nuisance.

.030 Operating Regulations and Conditions.

.0301 It shall be a violation of this Section for any Tobacco Retailer to violate any provision of this Section.

.0302 It shall be a violation of this Section for any Tobacco Retailer to violate any applicable local, State, or federal law regulating Tobacco Products, Tobacco Paraphernalia, and Tobacco Retailing, including, but not limited to, violations of the Family Smoking Prevention and Tobacco Control Act of 2009; Business and Professions Code Sections 22950 et seq. (STAKE Act); and Penal Code Sections 308 (sale of tobacco products or paraphernalia to a minor), 308.2 (sale of individual cigarettes), and 308.3 (sale of a package of cigarettes that contains fewer than 20 cigarettes).

.0303 It shall be a violation of this Section for any Tobacco Retailer to violate any applicable local, State, or federal law regulating the sale of controlled substances, including, but not limited to, violations of Health and Safety Code Sections 11351 (possession with intent to sell certain controlled substances), 11352 (sale, transportation, and distribution of certain controlled substances), 11359 (possession of marijuana for sale),

11360 (sale of marijuana), 11366 (operating a place for the sale of controlled substances), 11378 (possession with intent to sell controlled substances), and 11379 (sale, transportation, distribution, or offering to sell controlled substances).

.0304 It shall be a violation of this Section for any Tobacco Retailer to violate any applicable local, State, or federal law regulating the sale of drug paraphernalia, including, but not limited to, violations of Health and Safety Code Sections 11364.5 (possession, sale, display, and furnishing of drug paraphernalia) and 11364.7 (delivering, furnishing, or possessing with intent to deliver drug paraphernalia with knowledge that it will be used for illegal drug use).

.0305 It shall be unlawful for any Tobacco Retailer to violate any applicable local, State, or federal law regulating gambling, including, but not limited to, violations of Penal Code Sections 337a (engaging in bookmaking, pool-selling, operating illegal betting operations, or keeping a place for registering bets) and 337j (possession, operation, or control of illegal gambling devices such as slot machines).

.0306 It shall be unlawful for any Tobacco Retailer to violate any applicable local, State, or federal law regulating the sale of weapons, including, but not limited to, violations of Penal Code Sections 17235 (sale of switchblade knives with blades longer than two inches), 20410 (sale of ballistic knives), and 21810 (sale of brass knuckles).

.0307 No Tobacco Retailer shall sell a Flavored Tobacco Product or a Tobacco Product Flavor Enhancer.

.01 A Tobacco Product shall be subject to a rebuttable presumption that the product is a Flavored Tobacco Product if a manufacturer or any of the manufacturer's agents or employees, in the course of their agency or employment, has made a statement or claim directed to consumers or to the public that the Tobacco Product has or produces a Characterizing Flavor, including, but not limited to, text, color, images, or all, on the product's labeling or packaging that are used to explicitly or implicitly communicate that the Tobacco Product has a Characterizing Flavor.

.02 The prohibition on the sale of Flavored Tobacco Products described in subsection 18.16.090.030.0307 does not apply to Loose Leaf Pipe Tobacco or Premium Cigars.

.0308 Any application for a tobacco retail permit shall be denied if the proposed business location is within one thousand (1,000) feet of a school, as defined in Section 18.92.220 ("S" words, terms and phrases); Community Center; Park; Library; or a city or county Mental Health Facility (collectively, "sensitive uses"), regardless of whether the sensitive use is within or outside of the boundaries of the City. The distance shall be measured in a straight line from the parcel boundary of the sensitive use to the boundary of the parcel where the applicant's business is proposed; provided, however, that this prohibition shall not apply to the following:

.01 Any Tobacco Retailer operating lawfully on the day before the effective date of this ordinance.

.02 Any lawfully operating Tobacco Retailer that would otherwise become ineligible to receive a new permit due to the creation or relocation of any sensitive use.

.0309 Any application for a tobacco retail permit shall be denied if the proposed business location is within five hundred (500) feet of a location occupied by another Tobacco Retailer, as measured in a straight line from the boundary lines of the parcel of an existing Tobacco Retailer's business location to the boundary lines of the parcel of the permit applicant's proposed business location. However, if both retailers are located on the same parcel, the distance shall be measured in a straight line from the wall of one building to the wall of the other. The prohibition in this paragraph shall not apply to any Tobacco Retailer operating lawfully on the day before the effective date of this ordinance.

.0310 An exemption granted to a Tobacco Retailer for a specific location pursuant to subsections 18.16.090.030.0308 or 18.16.090.030.0309 shall cease to apply upon expiration of the tobacco retail permit pursuant to subsection 18.16.090.200.2003.

However, any exemption granted to a Tobacco Retailer for a specific location pursuant to subsections 18.16.090.030.0308 or 18.16.090.030.0309 shall also apply to the Sale to another person, through an Arm's Length Transaction, of a tobacco retail business operating lawfully on the effective date of this ordinance. The new owner of such a business is required to apply for and obtain a new tobacco retail permit.

.040 Posting of Permit. Each Tobacco Retailer shall prominently display both their City-issued tobacco retail permit and the cigarette and tobacco products license issued by the California Department of Tax and Fee Administration at the Premises in a location clearly visible to customers.

.050 Compliance Inspection. The Chief of Police and any City official charged with enforcing the provisions of this Code shall have the power and authority to enter any business engaging in Tobacco Retailing during regular business hours to inspect the Premises and to determine compliance with the provisions of this Section. No inspection shall occur that is inconsistent with an individual's Fourth Amendment rights under the United States Constitution or otherwise in violation of rights guaranteed by law.

.060 Positive Identification Required. No Tobacco Retailer shall sell or transfer a Tobacco Product or Tobacco Paraphernalia to any person without first examining the identification of that person to confirm that person is at least the minimum age under State law to purchase and possess the Tobacco Product or Tobacco Paraphernalia.

.070 Minimum Age for Persons Selling Tobacco Products and Tobacco Paraphernalia. No person who is younger than the minimum age established by State law for the purchase or possession of Tobacco Products or Tobacco Paraphernalia shall engage in Tobacco Retailing.

.080 Permitted Hours. A Tobacco Retailer shall not operate or allow the Premises to be open to the public between the hours of 12:00 a.m. and 6:00 a.m.

.090 Self-Service Displays Prohibited. No Tobacco Retailer shall engage in Tobacco Retailing by means of a Self-Service Display.

.100 Limitation on Storefront Advertising. No more than twenty (20) percent of the total transparent area of the windows and clear doors of a physical storefront used for Tobacco Retailing may bear advertising or signage of any kind. The area of a sign shall be calculated by framing the entire face of the sign with four congruent sides at right angles, and the area within these sides shall be used to determine compliance. Negative or clear spaces between graphics shall be included as part of the sign area. All advertising and signage shall be placed and maintained in a manner that ensures law enforcement personnel have a clear and unobstructed view of the interior of the Premises, including the area where the cash registers are located, from the exterior public sidewalk or entrance.

.110 Limits on Eligibility and Location.

.1101 No tobacco retail permit issued under this Section may be issued to authorize Tobacco Retailing at other than a fixed location. For example, Tobacco Retailing by persons on foot or from vehicles is prohibited.

.1102 No tobacco retail permit issued under this Section may be issued to authorize Tobacco Retailing at a temporary or recurring temporary event. For example, Tobacco Retailing at flea markets and farmers' markets is prohibited.

.120 Other Legal Duties.

.1201 Each Tobacco Retailer shall:

.01 Comply with all conditions imposed by the Planning Director as part of the tobacco retail permit.

.02 Comply with all conditions imposed by any other permit or permit required for the business engaging in Tobacco Retailing.

.1202 Each Tobacco Retailer, and any other person(s) responsible for the operation of the business engaging in Tobacco Retailing, excluding the City, its agents, officers and employees, shall be jointly and severally liable for:

.01 Any violation of this Section.

.02 Any violation of the terms of the tobacco retail permit or of the exemption issued to the Tobacco Retailer under this Section.

.03 Any violation of any other permit or permit required for the business engaging in Tobacco Retailing.

.130 Administration. Unless otherwise specified, the purpose, fees, procedures, and penalties outlined in Sections 18.16.010 through 18.16.040 of Chapter 18.16 (Regulatory Permits) of this

Code apply to tobacco retail permits, with additional specific requirements, grounds for denial, suspension or revocation, and penalties provided in this Section.

.140 Suspension, Revocation, and Penalty. The suspension, revocation, and penalty procedures outlined in Section 18.16.040 (Revocation and Penalty) shall apply to Tobacco Retailers, except for subsection 18.16.040.030, in addition to the specific requirements in this subsection.

.1401 Suspension or Revocation of Permit. A violation of, or failure to comply with, any provision of this Section shall result in the following actions:

.01 For the first violation in any five (5) year period, the Tobacco Retailer's permit shall be suspended for ten (10) business days.

.02 For the second violation in any five (5) year period, the Tobacco Retailer's permit shall be suspended for thirty (30) business days.

.03 For the third violation within a five (5) year period, the Tobacco Retailer's permit shall be revoked. No new permit may be issued for the location until two (2) years have passed from the date of revocation.

.04 A Tobacco Retailer whose permit has been revoked may not apply for a new tobacco retail permit at any other location for a period of two (2) years after the effective date of revocation.

.05 During any period of permit suspension or revocation, the Tobacco Retailer must remove from public view all Tobacco Products and tobacco-related advertising.

.1402 Civil Fines. Violations of, or failures to comply with, any provision of this Section shall be subject to civil fines, enforced in accordance with Chapter 1.20 (Civil Citations) of this Code, which governs the issuance of citations, imposition of administrative fines, the right to appeal, and the right to an administrative hearing. Fines are imposed as follows:

.01 A civil fine of two hundred fifty dollars (\$250.00) for a first violation.

.02 A civil fine of five hundred dollars (\$500.00) for a second violation if it occurs within twelve (12) months of the first violation.

.03 A civil fine of one thousand dollars (\$1,000.00) for a third violation and any subsequent violations if they occur within twelve (12) months of the first violation.

.150 Permit and Exemption Nontransferable. No Tobacco Retailer shall assign or transfer any tobacco retail permit issued under this Section. Exemptions granted for specific locations pursuant to subsections 18.16.090.030.0308 or 18.16.090.030.0309 are nontransferable, except when the exemption is transferred as part of an Arm's Length Transaction.

.160 Term of Permit. Each tobacco retail permit issued under this Section shall expire one (1) year after the date of issuance, subject to suspension or revocation as provided for in this Section.

.170 Permit Application.

.1701 An application for a tobacco retail permit shall be submitted in the name of each person proposing to conduct retail tobacco sales and shall be signed by each person or an authorized agent thereof.

.1702 It is the responsibility of each person to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a tobacco retail permit.

.1703 No person may rely on the issuance of a permit as a determination by the City that the person has complied with all laws applicable to Tobacco Retailing.

.1704 A permit issued contrary to this Section, contrary to any other law, or on the basis of false or misleading information supplied by an applicant shall be revoked pursuant to subsection 18.16.090.190.

.1705 Nothing in this Section shall be construed to vest in any person obtaining and maintaining a tobacco retail permit any status or right to act as a Tobacco Retailer in contravention of any provision of law.

.1706 All applications shall be submitted on a form supplied by the Planning Director and shall contain the following information:

.01 The name, address, and telephone number of the person that is seeking a tobacco retail permit.

.02 The business name, address, and telephone number of the single fixed location where the Tobacco Retailing will occur.

.03 If the applicant is not the owner of the property where the Tobacco Retailing will occur, the property owner's name, address, and written authorization for the proposed use.

.04 A single name and mailing address authorized by each person to receive all communications and notices (the "authorized address") required by, authorized by, or convenient to the enforcement of this Section. If an authorized address is not supplied, each person shall be understood to consent to the provision of notice at the business address specified above.

.05 Proof that the location for which a tobacco retail permit is sought has been issued a valid cigarette and tobacco products license from the California Department of Tax and Fee Administration.

.06 Whether a person has previously been issued a tobacco retail permit pursuant to this Section that is or was at any time suspended or revoked and, if so, the dates and locations of all such suspensions or revocations.

.07 Such other information as the Planning Director deems reasonably necessary for the administration of this Section.

.1707 The applicant shall provide a complete set of fingerprints taken by the Police Department.

.1708 The Planning Director shall utilize the Police Department to investigate and verify the facts stated in the application for a tobacco retail permit.

.180 Updated Information. A permitted Tobacco Retailer shall inform the Planning Director in writing of any change in the information submitted on an application for a tobacco retail permit within ten (10) business days of the change so that the Planning Director may determine whether there has been a substantial change in the information originally submitted such that a new application must be submitted. A substantial change may include, but is not limited to, a change in ownership, relocation of the business, or any change that materially impacts compliance with the requirements of this Section.

.190 Denial, Suspension, or Revocation. An application for a tobacco retail permit or a request for an exemption may be denied, and an existing tobacco retail permit or granted exemption may be suspended or revoked by the Planning Director based on any of the following grounds.

.1901 The Tobacco Retailer has knowingly made a false statement of fact or omitted a fact required to be revealed in an application for the tobacco retail permit or a request for an exemption, or in any amendment or report or other information required to be made thereunder.

.1902 The application for a tobacco retail permit does not comply with the provisions of this Section, including, but not limited to, the separation distances defined in subsections 18.16.090.030.0308 and 18.16.090.030.0309.

.1903 The Premises in which the Tobacco Retailing will occur is in violation of any building, zoning, health, safety, fire, police or other provision of this Code or of federal, State or local law which substantially affects the public health, safety or welfare.

.1904 The Tobacco Retailer has violated the terms and conditions of the retailer's tobacco retail permit or other requirements of this Section within the past five (5) years.

.1905 The Tobacco Retailer owned or leased a premises that has been the subject of an administrative, civil or criminal nuisance abatement action and court judgment or administrative determination finding the premises to be a nuisance within the past five (5) years.

.1906 A prior application for a tobacco retail permit or permit to operate a business engaged in Tobacco Retailing in the City or anywhere in the United States has been denied by the City or any federal, State, or local agency on one or more of the grounds provided in this subsection within five (5) years prior to the date of the current application.

.1907 A tobacco retail permit or permit issued by the City or any federal, State or local agency to operate or manage a business engaged in Tobacco Retailing anywhere in the United States has been revoked or suspended within the past five (5) years.

.1908 If the Tobacco Retailer is a corporation, the corporation is not in good standing in the State of California or is not authorized to do business in the State of California.

.1909 Engaging in Tobacco Retailing or allowing or offering Tobacco Products for sale at the premises for which the tobacco retail permit is sought or was issued or granted is prohibited under the terms of any contract or lease for that premises.

.200 Renewal, Expiration, and Penalty for Late Renewal of Permit.

.2001 Renewal Requirements. A Permittee may renew its tobacco retail permit by complying with all of the following:

.01 An application to renew must be filed on the form provided by the Planning Director.

.02 The application to renew must be filed with the Planning Director no later than sixty (60) days prior to the expiration date of the current tobacco retail permit.

.03 The application shall contain or be accompanied by the information required by subsection 18.16.090.170.

.2002 Completion of Renewal Application. An application to renew a tobacco retail permit shall not be deemed complete until all the information required in subsection 18.16.090.200.2001 has been provided to the Planning Director and the required fees and any applicable business license tax required of this Code have been paid.

.2003 Expiration of Permit. If a completed renewal application for a tobacco retail permit is not submitted before the expiration date of the current permit, the permit shall be deemed expired as of the date noted on the permit. Once a permit expires, all Tobacco Retailing must cease. Failure to renew and continuing to engage in Tobacco Retailing without a valid permit constitutes a violation of this Section and subjects the person to the penalties outlined in subsection 18.16.090.140.

.2004 Penalty for Late Renewal or Expired Permit. Any Permittee who fails to file a completed application to renew a tobacco retail permit at least sixty (60) days before the expiration date, or who seeks to obtain a new permit after the original permit has expired, shall be subject to a penalty. This penalty shall be ten (10) percent of the amount of the tobacco retail permit fee and must be paid at the time the Permittee submits the application. The penalty is in addition to the regular fee charged for obtaining a new or reinstated permit.

.210 Compliance and Regulatory Requirements for Existing Tobacco Retailers.

.2101 All Tobacco Retailers operating within the City as of the effective date of this ordinance must obtain a tobacco retail permit no later than January 1, 2026, or their next annual business license renewal deadline, whichever is later. No renewal of the business license shall be granted unless a Tobacco Retailer has obtained a valid tobacco retail permit pursuant to the requirements of this Section.

.2102 Notwithstanding the deferred tobacco retail permit requirement, all existing Tobacco Retailers shall comply with the provisions of this Section on the effective date of this ordinance except as provided in subsection 18.16.090.210.2103.

.2103 Existing Tobacco Retailers may be granted a deferment of no more than two (2) years to comply with subsection 18.16.090.080 (Permitted Hours), upon submitting a hardship application demonstrating either (a) a written lease for the Premises exceeding one year from the effective date of this ordinance or (b) an investment of money in a leasehold or improvements related the Premises such that the deferment is necessary to prevent undue hardship.

SECTION 2. SEVERABILITY.

The City Council of the City of Anaheim hereby declares that should any section, paragraph, sentence, phrase, term or word of this ordinance be declared for any reason to be invalid, it is the intent of the City Council that it would have adopted all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid. If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION 3. CERTIFICATION.

The City Clerk shall certify to the passage of this ordinance and shall cause the same to be printed once within fifteen (15) days after its adoption in the *Anaheim Bulletin*, a newspaper of general circulation, published and circulated in the City of Anaheim.

SECTION 4. EFFECTIVE DATE.

This ordinance shall take effect and be in full force thirty (30) days from and after its final passage.

THE FOREGOING ORDINANCE was introduced at a regular meeting of the City Council of the City of Anaheim held on the 13 day of May, 2025, and thereafter passed and adopted at a regular meeting of said City Council held on the 29 day of May, 2025, by the following roll call vote:

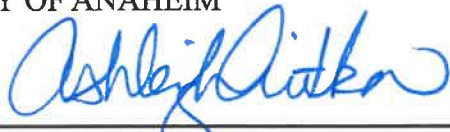
AYES: Mayor Aitken and Council Members Meeks, Balius, Leon, Rubalcava, Kurtz and Maahs

NOES: None


ABSENT: None

ABSTAIN: None

CITY OF ANAHEIM

By: 
MAYOR OF THE CITY OF ANAHEIM

ATTEST:


CITY CLERK OF THE CITY OF ANAHEIM
ASSISTANT
154484

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, SUSANA BARRIOS, Assistant City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original Ordinance No. 6611 introduced at a regular meeting of the City Council of the City of Anaheim, held on the 13th day of May, 2025, and that the same was duly passed and adopted at a regular meeting of said City Council held on the 29th day of May, 2025, by the following vote of the members thereof:

AYES: Mayor Aitken and Council Members Meeks, Balius, Leon, Rubalcava, Kurtz and Maahs

NOES: None

ABSENT: None

ABSTAIN: None

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of May, 2025.



ASSISTANT CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)

Anaheim Bulletin
1920 Main St. Suite 225
Irvine, California 92614
(714) 796-2209

200 S. Anaheim Blvd., Suite 217
Anaheim, California 92805

AFFIDAVIT OF PUBLICATION

STATE OF CALIFORNIA

County of Orange

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the Anaheim Bulletin, a newspaper that has been adjudged to be a newspaper of general circulation by the Superior Court of the County of Orange, State of California, on December 28, 1951, Case No. A-21021 in and for the City of Anaheim, County of Orange, State of California; that the notice, of which the annexed is a true printed copy, has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit:

06/12/2025

I certify (or declare) under the penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Executed at Anaheim, Orange County, California, on
Date: Jun 12, 2025.



Signature

SUMMARY PUBLICATION
CITY OF ANAHEIM
ORDINANCE NO. 6611

AN ORDINANCE OF THE CITY OF ANAHEIM ADDING SECTION 18.16.090 (TOBACCO RETAIL PERMIT) TO TITLE 18 OF THE ANAHEIM MUNICIPAL CODE TO ESTABLISH REQUIREMENTS AND PROCEDURES FOR TOBACCO RETAIL PERMITS, IMPOSE REGULATIONS ON TOBACCO RETAILERS, PROHIBIT THE SALE OF ILLEGAL ITEMS AND ACTIVITIES, AND AUTHORIZE INSPECTIONS AND ENFORCEMENT TO ENSURE COMPLIANCE WITH FEDERAL, STATE, AND LOCAL LAWS

This ordinance adds Section 18.16.090 (Tobacco Retail Permit) to Title 18 (Zoning) of the Anaheim Municipal Code to establish requirements and operating regulations for tobacco retail establishments, including a local permitting process, location restrictions, prohibited sales and activities, and enforcement provisions to ensure compliance with federal, state, and local laws.

I, Susana Barrios, Assistant City Clerk of the City of Anaheim, do hereby certify that the foregoing is a summary of Ordinance No. 6611, which ordinance was introduced at a regular meeting of the City Council of the City of Anaheim on the 13th day of May, 2025 and was duly passed and adopted at a regular meeting of said Council on the 29th day of May, 2025 by the following roll call vote of the members thereof:

AYES: Mayor Aitken and Council Members Meeks, Ballus, Leon, Rubalcava, Kurtz and Maahs
NOES: None
ABSENT: None
ABSTAIN: None

The above summary is a brief description of the subject matter contained in the text of Ordinance No. 6611, which has been prepared pursuant to Section 512 of the Charter of the City of Anaheim. This summary does not include or describe every provision of the ordinance and should not be relied on as a substitute for the full text of the ordinance.


To obtain a copy of the full text of the ordinance, please contact the Office of the City Clerk, (714) 765-5166, between 8:00 AM and 5:00 PM, Monday through Friday. There is no charge for the copy.

#155359
Anaheim Bulletin
Published: 6/12/25

CLERK'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF ANAHEIM)

I, THERESA BASS, City Clerk of the City of Anaheim, do hereby certify that the foregoing is the original Ordinance No. 6611 and was published in the Anaheim Bulletin on the 12th day of June, 2025, pursuant to Section 512 of the City Charter of the City of Anaheim.



CITY CLERK OF THE CITY OF ANAHEIM

(SEAL)