



MEETING DATE: 08/04/2025

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: JIM SADRO, CITY MANAGER

By: Susan Kim, Director of Community & Economic Development

SUBJECT: APPROVE INITIATION OF AMENDMENTS TO THE LA HABRA MUNICIPAL CODE RELATED TO SMOKE SHOPS AND DIRECT STAFF TO PREPARE AN ORDINANCE ESTABLISHING A MORATORIUM ON SMOKE SHOPS IN THE CITY OF LA HABRA

RECOMMENDATION:

That the City Council:

A. Direct staff to initiate amendments to the La Habra Municipal Code related to Smoke Shops; and,

B. Direct staff to prepare an Urgency Ordinance to establish a temporary moratorium on Smoke Shops in the City of La Habra.

DISCUSSION:

On April 7, 2025, during City Council comments, Councilmember Gomez made a motion, seconded by Mayor Pro Tem Medrano, for staff to place on a future City Council agenda a report discussing the feasibility of placing a moratorium on new "Smoke Shops" in the City of La Habra. Public comments regarding this matter were subsequently received at the April 21, 2025, and July 21, 2025, City Council meetings; and on May 12, 2025, during the Planning Commission public hearing for the Zone Change related to Conditional Use Permits and Minor Conditional Use Permits. For the purpose of this staff report, and because "Smoke Shops" is not a defined term in the La Habra Municipal Code (LHMC), when referring to "Smoke Shops", staff are generally defining the use with the same definition used by the City of Gardena for "Significant Tobacco Retailers", which refers to a commercial location where the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any one or more of the following:

- 20% or more of the floor/display area devoted to tobacco products/paraphernalia;
- 67% or more of gross sales are from these types of products; or,
- 50% or more of transactions at the location include these types of products.

This staff report provides an overview of the requirements and regulations related to this use in the LHMC and under State law, the number of Tobacco Retailers that are currently licensed to operate in La Habra, and an overview of how some other cities are addressing this type of use. Based on the information contained in this report, staff recommends that the City Council direct staff to initiate amendments to the LHMC to address "Smoke Shops" and prepare an Urgency Ordinance to establish a temporary moratorium on Smoke Shops.

La Habra Municipal Code

While "Smoke Shops" is not a term found in the LHMC, "Tobacco Retailers" are addressed in LHMC Chapter 9.02 (Regulation of the Sale of Tobacco Products) of Title 9 (Public Peace and Welfare). This chapter defines a "Tobacco Retailer" as any person or governmental entity that operates a store, stand, booth, concession, or other place where sales of tobacco products are made to purchasers for consumption or use. Chapter 9.02 regulates the sale of tobacco products, including prohibitions on selling to minors, requirements for plainly visible signs at the point of purchase stating age restrictions (under 18) and photo identification requirements for purchasers appearing under 27, and a ban on self-service displays and tobacco vending machines. Although Chapter 9.02 regulates the manner in which tobacco may be sold, it does not identify where it may be sold. The full text of Chapter 9.02 is provided as Attachment 1.

Chapter 9.04 (Drug Paraphernalia Sale and Display) of Title 9 (Public Peace and Welfare) of the LHMC also addresses

some of the products that might be found in a "Smoke Shop." Chapter 9.04 refers to California Health and Safety Code (HSC) Section 11364.5 to define "Drug Paraphernalia" as "...all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance." The full text of HSC Section 11364.5, which provides a list of products that meet the definition of "Drug Paraphernalia," is provided as Attachment 2.

Chapter 9.04 (Drug Paraphernalia Sale and Display) requires businesses that sell Drug Paraphernalia to keep these products in a separate room or enclosure, in such a manner that they are not visible from any other portion of the premises, and in a location that excludes access by persons under the age of 18, unless accompanied by a parent. Any such violation of these requirements constitutes grounds for revocation of any business license issued by the City, following a hearing before the City Council. The full text of Chapter 9.04 is provided as Attachment 3.

Section 12.28.140 (Smoking Prohibited) of LHMC Chapter 12.28 (Parks) states that it is unlawful for any person at any time to smoke in the following places:

- a. City parks;
- b. City park parking lots;
- c. Within twenty feet of any city park;
- d. Within twenty feet of any city park parking lot; and
- e. Within twenty-five feet of any playground or tot-lot sandbox area.

Table 18.06.040.A - Land Use Matrix of Title 18 (Zoning) of the LHMC identifies the zone in which various types of land use are permitted, conditionally permitted, or not permitted. However, the Land Use Matrix does not specifically address Tobacco Retailers. As such, City Planning staff currently treat Tobacco Retailers as General Retail uses for permitting purposes, meaning they are not subject to specific zoning requirements for their location or operation beyond those for General Retail. Pursuant to Table 18.06.040.A - Land Use Matrix of Title 18 (Zoning) of the LHMC, General Retail uses are permitted within commercial zones, require a conditional use permit (CUP) in industrial zones, and are not permitted in the City's office and residential zones. The Land Use Matrix is provided as Attachment 4.

Although the Land Use Matrix does not specifically address Tobacco Retailers, it does identify that "Smoking Lounges" require a CUP in most of the same zones where General Retail uses are permitted. LHMC Section 18.12.170 (Smoking Lounges) defines a "Smoking Lounge" as a business establishment dedicated, in whole or in part, to the smoking of tobacco, including cigar lounges, hookah cafés, tobacco clubs, or tobacco bars. Smoking Lounges are permitted subject to the approval of a CUP in the C-1, C-2S, C-2, C-3, SP-1, and PC-I zones. Smoking Lounges are also subject to location restrictions, such as being located at least 200 feet from any residential zone boundary and 1,000 feet from any educational institution. There are currently no permitted Smoking Lounges within the City of La Habra. The full text of LHMC Section 18.12.170 (Smoking Lounges) is provided as Attachment 5.

California State Law

California has some of the most stringent age-related tobacco laws in the country. In 2016, the state raised the minimum legal age to purchase or possess tobacco products from 18 to 21, aligning with the federal Tobacco 21 law enacted in 2019. This applies to all tobacco products, including cigarettes, cigars, smokeless tobacco, and electronic smoking devices. Retailers must verify a purchaser's age before completing a tobacco sale, typically by checking government-issued identification. Businesses that fail to enforce these restrictions face escalating fines and potential license suspensions. The STAKE (Stop Tobacco Access to Kids Enforcement) Act mandates undercover compliance checks conducted by the California Department of Public Health to ensure retailers do not sell to underage individuals. The STAKE Act is codified in Sections 22950-22964 of the California Business and Professions Code (BPC) and provided as Attachment 6. BPC Section 22957 allows local agencies to conduct inspections and assess penalties for violations of the STAKE Act.

Most recently, Assembly Bill (AB) 3218 (Wood, Chapter 849, Statutes of 2024) and Senate (SB) 1230 (Rubio, Chapter 462, Statutes of 2024), which strengthen California's flavored tobacco laws, went into effect on January 1, 2025:

- Requiring the California Attorney General to create an Unflavored Tobacco List (UTL) of unflavored products legal for sale in California
- Prohibiting online and delivery sales of illegal flavored tobacco products
- Requiring tobacco sellers and deliverers to comply with all state and local tobacco laws that apply to local retailers where the products are shipped
- Allowing the California Department of Tax and Fee Administration (CDTFA) and other enforcing agencies to seize illegal flavored tobacco products found during inspections
- Updating the definition of "characterizing flavor" to include products that produce a cooling sensation
- Updating the definition of "nicotine" to include nicotine analogs
- Increasing penalties for noncompliant retailers
- Updating penalties for retailers selling to minors

As noted above, California imposes extensive regulations on tobacco sales. In addition, businesses must obtain a California Cigarette and Tobacco Products Retailer's License from the California Department of Tax and Fee Administration (CDTFA). This license, established under the California Cigarette and Tobacco Products Licensing Act of 2003, and codified in Sections 22970-22991 of the California Business and Professions Code (BPC), ensures compliance with state tax laws and sales restrictions. It must be renewed annually, and failure to maintain proper licensure can result in product confiscation and business closure. Retailers must obtain a separate license for each location where they will sell cigarettes or tobacco products. BPC Section 22971.3 also allows cities to require their own permitting or licensing requirements, often referred to as "Tobacco Retail Licenses" or "TRL", in addition to the State license, so that jurisdictions can suspend or revoke the local license for any violation of state or local tobacco control law. BPC Sections 22970-22991 are provided as Attachment 7.

According to the Policy Evaluation Tracking System (PETS) and the American Nonsmokers' Rights Foundation (ANRF), as of January 2024, at least 230 municipalities in California require a TRL (see Attachment 8), including the cities of Buena Park, Santa Ana, Stanton and Westminster in Orange County. PETS and ANRF also provide a matrix of selected policy provisions that have been adopted in 149 of these 230 municipalities, including prohibiting free samples and discounted products (see Attachment 9).

Tobacco Retailers in La Habra

According to CDTFA records, in 2024 there were 68 locations within the City of La Habra that are licensed by the State of California for the retail sale of tobacco (see Attachment 10). Retailers range from large grocery stores to gas stations and convenience markets, to retailers that appear to primarily sell tobacco, as well as two doughnut shops. Using the CDTFA list and the City's business license records, staff identified 20 retailers that appear to sell tobacco products as their primary category of merchandise. These retailers are shown in Table 1 below, which also identifies when these businesses opened. The first six retailers were established over a 10-year period, from 2008 to 2018; however, an additional 14 new retailers have opened in the past five years, indicating that these types of businesses are rapidly proliferating in the City.

Table 1: Existing Tobacco Retailers as Primary Category of Merchandise

#	Name	Address	Date Opened
1.	La Habra Tobacconist	1484 W Whittier Boulevard	1/1/2008
2.	Smoke House #1	2121 W Imperial Highway, Suite B	12/1/2008
3.	Beach & Lambert Water & Smoke	681 S Beach Boulevard, Unit A	11/3/2010
4.	Wonderland Smoke Shop	1230 W Imperial Highway, Suite M	2/1/2012
5.	La Habra Smoke Shop	919 N Harbor Boulevard, Suite B	7/30/2014
6.	M & M Cigars and Tobacco	1581 W Whittier Boulevard	10/11/2018
7.	El Beso Cigars ¹	581 W La Habra Boulevard	3/10/2020
8.	G D Smoke Shop	665 S Beach Boulevard	10/15/2021
9.	Lambert Smoke Shop I	1403 E Lambert Street, Suite L	3/9/2022
10.	La Habra Smoke Shop	150 W La Habra Boulevard	4/1/2022
11.	AMK Smoke Shop & More	376 N Harbor Boulevard	4/18/2023
12.	Smoke Zone Cigar and Funky Exotic Snacks	1530 S Harbor Boulevard	11/28/2023
13.	Smoken Smoke Shop	2420 W Whittier Boulevard	1/1/2024
14.	Upsky Smoke Shop	751 E Whittier Boulevard	6/18/2024
15.	Wake N Vape	1861 W La Habra Boulevard	7/8/2024
16.	Showtime Smoke and Vape	700 E Whittier Boulevard	9/16/2024
17.	Lambert Smoke Shop II	528 W Lambert Road	11/14/2024
18.	Rodeo Smoke Shop	251 W Whittier Boulevard	11/19/2024
19.	Hub Smoke Shop	335 S Harbor Boulevard	4/10/2025
20.	Orbit Smokeshop ²	1230 W Imperial Highway, Suite M	5/12/2025

1. Closed - Building is for lease.

2. Formerly Pipeking, which opened on 12/11/2023

Tobacco Retailers in other Cities

Staff have researched how the following cities have addressed the proliferation and regulation of tobacco retailers:

- Gardena:
 - Outlines the permitting requirements for tobacco retailers, as defined in Chapter 5.52 of the Gardena Municipal Code.
 - Adopted Urgency Ordinance No. 1850 on March 28, 2023, establishing a temporary moratorium on new "Significant Tobacco Retailers" due to a proliferation of these businesses (from 10 in October 2021 to 16 in March 2023) and concerns about the harmful effects of tobacco, especially on youth. This moratorium allowed staff time to research and propose new regulations.
 - Significant Tobacco Retailer is defined in Gardena's Zoning Code as a tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by: 20% or more of the floor/display area is devoted to tobacco products/paraphernalia, or 67% or more of gross sales are from these products, or 50% or more of transactions include these products.
 - Gardena later adopted Ordinance No. 1871 (Attachment 11) on May 14, 2024, which prohibits future "Significant Tobacco Retailers" from locating in the City and clarifies that hookah lounges and cigar lounges are not considered "Significant Tobacco Retailers". Cigar and hookah lounges are permitted in certain zones with a Conditional Use Permit (CUP) and must prohibit entry to individuals under 21.
- Anaheim:
 - Adopted Ordinance No. 6611 (Attachment 12) on June 12, 2025, to amend its Zoning Code to establish a new Tobacco Retail Permit (Section 18.16.090).
 - The ordinance aims to regulate tobacco sales, reduce illegal activities (e.g., sale of controlled substances, drug paraphernalia, gambling, illegal weapons), discourage tobacco use by those under 21, and protect children from illegal sales.
 - The regulations include mandatory separation distances of 1,000 feet from sensitive uses (schools, parks, community centers, libraries, mental health facilities) and 500 feet from other tobacco retailers.
 - Tobacco retailers are prohibited from operating between 12:00 a.m. and 6:00 a.m.
 - Existing tobacco retailers must obtain a permit by January 1, 2026, or their next annual business license renewal, whichever is later, and comply with the ordinance's provisions.
- Fullerton:
 - The Fullerton Planning Commission considered proposed amendments (Attachment 13) on April 9, 2025, and directed staff to establish a Tobacco Sales Permit with a fee and bring the item back at a future meeting.
 - A "Tobacco Smoke Shop" is defined as a retail store dedicating over 15% of its total floor area, or more than a two-foot by four-foot shelf space, to tobacco, tobacco products, electronic cigarettes, or paraphernalia, excluding grocery stores, supermarkets, convenience stores, or similar retail uses where conventional tobacco sales are ancillary.
 - Tobacco smoke shops would be permitted in General Commercial (G-C), Central Business District Commercial (C-3), and Commercial Manufacturing (C-M) zones, and require a Conditional Use Permit (CUP) in Office Professional (O-P), Central Business District within the Restaurant Overlay District (C-3 ROD), Manufacturing Park (M-P), and Manufacturing General (M-G) zones.
 - Separation requirements include 500 feet from public or private K-12 schools, public parks, childcare centers, or tutoring centers, and 250 feet between tobacco smoke shops.
 - The proposed regulations also include prohibitions on selling tobacco products to persons under 21 years of age, requiring photo identification, prohibiting self-service displays, and banning the sale of flavored tobacco products (with exemptions for flavored shisha tobacco products by permitted hookah tobacco retailers and retail sale of premium cigars or loose-leaf tobacco)
- Stanton:
 - Adopted Ordinance No. 1095 on November 26, 2019, requiring tobacco retailer registration.
 - Adopted Urgency Ordinance No. 1138 on January 23, 2024, establishing a 45-day temporary moratorium on the establishment of any new "Tobacco Retailer" businesses and any expansion, enlargement, or alteration of existing ones. On February 27, 2024, the Urgency Ordinance was extended an additional 10 months and 15 days.
 - The moratorium was enacted due to ongoing violations by local tobacco retailers continuing to sell flavored tobacco products in violation of state law and the Stanton Municipal Code, and concerns about the persistent challenge of adolescent tobacco use, particularly e-cigarettes, to provide the City with time to study the impacts and develop new municipal and zoning code regulations for Tobacco Retailers, and to strengthen enforcement strategies and licensing protocols.
 - The moratorium applied to "Subject Tobacco Retailers", defined as any individual, business, or entity where at least fifty percent of the retailer's regular stock-in-trade, as displayed for sale or exchange, consists of tobacco, tobacco products, or tobacco paraphernalia.
 - On November 27, 2024, the Stanton City Council adopted Ordinance No. 1153, which revised the definitions of "Tobacco Product" and "Tobacco Retailer" and added definitions for "Characterizing Flavor" and "Flavored Tobacco Product," required compliance checks twice a year, and required the City Council to establish an application fee for tobacco retailer registration.

- Stanton's requirements for Tobacco Retailer Registration are codified in Chapter 5.67 (Tobacco Retailer Registration) of the Stanton Municipal Code (Attachment 14).

Tobacco Retail License vs. Conditional Use Permit

A TRL is a regulatory permit through which a city establishes requirements and restrictions to protect the health, safety, and welfare of the community. For example, La Habra requires regulatory permits for massage establishments and certain establishments where entertainment is provided. A TRL, like other regulatory permits, is typically issued administratively.

Various sources cite the following benefits to requiring a TRL:

- Helps determine who is selling tobacco/tobacco products in the community.
- Helps decrease illegal tobacco sales to young people.
- Helps increase compliance with tobacco-related laws.

A conditional use permit (CUP) is a land use entitlement that requires discretionary approval from a city. CUPs consent to a use not allowed by-right in a particular zone and are issued at the discretion of the local jurisdiction. Such permits are typically issued with conditions. CUPs run with the land. A CUP cannot be modified or revoked without notice and a hearing.

Moratorium

A moratorium is a stringent temporary land use control based on documented health, safety, and general welfare concerns made pursuant to police power. Pursuant to California Government Code Section 65858, cities may adopt temporary ordinances prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the city plans to study within a reasonable time. To adopt a moratorium, a city must follow the requirements set forth in California Government Code Section 65858, which, among other things, requires the City to make specified statutory findings and requires a four-fifths vote of the City Council to approve the temporary ordinance.

Proposed Action for the City of La Habra

Given the concerns raised by the City Council and during public comments, and in light of the actions taken by neighboring cities of the past several years to help address the proliferation and impacts of tobacco retailers, staff recommends that the City Council direct staff to initiate amendments to the LHMC to address Smoke Shops and prepare an Urgency Ordinance to establish a temporary moratorium on new Smoke Shops. If approved by City Council to move forward, these items will be brought back to City Council at a later date for review and consideration for final approval.

FISCAL IMPACT/SOURCE OF FUNDING:

Costs associated with City-initiated amendments to the LHMC that pertain to the Community and Economic Development Department are generally assumed as part of the Department's annual budget.

GENERAL PLAN RELEVANCE/CITY COUNCIL GOALS & OBJECTIVES:

Applicable General Plan Goals:

- EJ 1.2: Alcohol and Tobacco
- S 1.5: Sustainable and Healthy Development

Applicable City Council Goals and Objectives:

- Goal 5: Development Activity and Business Assistance
 - Objective J: Review the Zoning Code on an on-going basis and process amendments that ensure compliance with recent State legislation, streamline project processing, remove unnecessary regulations, and/or make the Zoning Code easier to implement.

Attachments

- ATT 1 LHMC Chapter 9.02
- ATT 2 H&SC Section 11364.5
- ATT 3 LHMC Chapter 9.04
- ATT 4 Land Use Matrix
- ATT 5 LHMC Section 18.12.170
- ATT 6 BPC Sections 22950-22964
- ATT 7 BPC Sections 22970-22991
- ATT 8 Cities with TRL
- ATT 9 Matrix of TRL Policies
- ATT 10 Tobacco Retailers in La Habra

ATT 11 Gardena Ordinance
ATT 12 Anaheim Ordinance
ATT 13 Fullerton Draft Amendments
ATT 14 Stanton Regulations

CHAPTER 9.02
REGULATION OF THE SALE OF TOBACCO PRODUCTS

§ 9.02.010. Definitions.

For the purpose of the provisions of this chapter, the following words and phrases shall be construed to have the meanings herein set forth:

"Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

"City" means the city of La Habra.

"Employee" means any person who is employed by any employer in consideration for direct or indirect wages or profit, and any person who volunteers his or her services for a nonprofit entity.

"Minor" means any natural person under eighteen years of age.

"Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, philanthropic, educational character-building, political, social or other similar purpose, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a "nonprofit entity" within the meaning of this section.

"Person" means a natural person, firm, association, organization, partnership, business, trust, corporation, cooperative association, personal representative, receiver, trustee, assignee or any other legal entity.

"Self-service display" means any open display of tobacco products and point-of-sale tobacco-related promotional products that the public has access to without the intervention of an employee.

"Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhaling or other manner of ingestion.

"Tobacco retailer" means any person or governmental entity that operates a store, stand, booth, concession or other place at which sales of tobacco products are made to purchasers for consumption or use.

"Tobacco vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.

"Vendor-assisted" means that only a store employee has access to the tobacco product and assists a customer by supplying the tobacco product, and the customer does not take possession of the tobacco product until it is purchased.

(Ord. 1560 § 1, 1999)

§ 9.02.020. Prohibitions.

A. No person, business, tobacco retailer or owner, manager or employee of any business or

tobacco retailer shall engage in the sale of tobacco product without first posting a plainly visible sign at the point of purchase of tobacco products which has wording similar to:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. PHOTO IDENTIFICATION IS REQUIRED OF PURCHASERS APPEARING TO BE UNDER 27 YEARS OF AGE.

The letters of the sign shall be at least one-half-inch high.

- B. No person, business, tobacco retailer or owner, manager or employee of any business or tobacco retailer shall sell, offer to sell or permit to be sold, any tobacco product to any purchaser who appears to be under twenty-seven years of age, without first verifying by means of photographic identification containing the bearer's date of birth, that the purchaser is not under eighteen years of age, unless the seller has some other reasonable and reliable basis for determining the purchaser's age.
- C. No person, business, tobacco retailer or owner, manager or employee of any business or tobacco retailer shall sell, offer to sell or permit to be sold, any tobacco product not in the original packaging provided by the manufacturer and with all required health warnings.
- D. No person, business or tobacco retailer or owner, manager or employee of any business or tobacco retailer shall sell, offer for sale, display for sale, or permit to be sold, offered for sale or displayed for sale, any tobacco product by means of a self-service display or by any means other than vendor-assisted sales.
- E. No person, business or tobacco retailer or owner, manager or employee of any business or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises, any tobacco vending machine for the purpose of selling or distributing any tobacco product.

(Ord. 1560 § 1, 1999)

§ 9.02.030. Exceptions.

Section 9.02.020(A), (B), (D) and (E) shall not apply to any establishment where access to the premises by persons under eighteen years of age is prohibited by law.

(Ord. 1560 § 1, 1999)

§ 9.02.040. Nonretaliation.

- A. No person, business, tobacco retailer or owner or manager of any business or tobacco retailer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant agrees to abide by the provisions of this chapter.
- B. No person, business, tobacco retailer or owner or manager of any business or tobacco retailer shall intimidate or threaten any reprisal or effect any reprisal for the purpose of retaliating against any person because such person seeks to attain compliance with the provisions of this chapter.

(Ord. 1560 § 1, 1999)

§ 9.02.050. Conflicts of law.

This chapter shall not be interpreted or construed to permit tobacco vending machines and distribution of tobacco product samples where they are otherwise restricted by other applicable laws. Nor shall this chapter be construed to cause for breach of any pre-existing private contract, or cause for interference with regulations imposed by state or federal law or related to interstate commerce.

(Ord. 1560 § 1, 1999)

§ 9.02.060. Penalty for violation.

Any violation of the provisions of this chapter shall be deemed to be an infraction and punishable as such, notwithstanding the fact that at the discretion of the city, the violation of any section of this chapter may be filed as a misdemeanor. The complaint charging such violation shall specify whether the violation is a misdemeanor or an infraction. Each day a violation of any provision of this chapter shall continue shall be a new and separate violation.

(Ord. 1560 § 1, 1999)



HEALTH AND SAFETY CODE - HSC

DIVISION 10. UNIFORM CONTROLLED SUBSTANCES ACT [11000 - 11651] (*Division 10 repealed and added by Stats. 1972, Ch. 1407.*)

CHAPTER 6. Offenses and Penalties [11350 - 11395] (*Chapter 6 added by Stats. 1972, Ch. 1407.*)

ARTICLE 4. Miscellaneous Offenses and Provisions [11364 - 11376.6] (*Article 4 added by Stats. 1972, Ch. 1407.*)

11364.5. (a) Except as authorized by law, a person shall not maintain or operate a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless that drug paraphernalia is completely and wholly kept, displayed, or offered within a separate room or enclosure to which persons under 18 years of age who are not accompanied by a parent or legal guardian are excluded. Each entrance to such a room or enclosure shall be signposted in reasonably visible and legible words to the effect that drug paraphernalia is kept, displayed, or offered in the room or enclosure and that minors, unless accompanied by a parent or legal guardian, are excluded.

(b) Except as authorized by law, an owner, manager, proprietor, or other person in charge of a room or enclosure, within a place of business, in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away shall not permit or allow a person under 18 years of age to enter, be in, remain in, or visit the room or enclosure unless that minor person is accompanied by their parent or legal guardian.

(c) Unless authorized by law, a person under 18 years of age shall not enter, be in, remain in, or visit a room or enclosure in a place of business in which drug paraphernalia is kept, displayed, or offered in any manner, sold, furnished, transferred, or given away unless accompanied by their parent or legal guardian.

(d) As used in this section, "drug paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance. "Drug paraphernalia" includes, but is not limited to, all of the following:

- (1) Kits intended for use or designed for use in planting, propagating, cultivating, growing, or harvesting of any species of plant that is a controlled substance or from which a controlled substance can be derived.
- (2) Kits intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (3) Isomerization devices intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance.
- (4) Scales and balances intended for use or designed for use in weighing or measuring controlled substances.
- (5) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose, and lactose, intended for use or designed for use in cutting controlled substances.
- (6) Separation gins and sifters intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, cannabis.
- (7) Blenders, bowls, containers, spoons, and mixing devices intended for use or designed for use in compounding controlled substances.
- (8) Capsules, balloons, envelopes, and other containers intended for use or designed for use in packaging small quantities of controlled substances.
- (9) Containers and other objects intended for use or designed for use in storing or concealing controlled substances.
- (10) Hypodermic syringes, needles, and other objects intended for use or designed for use in parenterally injecting controlled substances into the human body.
- (11) Objects intended for use or designed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body, such as the following:
 - (A) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls.
 - (B) Water pipes.
 - (C) Carburetion tubes and devices.
 - (D) Smoking and carburetion masks.
 - (E) Roach clips, meaning objects used to hold burning material, such as a cannabis cigarette that has become too small or too short to be held in the hand.
 - (F) Miniature cocaine spoons, and cocaine vials.
 - (G) Chamber pipes.

(H) Carburetor pipes.

(I) Electric pipes.

(J) Air-driven pipes.

(K) Chillums.

(L) Bongs.

(M) Ice pipes or chillers.

(12) Testing equipment designed for use or marketed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances, except as otherwise provided in subdivision (g).

(e) In determining whether an object is drug paraphernalia, a court or other authority may consider, in addition to all other logically relevant factors, the following:

(1) Statements by an owner or by anyone in control of the object concerning its use.

(2) Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance.

(3) Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom they know, or should reasonably know, intend to use the object to facilitate a violation of this section. The innocence of an owner, or of anyone in control of the object, as to a direct violation of this section shall not prevent a finding that the object is intended for use, or designed for use, as drug paraphernalia.

(4) Instructions, oral or written, provided with the object concerning its use.

(5) Descriptive materials, accompanying the object which explain or depict its use.

(6) National and local advertising concerning its use.

(7) The manner in which the object is displayed for sale.

(8) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.

(9) The existence and scope of legitimate uses for the object in the community.

(10) Expert testimony concerning its use.

(f) This section shall not apply to any of the following:

(1) Any pharmacist or other authorized person who sells or furnishes drug paraphernalia described in paragraph (10) of subdivision (d) upon the prescription of a physician, dentist, podiatrist, or veterinarian.

(2) Any physician, dentist, podiatrist, or veterinarian who furnishes or prescribes drug paraphernalia described in paragraph (10) of subdivision (d) to a patient.

(3) Any manufacturer, wholesaler, or retailer licensed by the California State Board of Pharmacy to sell or transfer drug paraphernalia described in paragraph (10) of subdivision (d).

(g) Notwithstanding paragraph (12) of subdivision (a), "drug paraphernalia" does not include any testing equipment designed, marketed, intended to be used, or used, to test a substance for the presence of contaminants, toxic substances, hazardous compounds, or other adulterants, or controlled substances that include, without limitation, fentanyl, ketamine, gamma hydroxybutyric acid, or any analog of fentanyl.

(h) Notwithstanding any other law, including Section 11374, violation of this section shall not constitute a criminal offense, but operation of a business in violation of the provisions of this section shall be grounds for revocation or nonrenewal of any license, permit, or other entitlement previously issued by a city, county, or city and county for the privilege of engaging in such business and shall be grounds for denial of any future license, permit, or other entitlement authorizing the conduct of such business or any other business, if the business includes the sale of drug paraphernalia.

(Amended by Stats. 2024, Ch. 701, Sec. 4. (AB 2136) Effective January 1, 2025.)

Title 9. Public Peace and Welfare

Chapter 9.04. DRUG PARAPHERNALIA SALE AND DISPLAY

§ 9.04.010. Drug paraphernalia defined.

As used in this chapter, "drug paraphernalia" means as provided in Section 11364.5 of the **Health and Safety Code**.

(Ord. 1132 § 1(part), 1981)

§ 9.04.020. Segregation—Restricting access.

No person shall maintain or operate any place of business in which drug paraphernalia is kept, displayed, offered in any manner, sold, furnished or given away unless such drug paraphernalia is completely and wholly kept, displayed or offered within a separate room or enclosure and in such a manner that such material is not visible from any other portion of the premises, and to which persons under the age of eighteen not accompanied by one of his/her parents or by his/her legal guardian are excluded. Each entrance to

such room or enclosure shall be clearly and visibly marked or signed in a manner advising that minors are excluded from the room unless accompanied by a parent or legal guardian.

(Ord. 1132 § 1(part), 1981)

§ 9.04.030. Unaccompanied minors prohibited.

No person under the age of eighteen years shall enter, be in, remain in or visit any room or enclosure in any place of business in which drug paraphernalia is kept, displayed or offered, or in any manner sold, furnished, transferred or given away, unless accompanied by one of his/her parents or by his/her legal guardian.

(Ord. 1132 § 1(part), 1981)

§ 9.04.040. Permitting unaccompanied minors access.

No owner, manager, proprietor or other person in charge of any room or enclosure described in Section **9.04.020** shall permit or allow any person under the age of eighteen to enter, be in, remain in or visit the room unless accompanied by one of his/her parents or by his/her legal guardian.

(Ord. 1132 § 1(part), 1981)

§ 9.04.050. Violations.

- A. Any violation of the provisions of this chapter by the owner or operator, manager or person otherwise in charge of any business establishment is a public nuisance and may be abated pursuant to the provisions of Section 731 of the **Code of Civil Procedure**. Any such violation shall also constitute grounds for revocation of any business license issued by the city. Any such revocation shall be preceded by a hearing before the city council on at least ten days' written notice to the person to whom the license was issued, which notice shall advise of the nature of the alleged violation and the date, time and place of the hearing before the council.
- B. The remedies provided by this section are cumulative and in addition to any other remedy provided by law including the penalty provisions generally applicable to violations of the terms of this code.
(Ord. 1132 § 1(part), 1981)

Table 18.06.040.A—Land Use Matrix

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5					C-2s							
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2sH	C-2	C-3	OS	PC-I	M-1(5)	SP-1	MX Overlay
Special Event Permit = S	R-1c	R-4	R-7												
Home Occupation Permit = H															
RESIDENTIAL															
A single-unit dwelling	P	P	P	P	-	-	-	-	-	-	-	-	-	-	P
A single mobilehome	-	-	-	P	-	-	-	-	-	-	-	-	-	-	P
A two-unit dwelling (duplex) or 2 detached single-unit dwellings	-	P	P	-	P	-	-	-	-	-	-	-	-	-	P
Multi-unit dwellings	-	P	P	-	P	-	-	-	-	-	-	-	-	-	P
Mobilehome park (See Gov't Code § 65852.7, Health & Safety Code § 18214).	CUP(4)	CUP(4)	CUP(4)	CUP	-	-	-	-	-	-	-	-	-	-	-
Accessory dwelling unit or junior accessory dwelling unit	P	P	P	P	P(1)	-	-	-	-	-	-	-	-	P(1)	P (1)
Factory-built housing or manufactured home (less than 10 years old)	P	P	P	P	P	-	-	-	-	-	-	-	-	P(2)	P (2)

ATTACHMENT 1

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5					C-2s							
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2sH	C-2	C-3	OS	PC-I	M-1(5)	SP-1	MX Overlay
Special Event Permit = S	R-1c	R-4	R-7												
Home Occupation Permit = H															
Home occupations	H	H	H	H	H(1)	-	-	-	-	-	-	-	-	H(1)	H
Boarding and rooming houses (3 or more individuals)	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-	-	-	-	CUP(1)	CUP
Student housing	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-	-	-	CUP	CUP
Hotels/motels (provided not more than 20% of the units contain kitchen/kitchenettes)	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	-	CUP	CUP
Group homes	P	P	P	P	P	-	-	-	-	-	-	-	-	P (1)	P (1)
Residential care facilities for the elderly (serving 6 or fewer persons, allowed per Health & Safety Code § 1569.85)	P	P	P	P	P(1)	-	-	-	-	-	-	-	-	P(1)	P (1)
Residential care facilities for the elderly (serving 7 or more persons, allowed per Health & Safety Code § 1569.85)	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	-	-	-	CUP	CUP
Short term residential rentals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(5)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Family day care home (per Health and Safety Code § 1597.45)	P	P	P	P	P	-	-	-	-	-	-	-	-	P(1)	P (1)
Small family home (22 C.C.R. § 80001(s)(5))	P	P(1)	P(1)	-	-	-	-	-	-	-	-	-	-	P(1)	P (1)
Sports courts (residential) with lights (tennis, basketball, handball, etc.)	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-	-	-	-	CUP(1)	P (1)
Single-room occupancy housing	-	CUP	CUP	-	CUP	-	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP(2)	CUP
Supportive housing	P	P	P	P	P(1)	-	-	-	-	-	-	-	-	P(1)	P (1)
Transitional housing	P	P	P	P	P(1)	-	-	-	-	-	-	-	-	P(1)	P (1)
Emergency shelter	-	-	-	-	-	-	-	-	-	-	-	-	P(3)	-	-
Low barrier navigation center	-	P	P	P	P	-	-	-	-	-	-	-	-	P	P
Employee housing for 6 or fewer employees (Health & Safety Code § 17021.5)	P	P	P	P	P (1)	-	-	-	-	-	-	-	-	P (1)	P (1)

Permitted = P	R-1a	R-2	R-5													
Conditional Use Permit = CUP	R-1a	R-2	R-5													
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(5)	SP-1	MX	
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay	
Home Occupation Permit = H																
COMMERCIAL—RECREATIONAL																
Adult cabaret	-	-	-	-	-	-	-	CUP	CUP	CUP	-	-	CUP	-	-	
Batting cages	-	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	-	-	
Bowling alleys	-	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	-	CUP	
Commercial recreation	-	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	
Pool halls and billiard halls	-	-	-	-	-	-	-	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	
Health clubs/spa	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	
Golf courses	-	-	-	-	-	-	-	-	-	-	CUP	-	-	-	-	
Golf driving ranges (indoor or outdoor)	-	-	-	-	-	-	-		CUP	CUP	CUP	CUP	CUP	CUP	CUP	

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Tennis courts (commercial)	-	-	-	-	-	-	CUP	CUP	CUP	CUP	P	P	P	-	-
Theaters, cinemas, and auditoriums (public assembly)	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
COMMERCIAL—INSTITUTIONAL															
Art galleries, exhibit halls (commercial and industrial)	-	-	-	-	-	P	P	P	P	P	-	CUP	-	CUP	P
Educational institutions including private schools, elementary, middle, and high schools, colleges, and universities, daycare, tutoring	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Commercial schools (dance studios, martial arts, music and vocal instruction, etc.)	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
Institutions of a philanthropic or eleemosynary nature	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Lodges, clubs and fraternal organizations	-	-	-	CUP	P	CUP	CUP	CUP	CUP	CUP	-	-	-	CUP	CUP

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Libraries, museums and public buildings	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Churches, or other places used for religious worship	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
COMMERCIAL—MEDICAL															
Animal hospital/veterinary clinic	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	±
Clinic/urgent care facility (medical offices with outpatient treatment; no overnight stays)	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	±
Convalescent hospitals	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	±
Hospitals/medical centers	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	±
Doctor/dentist office	-	-	-	-	-	P	P	P	P	P	-	P	P	P	P
Medical laboratories (not part of a medical office)	-	-	-	-	-	P	P	P	P	P	-	P	P	P	-
COMMERCIAL- OFFICES															

Permitted = P	R-1a	R-2	R-5													
Conditional Use Permit = CUP	R-1a	R-2	R-5													
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX	
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay	
Home Occupation Permit = H																
Administrative, medical and professional offices	-	-	-	-	P	P	P	P	P	P	-	P	CUP	P	P	
General business offices	-	-	-	-	-	P	P	P	P	P	-	P	CUP	CUP	P	
COMMERCIAL—RETAIL																
Bakeries with less than 10 employees on premises	-	-	-	-	-	P	P	P	P	P	-	P	P	P	P	
Banks (with or without ATM machines)	-	-	-	-	-	P	P	P	P	P	-	P	CUP	P	P	
Coin-operated laundries	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	-	-	CUP	CUP	
General retail	-	-	-	-	-	-	P	P	P	P	-	P	CUP	P	P	
Motor vehicle sales and services (as defined in the California Vehicle Code)	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	-	
Retail nursery (garden center)	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	
Retail stores selling pre-owned merchandise	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	-	CUP	CUP	
Smoking lounges	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	

Permitted = P	R-1a	R-2	R-5													
Conditional Use Permit = CUP	R-1a	R-2	R-5													
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX	
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay	
Home Occupation Permit = H																
Temporary commercial enterprises and seasonal sales lots	-	-	-	-	-	-	S	S	S	S	-	S	S	S	S	S
COMMERCIAL—SERVICES																
Automobile service/repair	-	-	-	-	-	-	-	-	CUP	CUP	-	CUP	P	CUP	-	-
Automobile service stations	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	CUP
Check cashing or payday advance	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	-	CUP	-	CUP	-	-
Commercial repair	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	P	CUP	CUP	CUP
Car wash, coin-operated and automated	-	-	-	-	-	-	-	-	CUP	CUP	-	CUP	P	CUP	CUP	-
Day spa	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP	CUP
Dry cleaning, pressing and laundry businesses	-	-	-	-	-	P	P	P	P	P	-	P	CUP	P	P	P
Fortunetelling establishments	-	-	-	-	-	P	P	P	P	P	-	P	CUP	P	CUP	CUP

Permitted = P	R-1a	R-2	R-5												
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Funeral parlors/mortuaries	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
Restaurants	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Restaurants – food to go	-	-	-	-	P	P	P	P	P	P	CUP	CUP	CUP	P	P
Upholstery shops (excluding furniture refinishing)	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	CUP	P	CUP	CUP
INDUSTRIAL															
Hazardous waste facility	-	-	-	-	-	-	-	-	-	-	-	CUP	CUP	-	-
Industrial park (multiple or mix of services and warehousing)	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-
Manufacturing/heavy industrial (any process that creates toxins, odors, byproducts or processing of any byproducts)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Manufacturing/light industrial	-	-	-	-	-	-	-	-	-	-	-	P	P	-	-
Mini-warehouse/self-storage	-	-	-	-	-	-	-	-	-	CUP	-	CUP	CUP	-	-

Permitted = P															
Conditional Use Permit = CUP	R-1a	R-2	R-5					C-2s							
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2sH	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX Overlay
Special Event Permit = S	R-1c	R-4	R-7												
Home Occupation Permit = H															
Storage yards	-	-	-	-	-	-	-	-	-	-	-	-	P	-	±
Vehicle impound/tow yards	-	-	-	-	-	-	-	-	-	-	-	CUP	CUP	-	±
Vehicle storage lots, including recreational vehicles	-	-	-	-	-	-	-	-	CUP	CUP	-	CUP	CUP	-	±
Warehouse	-	-	-	-	-	-	-	-	-	-	-	P	P	-	CUP
Wholesaling uses	-	-	-	-	-	-	CUP	CUP	CUP	CUP	-	P	P	-	-
Wrecking yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SPECIALTY USES															
Alcoholic beverage sales and services	-	-	-	-	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Cemeteries, columbarium, crematories and mausoleums	-	-	-	-	-	-	-	-	CUP	CUP	-	-	-	-	-
Dog kennels	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP

Permitted = P	R-1a	R-2	R-5												
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Mobilehome sales areas (modular housing)	-	-	-	-	-	-	-	-	CUP	CUP	-	-	CUP	-	P
Model homes sales offices	CUP	CUP	CUP	CUP	CUP	-	-	-	-	-	-	-	-	-	-
Natural resources development	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	-
Outdoor sales (including vending machines)	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	-	CUP	CUP
Outdoor sales—temporary (small event)	-	-	-	-	-	S	S	S	S	S	-	S	S	S	<u>S</u>
Outdoor sales—temporary (large event)	-	-	-	-	-	S	S	S	S	S	-	S	S	S	<u>S</u>
Parks, playgrounds and community buildings	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Public utility or public service structures and uses	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Radio and television transmitters	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Recycling centers	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	-	-

Permitted = P	R-1a	R-2	R-5												
Conditional Use Permit = CUP	R-1a	R-2	R-5												
Not Permitted = -	R-1b	R-3	R-6	MHP	C-R	C-P	C-1	C-2s	C-2	C-3	OS	PC-I	M-1(s)	SP-1	MX
Special Event Permit = S	R-1c	R-4	R-7					C-2sH							Overlay
Home Occupation Permit = H															
Recycling centers—reverse vending machine (indoors)	-	-	-	-	-	P	P	P	P	P	-	P	P	P	-
Remediation systems	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP
Showrooms	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
Tattoo parlors	-	-	-	-	-	-	-	CUP	CUP	CUP	-	CUP	CUP	CUP	CUP
Wireless communication facilities	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP	CUP

Notes

1. For a lot developed with a residence
2. For a lot meeting General Plan requirements for residential uses
3. For a lot within the ES overlay zone
4. A mobilehome park in a residential zone must comply with Chapter [18.28](#) as if it were in a MHP zone
5. For lots with the ES overlay, residential uses shall be allowed as permitted in the MHP zone.

Title 18. Zoning

Article I. General

Chapter 18.12. SPECIAL DEVELOPMENT STANDARDS

§ 18.12.170. Smoking lounges.

- A. Definition. "Smoking lounge" means a business establishment that is dedicated, in whole or in part, to the smoking of tobacco, including, but not limited to, establishments known variously as cigar lounges, hookah cafés, tobacco clubs or tobacco bars.
- B. Permit Requirements. Smoking lounge is a use permitted by a conditional use permit within the C-1 (limited commercial zone), C-2S (community shopping center zone), C-2 (commercial zone), C-3 (general commercial zone), SP-1 (La Habra Boulevard specific plan), and PC-I (planned commercial-industrial) zones.
- C. Location Restrictions.
 - 1. The tenant space shall not be located within two hundred feet of any residential zone boundary within the city.
 - 2. The tenant space shall be a minimum distance of one thousand feet from any educational institution as defined in Section 18.04.260 within the city.
- D. Operational Restrictions.
 - 1. The business shall be owner-operated or otherwise exempt from the prohibition of smoking in the workplace set forth in California **Labor Code** Section 6404.5.
 - 2. No alcoholic beverages shall be sold or consumed on the business premises within any area where the smoking of tobacco or other substances is allowed, including any outdoor seating area. Should food service be proposed, the owner-operator shall comply with California **Labor Code** Section 6404.5.
 - 3. No person under eighteen years of age shall be permitted within any of the business premises where the smoking of tobacco or other substances is allowed.
 - 4. No live entertainment, including, but not limited to singers, DJs, dancers, and comedians, shall be permitted within the business except as authorized pursuant to Chapter **5.32** (Entertainment, Amusement and Dance Permits).
 - 5. All business related activities shall be conducted wholly within a building, with the exception of outdoor seating areas approved as part of the conditional use permit. Operation of outdoor barbeques or braziers or lighting coals shall not be permitted.
 - 6. No admittance fee, cover charge, or requirement of any charge or minimum payment as a condition of entry shall be permitted.
 - 7. Uniformed security guards shall be provided, as deemed necessary by the chief of police.

8. No window coverings shall prevent visibility of the interior of the tenant space from outside the premises during operating hours. Any proposed window tint shall be approved in advance by the director of community development.
9. The interior of the business shall be maintained and adequately illuminated to make the conduct of patrons within the premises readily discernable to persons of normal visual acuity.
10. Adequate ventilation shall be provided for the heating of coals in accordance with all requirements imposed by the chief building official and fire chief, or as otherwise required by state or federal law.
11. Parking shall be provided using the standard for restaurant with bar (twelve spaces per one thousand GFA).
12. The business shall conform to all other city, state, and federal laws.

E. Application Requirements.

1. Application for a conditional use permit shall be filed in accordance with Chapter **18.66** (Conditional Use Permits);
2. The exact nature and location of the activity for which the conditional use permit is requested and an estimate of the numbers of patrons of the establishment;
3. A security plan for control of customers;
4. A plan for control of noise affecting nearby premises;
5. The business plan including the hours of operation of the establishment;
6. Such other information pertaining to public health and safety as may be required by director of community development to ensure compliance with the provisions of this section.

(Ord. 1719 § 1, 2010)



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BUSINESS AND PROFESSIONS CODE - BPC

DIVISION 8.5. STOP TOBACCO ACCESS TO KIDS ENFORCEMENT ACT [22950 - 22964] (*Division 8.5 added by Stats. 1994, Ch. 1009, Sec. 1.*)

22950. This Division shall be known and may be referred to as the Stop Tobacco Access to Kids Enforcement Act or the STAKE Act.

(Added by Stats. 1994, Ch. 1009, Sec. 1. Effective January 1, 1995.)

22950.5. For purposes of this division, the following terms have the following meanings:

(a) "Department" means the State Department of Public Health.

(b) "Enforcing agency" means the State Department of Public Health, another state agency, including, but not limited to, the office of the Attorney General, or a local law enforcement agency, including, but not limited to, a city attorney, district attorney, or county counsel.

(c) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

(d) (1) "Tobacco product" means any of the following:

(A) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff.

(B) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(C) Any component, part, or accessory of a tobacco product, whether or not sold separately.

(2) "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.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 1. (SB 5 2x) Effective June 9, 2016.)

22951. The Legislature finds and declares that reducing and eventually eliminating the illegal purchase and consumption of tobacco products by any person under 21 years of age is critical to ensuring the long-term health of our state's citizens. Accordingly, California must fully comply with federal regulations, particularly the "Synar Amendment," that restrict tobacco sales to minors and require states to vigorously enforce their laws prohibiting the sale and distribution of tobacco products to persons under 18 years of age. Full compliance and vigorous enforcement of the "Synar Amendment" requires the collaboration of multiple state and local agencies that license, inspect, or otherwise conduct business with retailers, distributors, or wholesalers that sell tobacco.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 8, Sec. 2. (SB 7 2x) Effective June 9, 2016.)

22952. The State Department of Public Health shall do all of the following:

(a) Establish and develop a program to reduce the availability of tobacco products to persons under 21 years of age through the enforcement activities authorized by this division.

(b) Establish requirements that retailers of tobacco products post conspicuously, at each point of purchase, a notice stating that selling tobacco products to anyone under 21 years of age is illegal and subject to penalties. The notice shall also state that the law requires that all persons selling tobacco products check the identification of a purchaser of tobacco products who reasonably appears to be under 21 years of age. The warning signs shall include a toll-free telephone number to the department for persons to report unlawful sales of tobacco products to any person under 21 years of age.

(c) Provide that primary responsibility for enforcement of this division shall be with the department. In carrying out its enforcement responsibilities, the department shall conduct random, onsite sting inspections at retail sites and shall enlist the assistance of persons that are under 21 years of age in conducting these enforcement activities. The department may conduct onsite sting inspections in response to public complaints or at retail sites where violations have previously occurred, and investigate illegal sales of tobacco products to any person under 21 years of age by telephone, mail, or the Internet. A person under 21 years of age who participates in these enforcement activities is immune from prosecution under any provision of law prohibiting the purchase of these products by a person under 21 years of age.

(d) In accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall adopt and publish guidelines for the use of persons under 21 years of age in inspections conducted pursuant to subdivision (c) that shall include, but not be limited to, all of the following:

(1) An enforcing agency may use persons under 21 years of age in random inspections to determine if sales of cigarettes or other tobacco products are being made to persons under 21 years of age.

(2) A photograph or video recording of the person under 21 years of age shall be taken prior to each inspection or shift of inspections and retained by the enforcing agency for purposes of verifying appearances.

(3) An enforcing agency may use video recording equipment when conducting the inspections to record and document illegal sales or attempted sales.

(4) The person under 21 years of age, if questioned about his or her age, need not state his or her actual age but shall present a true and correct identification if verbally asked to present it. Any failure on the part of the person under 21 years of age to provide true and correct identification, if verbally asked for it, shall be a defense to an action pursuant to this section.

(5) The person under 21 years of age shall be under the supervision of a regularly employed peace officer during the inspection.

(6) All persons under 21 years of age used in this manner by an enforcing agency shall display the appearance of a person under 21 years of age. It shall be a defense to an action under this division that the person's appearance was not that which could be generally expected of a person under 21 years of age, under the actual circumstances presented to the seller of the cigarettes or other tobacco products at the time of the alleged offense.

(7) Following the completion of the sale, the peace officer accompanying the person under 21 years of age shall reenter the retail establishment and shall inform the seller of the random inspection. Following an attempted sale, the enforcing agency shall notify the retail establishment of the inspection.

(8) Failure to comply with the procedures set forth in this subdivision shall be a defense to an action brought pursuant to this section.

(e) Be responsible for ensuring and reporting the state's compliance with Section 1926 of Title XIX of the federal Public Health Service Act (42 U.S.C. Sec. 300x-26) and any implementing regulations adopted in relation thereto by the United States Department of Health and Human Services. A copy of this report shall be made available to the Governor and the Legislature.

(f) Provide that any civil penalties imposed pursuant to Section 22958 shall be enforced against the owner or owners of the retail business and not the employees of the business.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 8, Sec. 3. (SB 7 2x) Effective June 9, 2016.)

22953. All moneys collected as civil penalties by the department and other state agencies pursuant to this division shall be deposited in the State Treasury to the credit of the Sale of Tobacco to Minors Control Account that is hereby established.

(Amended by Stats. 2007, Ch. 653, Sec. 4. Effective January 1, 2008.)

22954. (a) Any cigarette or tobacco products distributor or wholesaler as defined in Sections 30011 and 30016 of the Revenue and Taxation Code, and licensed under Article 1 (commencing with Section 30140) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code or Article 3 (commencing with Section 30155) of Chapter 3 of Part 13 of Division 2 of the Revenue and Taxation Code, and any cigarette vending machine operator granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the State Department of Health Services, the names and addresses of those persons to whom they provide tobacco products, including, but not limited to, dealers as defined in Section 30012 of the Revenue and Taxation Code, for the purpose of identifying retailers of tobacco to ensure compliance with this division.

(b) Cigarette vending machine operators granted a seller's permit under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), shall annually provide to the department their name and the address of each location where cigarette vending machines are placed, in order to ensure compliance with this division.

(c) The data provided, pursuant to this section, shall be deemed confidential official information by the department and shall be exempt from disclosure under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code).

(Amended by Stats. 2021, Ch. 615, Sec. 36. (AB 474) Effective January 1, 2022. Operative January 1, 2023, pursuant to Section 463 of Stats. 2021, Ch. 615.)

22955. Agents of the state department, while conducting enforcement activities pursuant to this division, are peace officers and are subject to all of the powers and immunities granted to Food and Drug Section inspectors pursuant to Section 106500 of the Health and Safety Code in the same manner as are any Food and Drug Section inspectors of the state department.

(Amended by Stats. 1996, Ch. 1023, Sec. 24. Effective September 29, 1996.)

22956. All persons engaging in the retail sale of tobacco products shall check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 21 years of age.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 8, Sec. 4. (SB 7 2x) Effective June 9, 2016.)

22957. (a) In addition to the primary enforcement responsibility assumed by the department, another enforcing agency may conduct inspections and assess penalties for violations of this division if the enforcing agency complies with this division and with all applicable laws and guidelines developed pursuant to this division.

(b) State and local enforcement agencies are encouraged, in order to avoid duplication, to share the results of inspections and coordinate with the department when enforcing this division.

(Amended by Stats. 2007, Ch. 653, Sec. 5. Effective January 1, 2008.)

22958. (a) An enforcing agency may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 21 years of age any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance, according to the following schedule:

(1) A civil penalty of one thousand dollars (\$1,000) to one thousand five hundred dollars (\$1,500) for the first violation.

(2) A civil penalty of two thousand dollars (\$2,000) to three thousand dollars (\$3,000) for the second violation at the same location within a five-year period.

(3) A civil penalty of five thousand dollars (\$5,000) to ten thousand dollars (\$10,000) for the third violation at the same location within a five-year period.

(4) A civil penalty of ten thousand dollars (\$10,000) to twenty thousand dollars (\$20,000) for a fourth violation within a five-year period.

(5) A civil penalty of at least twenty thousand dollars (\$20,000) for five or more violations within a five-year period.

(b) (1) In addition to the civil penalties described in subdivision (a), upon the assessment of a civil penalty for the third, fourth, or fifth violation, the department, within 60 days of the date of service of the final administrative adjudication on the parties or payment of the civil penalty for an uncontested violation, shall notify the State Board of Equalization of the violation. The State Board of Equalization shall then assess a civil penalty of two hundred fifty dollars (\$250) and suspend or revoke a license issued pursuant to Chapter 2 (commencing with Section 22971.7) of Division 8.6 in accordance with the following schedule:

(A) A 45-day suspension of the license for a third violation at the same location within a five-year period.

(B) A 90-day suspension of the license for a fourth violation at the same location within a five-year period.

(C) Revocation of the license for a fifth violation at the same location within a five-year period.

(2) The provisions of Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code apply with respect to the collection of the penalty imposed by the State Board of Equalization pursuant to paragraph (1).

(c) (1) For each suspension or revocation pursuant to subdivision (b), the civil penalty of two hundred fifty dollars (\$250) assessed pursuant to that subdivision, notwithstanding Section 22953, shall be deposited into the Cigarette and Tobacco Products Compliance Fund established pursuant to Section 22990. Moneys from that civil penalty deposited into this fund shall be made available to the State Board of Equalization, upon appropriation by the Legislature, for the purposes of meeting its duties under subdivision (b).

(2) The department shall, upon request, provide to the State Board of Equalization information concerning any person, firm, or corporation that has been assessed a civil penalty for violation of the STAKE Act pursuant to this section when the department has notified the State Board of Equalization of the violation.

(d) The enforcing agency shall assess penalties pursuant to the schedule set forth in subdivision (a) against a person, firm, or corporation that sells, offers for sale, or distributes tobacco products from a cigarette or tobacco products vending machine, or a person, firm, or corporation that leases, furnishes, or services these machines in violation of Section 22960.

(e) An enforcing agency may assess civil penalties against a person, firm, or corporation that sells or deals in tobacco or any preparation thereof, and fails to post conspicuously and keep posted in the place of business at each point of purchase the notice required pursuant to subdivision (b) of Section 22952. The civil penalty shall be in the amount of two hundred dollars (\$200) for the first offense and five hundred dollars (\$500) for each additional violation.

(f) An enforcing agency shall assess penalties in accordance with the schedule set forth in subdivision (a) against a person, firm, or corporation that advertises or causes to be advertised a tobacco product on an outdoor billboard in violation of Section 22961.

(g) If a civil penalty has been assessed pursuant to this section against a person, firm, or corporation for a single, specific violation of this division, the person, firm, or corporation shall not be prosecuted under Section 308 of the Penal Code for a violation based on the same facts or specific incident for which the civil penalty was assessed. If a person, firm, or corporation has been prosecuted for a single, specific violation of Section 308 of the Penal Code, the person, firm, or corporation shall not be assessed a civil penalty under this section based on the same facts or specific incident upon which the prosecution under Section 308 of the Penal Code was based.

(h) (1) In the case of a corporation or business with more than one retail location, to determine the number of accumulated violations for purposes of the penalty schedule set forth in subdivision (a), violations of this division by one retail location shall not be accumulated against other retail locations of that same corporation or business.

(2) In the case of a retail location that operates pursuant to a franchise as defined in Section 20001, violations of this division accumulated and assessed against a prior owner of a single franchise location shall not be accumulated against a new owner of the same single franchise location for purposes of the penalty schedule set forth in subdivision (a).

(i) Proceedings under this section shall be conducted pursuant to Section 131071 of the Health and Safety Code, except in cases where a civil penalty is assessed by an enforcing agency other than the department, in which case proceedings shall be conducted pursuant to the procedures of that agency that are consistent with Section 131071 of the Health and Safety Code.

(Amended by Stats. 2024, Ch. 462, Sec. 3. (SB 1230) Effective January 1, 2025.)

22959. (a) The sum of two million dollars (\$2,000,000) shall be transferred annually from the portion of the federal Substance Abuse Prevention and Treatment block grant moneys allocated to the State Department of Health Care

Services for administrative purposes related to substance abuse programs, to the Sale of Tobacco to Minors Control Account.

(b) Upon appropriation by the Legislature, moneys in the Sale of Tobacco to Minors Control Account shall be expended by the state department to administer and enforce this division.

(Amended by Stats. 2013, Ch. 22, Sec. 4. (AB 75) Effective June 27, 2013. Operative July 1, 2013, by Sec. 110 of Ch. 22.)

22960. (a) Except as provided in subdivision (b), no cigarette or tobacco product shall be sold, offered for sale, or distributed from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

(b) (1) Commencing January 1, 1996, cigarette or tobacco product vending machines or appliances may be located at least 15 feet away from the entrance of a premise issued an on-sale public premises license as defined in Section 23039 by the Department of Alcoholic Beverage Control to sell alcoholic beverages.

(2) As used in this subdivision "at least 15 feet away from the entrance" means within the premises of the licensed establishment and not outside those premises.

(c) This section and subdivision (b) of Section 22958 set forth minimum state restrictions on the sale of cigarettes or tobacco products from vending machines or devices and do not preempt or otherwise prohibit the adoption of a local standard that further restricts access to and reduces the availability of cigarette or tobacco products from vending machines or devices or that imposes a complete ban on the sale of cigarettes or tobacco products from vending machines or devices. A local standard that further restricts or imposes a complete ban on the sale of cigarettes or tobacco products from vending machines or devices shall control in the event of an inconsistency between this section and a local standard.

(Added by Stats. 1995, Ch. 823, Sec. 2. Effective January 1, 1996.)

22961. (a) No person, firm, corporation, partnership, or other organization shall advertise or cause to be advertised any tobacco products on any outdoor billboard located within 1,000 feet of any public or private elementary school, junior high school, or high school, or public playground.

(b) This section sets forth minimum state restrictions on the advertisement of any tobacco products on outdoor billboards near schools and public playgrounds and does not preempt or otherwise prohibit the adoption of a local standard that imposes a more restrictive or complete ban on billboard advertising or on tobacco-related billboard advertising. A local standard that imposes a more restrictive or complete ban on billboard advertising or on tobacco-related billboard advertising shall control in the event of any inconsistency between this section and a local standard.

(c) This section shall not be construed to prohibit the display of a message or advertisement opposing the use of tobacco products. However, this subdivision shall not be construed to permit an advertisement promoting the use of tobacco products by including a message opposing the use of tobacco products within that advertisement.

(Added by Stats. 1997, Ch. 219, Sec. 3. Effective January 1, 1998.)

22962. (a) For purposes of this section, the following terms have the following meanings:

(1) "Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer.

(2) "Tobacco paraphernalia" means cigarette papers or wrappers, blunt wraps as defined in Section 308 of the Penal Code, 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.

(3) "Tobacco product" means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

(4) "Tobacco store" means a retail business that meets all of the following requirements:

(A) Primarily sells tobacco products.

(B) Generates more than 60 percent of its gross revenues annually from the sale of tobacco products and tobacco paraphernalia.

(C) Does not permit any person under 18 years of age to be present or enter the premises at any time, unless accompanied by the person's parent or legal guardian, as defined in Section 6903 of the Family Code.

(D) Does not sell alcoholic beverages or food for consumption on the premises.

(b) (1) (A) Except as permitted in subdivision (b) of Section 22960, it is unlawful for a person engaged in the retail sale of tobacco products to sell, offer for sale, or display for sale any tobacco product or tobacco paraphernalia by self-service display. A person who violates this section is subject to those civil penalties specified in the schedule in subdivision (a) of Section 22958.

(B) A person who violates this section is subject to those civil penalties specified in the schedule in subdivision (a) of Section 22958.

(2) It is unlawful for a person engaged in the retail sale of blunt wraps to place or maintain, or to cause to be placed or maintained, any blunt wraps advertising display within two feet of candy, snack, or nonalcoholic beverage displayed inside any store or business.

(3) It is unlawful for any person or business to place or maintain, or cause to be placed or maintained, any blunt wrap advertising display that is less than four feet above the floor.

(c) Subdivision (b) shall not apply to the display in a tobacco store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco, provided that in the case of cigars they are generally not sold or offered for sale in a sealed package of the manufacturer or importer containing less than six cigars. In any enforcement action brought pursuant to this division, the retail business that displays any of the items described in this subdivision in a self-service display shall have the burden of proving that it qualifies for the exemption established in this subdivision.

(d) The Attorney General, a city attorney, a county counsel, or a district attorney may bring a civil action to enforce this section.

(e) This section does not preempt or otherwise prohibit the adoption of a local standard that imposes greater restrictions on the access to tobacco products than the restrictions imposed by this section. To the extent that there is an inconsistency between this section and a local standard that imposes greater restrictions on the access to tobacco products, the greater restriction on the access to tobacco products in the local standard shall prevail.

(Amended by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 3. (SB 5 2x) Effective June 9, 2016.)

22963. (a) The sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under 21 years of age through the United States Postal Service or through any other public or private postal or package delivery service at locations, including, but not limited to, public mailboxes and mailbox stores, is prohibited.

(b) Any person selling or distributing, or engaging in the nonsale distribution of, tobacco products directly to a consumer in the state through the United States Postal Service or by any other public or private postal or package delivery service, including orders placed by mail, telephone, facsimile transmission, or the internet, shall comply with the following provisions:

(1) (A) Before enrolling a person as a customer, or distributing or selling, or engaging in the nonsale distribution of, the tobacco product through any of these means, the distributor or seller shall verify that the purchaser or recipient of the product is 21 years of age or older. The distributor or seller shall attempt to match the name, address, and date of birth provided by the customer to information contained in records in a database of individuals whose age has been verified to be 21 years or older by reference to an appropriate database of government records kept by the distributor, a direct marketing firm, or any other entity. In the case of a sale, the distributor or seller shall also verify that the billing address on the check or credit card offered for payment by the purchaser matches the address listed in the database.

(B) If the seller, distributor, or nonsale distributor, is unable to verify that the purchaser or recipient is 21 years of age or older pursuant to subparagraph (A), the seller, distributor, or nonsale distributor shall require the customer or recipient to submit an age-verification kit consisting of an attestation signed by the customer or recipient that the customer or recipient is 21 years of age or older and a copy of a valid form of government identification. For the purposes of this section, a valid form of government identification includes a driver's license, state identification card, passport, an official naturalization or immigration document, such as a permanent resident card (commonly known as a "green card") or an immigrant visa, or military identification. In the case of a sale, the distributor or seller shall also verify that the billing address on the check or credit card provided by the consumer matches the address listed in the form of government identification.

(2) In the case of a sale, the distributor or seller shall impose a two-carton minimum on each order of cigarettes, and shall require payment for the purchase of any tobacco product to be made by personal check of the purchaser or the purchaser's credit card. No money order or cash payment shall be received or permitted. The distributor or seller shall submit to each credit card acquiring company with which it has credit card sales identification information in an appropriate form and format so that the words "tobacco product" may be printed in the purchaser's credit card statement when a purchase of a tobacco product is made by credit card payment.

(3) In the case of a sale, the distributor or seller shall make a telephone call after 5 p.m. to the purchaser confirming the order prior to shipping the tobacco products. The telephone call may be a person-to-person call or a recorded message. The distributor or seller is not required to speak directly with a person and may leave a message on an answering machine or by voice mail.

(4) (A) The nonsale distributor shall deliver the tobacco product to the recipient's verified mailing address, or, in the case of a sale, the seller or distributor shall deliver the tobacco product to the purchaser's verified billing address on the check or credit card used for payment.

(B) In the case of a nonsale, a recipient may designate an alternative address for delivery, if the recipient's mailing address has been verified in accordance with this section.

(C) In the case of a sale, a purchaser may designate an alternative address for delivery, if the purchaser's billing address has been verified in accordance with this section.

(D) A delivery described under this section shall not be permitted to any post office box.

(5) The tobacco product shall be delivered only in a container that is conspicuously labeled with the words: "CONTAINS TOBACCO PRODUCTS: SIGNATURE OF PERSON 21 YEARS OF AGE OR OLDER REQUIRED FOR DELIVERY."

(6) Upon the delivery of the tobacco product to the recipient's or purchaser's address, the seller, distributor, or nonsale distributor shall obtain the signature of a person 21 years of age or older before completing the delivery.

(c) Notwithstanding subdivisions (a) and (b), if a seller, distributor, or nonsale distributor, complies with all of the requirements of this section and a person under 21 years of age obtains a tobacco product by any of the means described in subdivision (b), the seller, distributor, or nonsale distributor is not in violation of this section.

(d) For the purposes of the enforcement of this section pursuant to Section 22958, the acts of the United States Postal Service or other common carrier when engaged in the business of transporting and delivering packages for others, and the acts of a person, whether compensated or not, who transports or delivers a package for another person without any reason to know of the package's contents, are not unlawful and are not subject to civil penalties.

(e) (1) (A) For the purposes of this section, a "distributor" is any person or entity, within or outside the state, who agrees to distribute tobacco products to a customer or recipient within the state. The United States Postal Service or any other public or private postal or package delivery service is not a distributor within the meaning of this section.

(B) A "nonsale distributor" is any person inside or outside of this state who, directly or indirectly, knowingly provides tobacco products to any person in this state as part of a nonsale transaction. "Nonsale distributor" includes the person or entity who provides the tobacco product for delivery and the person or entity who delivers the product to the recipient as part of a nonsale transaction.

(C) "Nonsale distribution" means to give smokeless tobacco or cigarettes 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 smokeless tobacco or cigarettes to the general public at no cost or at nominal cost. Distribution of tobacco products, coupons, coupon offers, gift certificates, gift cards, or other similar offers, or rebate offers in connection with the sale of another item, including tobacco products, cigarette lighters, magazines, or newspapers shall not constitute nonsale distribution.

(2) For the purpose of this section, a "seller" is any person or entity, within or outside the state, who agrees to sell tobacco products to a customer within the state. The United States Postal Service or any other public or private postal or package delivery service is not a seller within the meaning of this section.

(3) For the purpose of this section, a "carton" is a package or container that contains 200 cigarettes.

(f) A district attorney, city attorney, or the Attorney General may assess civil penalties against any person, firm, corporation, or other entity that violates this section, according to the following schedule:

(1) A civil penalty of not less than one thousand dollars (\$1,000) and not more than two thousand dollars (\$2,000) for the first violation.

(2) A civil penalty of not less than two thousand five hundred dollars (\$2,500) and not more than three thousand five hundred dollars (\$3,500) for the second violation.

(3) A civil penalty of not less than four thousand dollars (\$4,000) and not more than five thousand dollars (\$5,000) for the third violation within a five-year period.

(4) A civil penalty of not less than five thousand five hundred dollars (\$5,500) and not more than six thousand five hundred dollars (\$6,500) for the fourth violation within a five-year period.

(5) A civil penalty of ten thousand dollars (\$10,000) for a fifth or subsequent violation within a five-year period.

(Amended by Stats. 2021, Ch. 296, Sec. 11. (AB 1096) Effective January 1, 2022.)

22964. This division sets forth minimum state restrictions with respect to the legal age to purchase or possess tobacco products and does not preempt or otherwise prohibit the adoption of a local standard that imposes a more restrictive legal age to purchase or possess tobacco products. A local standard that imposes a more restrictive legal age to purchase or possess tobacco products shall control in the event of any inconsistency between this division and a local standard.

(Added by Stats. 2016, 2nd Ex. Sess., Ch. 8, Sec. 7. (SB 7 2x) Effective June 9, 2016.)

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DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991] (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)

CHAPTER 1. General Provisions and Definitions [22970 - 22971.5] (*Chapter 1 added by Stats. 2003, Ch. 890, Sec. 1.*)

22970. This division shall be known as and may be cited as the Cigarette and Tobacco Products Licensing Act of 2003.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22970.1. The Legislature finds and declares all of the following:

(a) The State of California has enacted excise taxes on the distribution of cigarettes and tobacco products to provide funding for local and state programs, including health services, antismoking campaigns, cancer research, and education programs.

(b) Tax revenues have declined by hundreds of millions of dollars per year due, in part, to unlawful distributions and untaxed sales of cigarettes and tobacco products conducted by organized crime syndicates, street gangs, and international terrorist groups.

(c) The enforcement of California's cigarette and tobacco products tax laws is necessary to collect millions of dollars in lost tax revenues each year.

(d) The licensing of manufacturers, importers, wholesalers, distributors, and retailers will help stem the tide of untaxed distributions and illegal sales of cigarettes and tobacco products.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22970.2. The board shall administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22970.3. The board may create a Tobacco Tax Compliance Task Force for the purpose of advising the board on cigarette and tobacco products tax compliance issues that may include, but not be limited to, representatives from the following:

(a) The board.

(b) The office of the Attorney General.

(c) The Franchise Tax Board.

(d) The Department of Alcoholic Beverage Control.

(e) The State Department of Health Services.

(f) Federal agencies necessary to coordinate programs to combat tobacco tax evasion, smuggling, and counterfeiting.

(g) One person from each of the categories of persons required by this division to have a license.

(h) Other states engaged in tobacco tax compliance efforts.

(i) Local law enforcement agencies.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22971. For purposes of this division, the following terms shall have the following meanings:

(a) "Brand family" has the same meaning as that term is defined in paragraph (2) of subdivision (a) of Section 30165.1 of the Revenue and Taxation Code.

(b) "Cigarette" means a cigarette as defined in Section 30003 of the Revenue and Taxation Code.

(c) (1) "Control" or "controlling" means possession, direct or indirect, of the power:

(A) To vote 25 percent or more of any class of the voting securities issued by a person.

(B) To direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, other than a commercial contract for goods or nonmanagement services, or as otherwise provided; however, no individual shall be deemed to control a person solely on account of being a director, officer, or employee of that person.

(2) For purposes of subparagraph (B) of paragraph (1), a person who, directly or indirectly, owns, controls, holds, with the power to vote, or holds proxies representing 10 percent or more of the then outstanding voting securities issued by another person, is presumed to control that other person.

(3) For purposes of this division, the department may determine whether a person in fact controls another person.

(d) "Department" means the California Department of Tax and Fee Administration.

(e) "Display for sale" means the placement of cigarettes or tobacco products in a vending machine or in retail stock for the purpose of selling or gifting the cigarettes or tobacco products. For purposes of this definition, the clear and easily visible display of cigarettes or tobacco products shall create a rebuttable presumption that either were displayed for sale.

(f) "Distributor" means a distributor as defined in Section 30011 of the Revenue and Taxation Code.

(g) "Gifting" means any transfer of title or possession without consideration, exchange, or barter, in any manner or by any means, of cigarettes or tobacco products that have been purchased for resale under a license issued pursuant to this division if the transfer occurs while the license is suspended or after the effective date of its revocation.

(h) "Importer" means an importer as defined in Section 30019 of the Revenue and Taxation Code.

(i) "Law enforcement agency" means a sheriff, a police department, or a city, county, or city and county agency or department designated by the governing body of that agency to enforce this chapter or to enforce local smoking and tobacco ordinances and regulations.

(j) "License" means a license issued by the department pursuant to this division.

(k) "Licensee" means a person holding a license issued by the department pursuant to this division.

(l) "Local lead agency" means an agency designated as a local lead agency pursuant to Section 104400 of the Health and Safety Code.

(m) "Manufacturer" means a manufacturer of cigarettes or tobacco products sold in this state.

(n) "Notice" or "notification" means, unless as otherwise provided, the written notice or notification provided to a licensee by the department by either actual delivery to the licensee or by first-class mail addressed to the licensee at the address on the license.

(o) "Package of cigarettes" means a package as defined in Section 30015 of the Revenue and Taxation Code.

(p) "Person" means a person as defined in Section 30010 of the Revenue and Taxation Code.

(q) "Retailer" means a person who engages in this state in the sale of cigarettes or tobacco products directly to the public from a retail location. Retailer includes a person who operates vending machines from which cigarettes or tobacco products are sold in this state.

(r) "Retail location" means both of the following:

(1) Any building from which cigarettes or tobacco products are sold at retail.

(2) A vending machine.

(s) "Sale" or "sold" means a sale as defined in Section 30006 of the Revenue and Taxation Code.

(t) "Tobacco products" means tobacco products as defined in subdivision (b) of Section 30121 and subdivision (b) of Section 30131.1 of the Revenue and Taxation Code.

(u) "Unstamped package of cigarettes" means a package of cigarettes that does not bear a tax stamp as required under Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, including a package of cigarettes that bears a tax stamp of another state or taxing jurisdiction, a package of cigarettes that bears a counterfeit tax stamp, or a stamped or unstamped package of cigarettes that is marked "Not for sale in the United States."

(v) "Wholesaler" means a wholesaler as defined in Section 30016 of the Revenue and Taxation Code.

(Amended by Stats. 2021, Ch. 432, Sec. 1. (SB 824) Effective January 1, 2022.)

22971.1. Commencing January 1, 2006, the Bureau of State Audits shall conduct a performance audit of the licensing and enforcement provisions of this division, and shall report its findings to the board and the Legislature by July 1, 2006. The report shall include, but not be limited to:

(a) The actual costs of the program.

(b) The level of additional revenue generated by the program compared to the period before its implementation.

(c) Tax compliance rates.

(d) The costs of enforcement at the varying levels.

(e) The appropriateness of penalties assessed in this division.

(f) The overall effectiveness of enforcement programs.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22971.2. The board shall administer and enforce the provisions of this division and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this division.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22971.3. Nothing in this division preempts or supersedes any local tobacco control law other than those related to the collection of state taxes. Local licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22971.4. No person is subject to the requirements of this division if that person is exempt from regulation under the United States Constitution, the laws of the United States, or the California Constitution.

(Added by Stats. 2004, Ch. 822, Sec. 1. Effective September 27, 2004.)

22971.5. Any notice required by this division shall be served personally or by mail. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the licensee at the address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of deposit of the notice in the United States Post Office, or a mailbox, subpost office, substation, or mail chute, or other facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaints in a civil action.

(Added by Stats. 2010, Ch. 607, Sec. 2. (AB 2733) Effective January 1, 2011.)

Code: Section: [Up^](#) [Add To My Favorites](#)**BUSINESS AND PROFESSIONS CODE - BPC****DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]** (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)**CHAPTER 2. License for Retailers of Cigarettes and Tobacco Products [22971.7 - 22974.8]** (*Chapter 2 added by Stats. 2003, Ch. 890, Sec. 1.*)

22971.7. (a) For the purposes of this chapter, except as provided in subdivision (b), and notwithstanding subdivision (s) of Section 22971, a "tobacco product" includes a product or device as defined in subdivision (d) of Section 22950.5.

(b) This section does not apply to subdivision (b) of Section 22974.3.

(c) This section shall be operative on January 1, 2017.

(Added by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 4. (SB 5 2x) Effective June 9, 2016. Section operative January 1, 2017, by its own provisions.)

22972. (a) Commencing June 30, 2004, a retailer shall have in place and maintain a license to engage in the sale of cigarettes or tobacco products. A retailer that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses.

(b) The retailer shall conspicuously display the license at each retail location in a manner visible to the public.

(c) A license is not assignable or transferable. A person who obtains a license as a retailer who ceases to do business as specified in the license, or who never commenced business, or whose license is suspended or revoked, shall immediately surrender the license to the board.

(d) A license shall be valid for a 12-month period, and shall be renewed annually. A retailer that adds an additional retail location shall renew the license for that location based on a 12-month period beginning in the month the retailer obtained its license for its first retail location.

(Amended by Stats. 2016, Ch. 699, Sec. 1. (AB 2770) Effective January 1, 2017.)

22972.1. (a) Notwithstanding Section 22972 or Section 22973, the board may issue to a retailer a temporary license with a scheduled expiration date, as determined by the board, that occurs on or before September 30, 2004.

(b) A temporary license issued pursuant to this section shall be automatically terminated upon the board's issuance of a license pursuant to Section 22973.1.

(c) A temporary license issued pursuant to this section is subject to the same suspension, revocation, and forfeiture provisions that apply to licenses issued by the board pursuant to Section 22973.1.

(Added by Stats. 2004, Ch. 82, Sec. 2. Effective June 30, 2004.)

22973. (a) An application for a license shall be filed on or before April 15, 2004, on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit number of those licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) The signature of the applicant.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application. The board may issue a license without further investigation to an applicant for a retail location if the applicant holds a valid license from the Department of Alcoholic Beverage Control for that same location.

(c) The board shall provide electronic means for applicants to download and submit applications.

(d) A fee of two hundred sixty-five dollars (\$265) shall be submitted with each application. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses with an application license fee of two hundred sixty-five dollars (\$265) per location. The fee shall be for the period provided in subdivision (d) of Section 22972 and shall not be prorated.

(e) Beginning on and after January 1, 2017, every retailer shall file an application for renewal of the license prescribed in Section 22972, accompanied with a fee of two hundred sixty-five dollars (\$265) per retail location, in the form and manner prescribed by the board.

(Amended by Stats. 2016, Ch. 699, Sec. 2. (AB 2770) Effective January 1, 2017.)

22973.1. (a) The board shall issue a license to a retailer upon receipt of a completed application and payment of the fees prescribed in Section 22973, unless any of the following apply:

(1) The retailer, or if the retailer is not an individual, any person controlling the retailer, has previously been issued a license that is suspended or revoked by the board for violation of any of the provisions of this division.

(2) The application is for a license or renewal of a license for a retail location that is the same retail location as that of a retailer whose license was revoked or is subject to revocation proceedings for violation of any of the provisions of this division, unless:

(A) It has been more than five years since a previous license for the retail location was revoked.

(B) The person applying for the license provides the board with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm's length transaction. For purposes of this section, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of this division that occurred at the retail location, is presumed not to be made at "arm's length."

(3) The retailer, or if the retailer is not an individual, any person controlling the retailer, has been convicted of a felony pursuant to Section 30473 or 30480 of the Revenue and Taxation Code.

(4) The retailer does not possess all required permits or licenses required under the Revenue and Taxation Code.

(b) (1) Any retailer who is denied a license may petition for a redetermination of the board's denial of the license within 30 days after service upon that retailer of the notice of the denial of the license. If a petition for

redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

(2) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at anytime prior to the date on which the board issues its order or decision upon the petition for redetermination.

(3) If the petition for redetermination is filed within the 30-day period, the board shall reconsider the determination of the denial and, if the retailer has so requested in the petition, shall grant the retailer an oral hearing and shall give the retailer at least 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

(4) The order or decision of the board upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

(Amended by Stats. 2010, Ch. 607, Sec. 3. (AB 2733) Effective January 1, 2011.)

22973.2. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to retailers within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

(Amended by Stats. 2021, Ch. 432, Sec. 2. (SB 824) Effective January 1, 2022.)

22973.3. (a) Notwithstanding any other law, an application for a license for the sale of a tobacco product, as defined in subdivision (d) of Section 22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code shall be filed on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each retail location. For applicants who control more than one retail location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office of the retailer, shall also be included on the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit number of those licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in a county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) The signature of the applicant.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application. The board may issue a license without further investigation to an applicant for a retail location if the applicant holds a valid license from the Department of Alcoholic Beverage Control for that same location.

(c) The board shall provide electronic means for applicants to download and submit applications.

(d) A fee of two hundred sixty-five dollars (\$265) shall be submitted with each application. An applicant that owns or controls more than one retail location shall obtain a separate license for each retail location, but may submit a single application for those licenses with an application license fee of two hundred sixty-five dollars (\$265) per location. The fee shall be for the period provided in subdivision (d) of Section 22972 and shall not be prorated.

(e) Every retailer shall file an application for renewal of its license, accompanied with a fee of two hundred sixty-five dollars (\$265) per retail location in the form and manner prescribed by the board.

(f) (1) The board shall report back to the Legislature no later than January 1, 2019, regarding the adequacy of funding for the Cigarette and Tobacco Products Licensing Act of 2003 with regard to tobacco products for which a license is required by this section. The report shall include data and recommendations about whether the annual licensing fee funding levels are set at an appropriate level to maintain an effective enforcement program.

(2) The report required by paragraph (1) shall be submitted in compliance with Section 9795 of the Government Code.

(g) (1) This section applies to a retailer who sells a tobacco product, as defined in subdivision (d) of Section 22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, and who does not already possess a valid license to sell cigarettes or tobacco products issued pursuant to Section 22972.

(2) A retailer that possesses a valid license to sell cigarettes and tobacco products issued pursuant to Section 22972 may also sell under that license a tobacco product, as defined in subdivision (d) of Section 22950.5, that is not subject to a tax imposed by the Cigarette and Tobacco Products Tax Law pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code.

(h) This section shall become operative January 1, 2017.

(Amended by Stats. 2017, Ch. 561, Sec. 11. (AB 1516) Effective January 1, 2018.)

22974. A retailer shall retain purchase invoices that meet the requirements set forth in Section 22978.4 for all cigarettes or tobacco products the retailer purchased for a period of four years. The records shall be kept at the retail location for at least one year after the purchase. Invoices shall be made available upon request during normal business hours for review inspection and copying by the board or by a law enforcement agency. Any retailer found in violation of these requirements or any person who fails, refuses, or neglects to retain or make available invoices for inspection and copying in accordance with this section shall be subject to penalties pursuant to Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22974.1. (a) Notwithstanding any other law, if the department discovers that a retailer, or any of the tobacco retailer's agents or employees, sell, offer for sale or possess with the intent to sell or offer for sale, a flavored tobacco product or tobacco product flavor enhancer, in violation of Section 104559.5 of the Health and Safety Code, the department may seize those flavored tobacco products or tobacco product flavor enhancers at the retail location or any other person's location. Any flavored tobacco products or tobacco product flavor enhancers seized by the department shall be deemed forfeited and the department shall comply with the procedures set forth in Chapter 7.5 (commencing with Section 30435) of Part 13 of Division 2 of the Revenue and Taxation Code.

(b) For purposes of this section, "flavored tobacco product" and "tobacco product flavor enhancer" shall have the same meaning as the terms are defined in Section 104559.5 of the Health and Safety Code.

(Added by Stats. 2024, Ch. 462, Sec. 4. (SB 1230) Effective January 1, 2025.)

22974.2. (a) (1) Notwithstanding any other provision of this division, upon discovery by the department or a law enforcement agency that a retailer possesses, stores, owns, or has made a retail sale of flavored tobacco products or tobacco product flavor enhancers in violation of Section 104559.5 of the Health and Safety Code, the department or the law enforcement agency may seize the flavored tobacco products or tobacco product flavor enhancers at the retail location or any other person's location.

(2) Any flavored tobacco products or tobacco product flavor enhancers seized by a law enforcement agency shall be delivered to the department, or its designee, within 30 days, unless the seized flavored tobacco products or tobacco product flavor enhancers shall be destroyed by that law enforcement agency, or unless the seized flavored tobacco products or tobacco product flavor enhancers are otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation. Any flavored tobacco products or tobacco product flavor enhancers seized by the department or delivered to the department by a law enforcement agency shall be deemed forfeited to the state and the department shall comply with

procedures set forth in Chapter 7.5 (commencing with Section 30435) of Part 13 of Division 2 of the Revenue and Taxation Code.

(b) (1) In addition to seizure and forfeiture of the flavored tobacco products or tobacco product flavor enhancers under subdivision (a), the department shall issue a civil penalty against the retailer equal to fifty dollars (\$50) per individual package of flavored tobacco product or tobacco product flavor enhancer seized or delivered to the department by a law enforcement agency regardless of the authority used by the law enforcement agency to seize the flavored tobacco product or tobacco product flavor enhancer. The department shall issue the civil penalty in accordance with the procedures applicable to the civil penalty authorized under Section 22974.7.

(2) In the case of a second seizure and forfeiture of flavored tobacco products or tobacco product flavor enhancers under subdivision (a), the department shall suspend the license of the retailer, in accordance with the procedures set forth in Section 22980.3.

(3) In the case of a third seizure and forfeiture of flavored tobacco products or tobacco product flavor enhancers under subdivision (a), the department shall revoke the license of the retailer, in accordance with the procedures set forth in Section 22980.3.

(4) Civil penalties collected pursuant to this section shall be deposited into the Cigarette and Tobacco Products Compliance Fund created pursuant to Section 22990.

(5) For the purposes of paragraph (1), "package" means the individual packet, box, or other container of flavored tobacco products or tobacco product flavor enhancers that are normally sold or intended to be sold at retail. "Package" does not include containers that contain smaller packaging units of flavored tobacco products or tobacco product flavor enhancers, including, but not limited to, cartons, cases, bales, or boxes.

(Added by Stats. 2024, Ch. 849, Sec. 2. (AB 3218) Effective January 1, 2025.)

22974.3. (a) Notwithstanding any other provision of this division, upon discovery by the board or a law enforcement agency that a retailer or any other person possesses, stores, owns, or has made a retail sale of an unstamped package of cigarettes, the board or the law enforcement agency shall be authorized to seize unstamped packages of cigarettes at the retail, or any other person's location. Any cigarettes seized by a law enforcement agency shall be delivered to the board, or its designee, within seven days, unless the cigarettes will be destroyed by that law enforcement agency, or unless the cigarettes are otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation. Any cigarettes seized by the board or delivered to the board by a law enforcement agency shall be deemed forfeited and the board shall comply with procedures set forth in Part 13 (commencing with Section 30436) of Division 2 of Chapter 7.5 of the Revenue and Taxation Code. In addition to the inventory of unstamped packages of cigarettes of a retailer or of any other person that is subject to forfeiture and seizure, the possession, storage, ownership, or retail sales of unstamped packages of cigarettes by a retailer or other person, as applicable, shall constitute a misdemeanor punishable by the following actions:

(1) A first violation involving seizure of a total quantity of less than 20 packages of unstamped cigarettes shall be a misdemeanor punishable by a fine of one thousand dollars (\$1,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment.

(2) A second violation within five years involving a seizure of a total quantity of less than 20 packages of unstamped cigarettes shall be a misdemeanor punishable by a fine of not less than two thousand dollars (\$2,000) but not to exceed five thousand dollars (\$5,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment, and shall also result in the revocation of the license.

(3) A first violation involving seizure of a total quantity of 20 packages of unstamped cigarettes or more shall be a misdemeanor punishable by a fine of two thousand dollars (\$2,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment.

(4) A second violation within five years involving seizure of a quantity of 20 packages of unstamped cigarettes or more shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000) but not to exceed fifty thousand dollars (\$50,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment, and shall also result in the revocation of the license.

(b) Upon discovery by the board or a law enforcement agency that a retailer or any other person possesses, stores, owns, or has made a retail sale of tobacco products on which tax is due but has not been paid to the board, the

board or law enforcement agency is authorized to seize such tobacco products at the retail, or any other person's location. Any tobacco products seized by a law enforcement agency shall be delivered to the board, or its designee, within seven days, unless otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation. Any tobacco products seized by the board or delivered to the board by a law enforcement agency shall be deemed forfeited and the board shall comply with procedures set forth in Part 13 (commencing with Section 30436) of Division 2 of Chapter 7.5 of the Revenue and Taxation Code. It shall be presumed that tax has not been paid to the board on all tobacco products in the possession of a retailer or of any other person until the contrary is established by a proof of payment to the board or by a purchase invoice that shows that the retailer or other person, as applicable, paid the tax included purchase price to a licensed distributor, wholesaler, manufacturer, or importer as described in Section 22978.4. The burden of proof that tax has been paid on tobacco products shall be upon the retailer or the other person, as applicable, in possession thereof. Possession of untaxed tobacco products on which tax is due but has not been paid as required is a violation of this division and subjects the retailer or other person, as applicable, to the actions described in Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22974.4. The board shall revoke the license, pursuant to the provisions applicable to the revocation of a license as set forth in Section 30148 of the Revenue and Taxation Code, of any retailer or any person controlling the retailer that has:

- (a) Been convicted of a felony pursuant to Section 30473 or 30480 of the Revenue and Taxation Code.
- (b) Had any permit or license revoked under any provision of the Revenue and Taxation Code.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22974.5. Any retailer who fails to display a license as required in Section 22972 shall, in addition to any other applicable penalty, be liable for a penalty of five hundred dollars (\$500).

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22974.7. In addition to any other civil or criminal penalty provided by law, upon a finding that a retailer has violated any provision of this division, the board may take the following actions:

- (a) In the case of the first offense, the board may revoke or suspend the license or licenses of the retailer pursuant to the procedures applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code.
- (b) In the case of a second or any subsequent offense, in addition to the action authorized under subdivision (a), the board may impose a civil penalty in an amount not to exceed the greater of either of the following:
 - (1) Five times the retail value of the seized cigarettes or tobacco products.
 - (2) Five thousand dollars (\$5,000).

(Amended by Stats. 2004, Ch. 82, Sec. 3. Effective June 30, 2004.)

22974.8. (a) Except as provided in subdivision (b), the board shall suspend or revoke the license of a retailer upon notification by the State Department of Public Health pursuant to subdivision (b) of Section 22958, or pursuant to paragraph (2) of subdivision (f) of Section 104559.5 of the Health and Safety Code.

(b) Notwithstanding any other provision regarding the suspension or revocation of a license pursuant to this part, the board shall provide a licensee no fewer than 10 days' written notice of a pending suspension or revocation pursuant to this section and an opportunity to appeal the suspension or revocation and the civil penalty assessed pursuant to the provisions described in subdivision (a) only to correct a mistake or clerical error. The board shall not accept or consider an appeal of suspension or revocation under this section if the appeal is founded upon the grounds of whether the retailer, or any employee or agent of the retailer, violated the STAKE Act (Division 8.5 (commencing with Section 22950)) or Section 104559.5 of the Health and Safety Code for which violation civil penalties are imposed by the State Department of Public Health pursuant to subdivision (a) of Section 22958, or pursuant to subdivision (f) of Section 104559.5 of the Health and Safety Code. This section shall not be construed to prevent the board from modifying its action on its own to correct a mistake or clerical error.

(Amended by Stats. 2023, Ch. 351, Sec. 1. (AB 935) Effective January 1, 2024.)

Code: Section: [Up^](#) [Add To My Favorites](#)**BUSINESS AND PROFESSIONS CODE - BPC****DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]** (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)**CHAPTER 3. License for Wholesalers and Distributors of Cigarettes and Tobacco Products [22975 - 22978.8]** (*Chapter 3 added by Stats. 2003, Ch. 890, Sec. 1.*)

22975. (a) In addition to licenses required pursuant to Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, commencing June 30, 2004, every distributor and every wholesaler shall annually obtain and maintain a license to engage in the sale of cigarettes or tobacco products.

(b) Licenses shall be valid for a calendar year period upon payment of the fee prescribed in Section 22977.1, unless surrendered, suspended, or revoked prior to the end of the calendar year, and may be renewed each year upon payment of such fee.

(c) A license is not assignable or transferable. A person who obtains a license as a distributor or as a wholesaler who ceases to do business as specified in the license, or who never commenced business, or whose license is suspended or revoked, shall immediately surrender the license to the board.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22976. A distributor or a wholesaler that, at the time of application, holds a valid license issued by the board pursuant to Section 30140 or 30155 of the Revenue and Taxation Code may be issued a license without further investigation.

(*Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.*)

22977. (a) An application for a license shall be on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant.

(2) The business name, address, and telephone number of each location where cigarettes or tobacco products will be sold. For applicants who control more than one location, an address for receipt of correspondence or notices from the board, such as a headquarters or corporate office, shall also be included in the application and listed on the license. Citations issued to licensees shall be forwarded to all addressees on the license.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) If any other licenses or permits have been issued by the board or the Department of Alcoholic Beverage Control to the applicant, the license or permit numbers for such licenses or permits then in effect.

(5) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(6) Signature of the applicant.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application.

(c) The board shall provide electronic means for applicants to download and submit applications.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22977.1. (a) Every distributor and every wholesaler shall file an application, as prescribed in Section 22977, on or before April 15, 2004. Each application shall be accompanied by a fee of one thousand dollars (\$1,000) for each location. The fee shall be for a calendar year and may not be prorated. Subject to meeting the requirements of this section and Section 22977.2, the board shall issue a license.

(b) Every distributor and every wholesaler who commences business after the last day of May 2004, or who commences selling or distributing cigarettes or tobacco products at a new or different place of business in this state after the last day of May 2004, shall file with the board an application as prescribed in Section 22977 at least 30 days prior to commencing such business or commencing such sales or distributions; and all distributors and all wholesalers that fail to timely file an application for a license under subdivision (a) shall file with the board an application as prescribed in Section 22977. Each application shall be accompanied by a fee of one thousand two hundred dollars (\$1,200) for each location. The fee shall be for a calendar year and may not be prorated. Subject to Section 22977.2, the board, within 30 days after receipt of an application and payment of the proper fee, shall issue a license.

(c) For calendar years beginning on and after January 1, 2005, and before January 1, 2017, every distributor and every wholesaler shall file an application for renewal of the license prescribed in Section 22977, accompanied with a fee of one thousand dollars (\$1,000) for each location where cigarettes and tobacco products are sold, in the form and manner as prescribed by the board. For calendar years beginning on and after January 1, 2017, the fee accompanying an application for renewal of the license prescribed in Section 22977 shall be one thousand two hundred dollars (\$1,200) for each location where cigarettes and tobacco products are sold.

(Amended by Stats. 2017, Ch. 561, Sec. 12. (AB 1516) Effective January 1, 2018.)

22977.2. (a) The board shall issue a license to a distributor or a wholesaler upon receipt of a completed application and payment of the fee prescribed in Section 22977.1, unless any of the following apply:

(1) The distributor or the wholesaler, or if the distributor or the wholesaler is not an individual, any person controlling the distributor or the wholesaler, has previously been issued a license that is suspended or revoked by the board for violation of any of the provisions of this division.

(2) The application is for a license or renewal of a license for a distributor or a wholesaler, whose license is revoked or revocation is pending, unless:

(A) It has been more than five years since a distributor's or a wholesaler's previous license was revoked.

(B) The person applying for the license provides the board with documentation demonstrating that the applicant has acquired or is acquiring the business in an arm's length transaction. For purposes of this section, an "arm's length transaction" is defined as a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale of the business between relatives, related companies or partners, or a sale for the primary purpose of avoiding the effect of the violations of state tobacco control laws that were committed by the distributor or wholesaler is presumed not to be made at "arm's length."

(3) The distributor or the wholesaler, or if the distributor or the wholesaler is not an individual, any person controlling the distributor or the wholesaler has been convicted of a felony pursuant to Section 30473 or 30480 of the Revenue and Taxation Code.

(b) (1) Any distributor or any wholesaler who is denied a license may petition for a redetermination of the board's denial of the license within 30 days after service upon that distributor or that wholesaler of the notice of the denial of the license. If a petition for redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

(2) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at anytime prior to the date on which the board issues its order or decision upon the petition for redetermination.

(3) If the petition for redetermination is filed within the 30-day period, the board shall reconsider the determination of the denial and, if the distributor or the wholesaler has so requested in the petition, shall grant the distributor or wholesaler an oral hearing and shall give the distributor or the wholesaler at least 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

(4) The order or decision of the board upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

(Amended by Stats. 2010, Ch. 607, Sec. 4. (AB 2733) Effective January 1, 2011.)

22978. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to distributors and wholesalers for locations within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

(Amended by Stats. 2021, Ch. 432, Sec. 3. (SB 824) Effective January 1, 2022.)

22978.1. All distributors and all wholesalers shall retain purchase records that meet the requirements set forth in Section 22978.5 for all cigarettes or tobacco products purchased. The records shall be maintained for a period of one year from the date of purchase on the distributor's or the wholesaler's premises identified in the license, and thereafter, the records shall be made available for inspection by the board or a law enforcement agency for a period of four years. Any distributor or any wholesaler found in violation of these requirements, or any person who fails, refuses, or neglects to retain or make available invoices for inspection and copying in accordance with this section shall be subject to penalties pursuant to Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22978.2. (a) Notwithstanding any other provision of this division, upon discovery by the board or a law enforcement agency that a distributor possesses, stores, owns, or has made a sale of an unstamped package of cigarettes bearing a counterfeit California state tax stamp or that a wholesaler possesses, stores, owns, or has made a sale of an unstamped package of cigarettes, the board or the law enforcement agency shall be authorized to seize the unstamped packages of cigarettes at the distributor's or the wholesaler's location. Any cigarettes seized by a law enforcement agency shall be delivered to the board, or its designee, within seven days, unless otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement investigation. Any cigarettes seized by the board or delivered to the board by a law enforcement agency shall be deemed forfeited and the board shall comply with procedures set forth in Part 13 (commencing with Section 30436) of Division 2 of Chapter 7.5 of the Revenue and Taxation Code. In addition to the distributor's or wholesaler's inventory of unstamped packages of cigarettes being subject to seizure and forfeiture, the possession, storage, ownership or sale by a distributor or wholesaler of the unstamped package of cigarettes in the manner described above, shall constitute a misdemeanor punishable by the following actions:

(1) A first violation involving seizure of a total quantity of less than 20 unstamped packages of cigarettes shall be a misdemeanor punishable by a fine of one thousand dollars (\$1,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment.

(2) A second violation within five years involving seizure of a total quantity of less than 20 unstamped packages of cigarettes shall be a misdemeanor punishable by a fine of not less than two thousand dollars (\$2,000) but not to exceed five thousand dollars (\$5,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment, and shall also result in the revocation of the license.

(3) A first violation involving seizure of a total quantity of 20 unstamped packages of cigarettes or more shall be a misdemeanor punishable by a fine of two thousand dollars (\$2,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment.

(4) A second violation within five years involving seizure of a total quantity of 20 unstamped packages of cigarettes or more shall be a misdemeanor punishable by a fine of not less than five thousand dollars (\$5,000) but not to exceed fifty thousand dollars (\$50,000) or imprisonment not to exceed one year in a county jail, or both the fine and imprisonment, and shall also result in the revocation of the license.

(b) Upon discovery by the board or a law enforcement agency that a distributor or a wholesaler possesses, stores, owns, or has made a sale of tobacco products on which tax is due but has not been paid to the board, or its designee, the board or law enforcement agency is authorized to seize such tobacco products at the distributor or wholesaler location. Any tobacco products seized by a law enforcement agency shall be delivered to the board within seven days, unless otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation. Any tobacco products seized by the board or delivered to the board by a law enforcement agency shall be deemed forfeited and the board shall comply with procedures set forth in Part 13 (commencing with Section 30436) of Division 2 of Chapter 7.5 of the Revenue and Taxation Code. It shall be presumed that tax has not been paid to the board on all tobacco products in the possession of a distributor or a wholesaler until the contrary is established by the distributor's proof of payment to the board or by a purchase invoice that shows that the wholesaler paid the tax included purchase price to a licensed distributor, wholesaler, manufacturer, or importer as described in Section 22978.4. The burden of proof that tax has been paid on tobacco products shall be upon the distributor or wholesaler in possession thereof. Possession by a distributor or a wholesaler of tobacco products on which tax is due but has not been paid as required is a violation of this division and subjects the distributor or wholesaler to the actions described in Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22978.3. (a) (1) Notwithstanding any other provision of this division, upon discovery by the department or a law enforcement agency that a wholesaler possesses, stores, or owns flavored tobacco products or tobacco product flavor enhancers, or has made a sale of flavored tobacco products or tobacco product flavor enhancers in violation of Section 104559.1 of the Health and Safety Code, the department or the law enforcement agency may seize the flavored tobacco products or tobacco product flavor enhancers possessed, stored, owned, or sold by the wholesaler.

(2) Any flavored tobacco products or tobacco product flavor enhancers seized by a law enforcement agency shall be delivered to the department, or its designee, within 30 days, unless the seized flavored tobacco products or tobacco product flavor enhancers will be destroyed by that law enforcement agency, or unless the seized flavored tobacco products or tobacco product flavor enhancers are otherwise required to be used as evidence in an administrative, criminal, or civil proceeding, or as part of an ongoing law enforcement operation. Any flavored tobacco products or tobacco product flavor enhancers seized by the department or delivered to the department by a law enforcement agency shall be deemed forfeited to the state and the department shall comply with procedures set forth in Chapter 7.5 (commencing with Section 30435) of Part 13 of Division 2 of the Revenue and Taxation Code.

(b) (1) In addition to seizure and forfeiture of the flavored tobacco products or tobacco product flavor enhancers described in subdivision (a), the department shall impose a civil penalty upon the wholesaler equal to fifty dollars (\$50) per individual package of flavored tobacco product or tobacco product flavor enhancer seized or delivered to the department by a law enforcement agency regardless of the authority used by the law enforcement agency to seize the flavored tobacco product or tobacco product flavor enhancer. The department shall impose the civil penalty in accordance with the procedures applicable to the civil penalty authorized in Section 22978.7.

(2) In the case of a second seizure and forfeiture of flavored tobacco products or tobacco product flavor enhancers made pursuant to subdivision (a), the department shall suspend the license of the wholesaler in accordance with the procedures set forth in Section 22980.3.

(3) In the case of a third seizure and forfeiture of flavored tobacco products or tobacco product flavor enhancers made pursuant to subdivision (a), the department shall revoke the license of the wholesaler in accordance with the procedures set forth in Section 22980.3.

(4) Civil penalties collected pursuant to this section shall be deposited into the Cigarette and Tobacco Products Compliance Fund created pursuant to Section 22990.

(c) Upon discovery by the department that a distributor, wholesaler, or other person has made a sale in violation of Section 104559.1 of the Health and Safety Code, and, for wholesalers, if neither the department nor a law enforcement agency seized flavored tobacco products or tobacco product flavor enhancers from the wholesaler pursuant to subdivision (a), all of the following shall apply:

(1) Upon a first offense, the department shall issue a warning notice to the distributor, wholesaler, or other person.

(2) Upon a second offense, the department shall suspend the license of the distributor, wholesaler, or person in accordance with the procedures set forth in Section 22980.3.

(3) Upon a third offense, the department shall revoke the license of the distributor, wholesaler, or other person in accordance with the procedures set forth in Section 22980.3.

(d) The appeals procedures applicable to Section 22978.7 shall apply to the warning notice, suspension, and revocation actions taken by the department pursuant to this section.

(Added by Stats. 2024, Ch. 849, Sec. 3. (AB 3218) Effective January 1, 2025.)

22978.4. (a) Except as otherwise provided in paragraph (7), each distributor and each wholesaler shall include the following information on each invoice for the sale of cigarettes or tobacco products:

(1) The name, address, and telephone number of the distributor or wholesaler.

(2) The license number of the distributor or the wholesaler as provided by the board.

(3) The amount of excise taxes due to the board by the distributor on the sale of cigarettes and tobacco products.

(4) The name, address, and license number of the retailer, distributor, or wholesaler to whom cigarettes or tobacco products are sold.

(5) An itemized listing of the cigarettes or tobacco products sold.

(6) The date the cigarette or tobacco products are sold.

(7) Notwithstanding paragraph (3), a distributor that is also a retailer or manufacturer shall include either one of the following on each invoice for the sale of cigarettes or tobacco products:

(A) A statement that reads: "All California cigarette and tobacco product taxes are included in the total amount of this invoice."

(B) The amount of excise taxes due to the board by the distributor on the distribution of cigarettes and tobacco products.

(b) Each invoice for the sale of cigarettes or tobacco products shall be legible and readable.

(c) Failure to comply with the requirements of this section shall be a misdemeanor subject to penalties pursuant to Section 22981.

(Amended by Stats. 2005, Ch. 512, Sec. 1. Effective January 1, 2006.)

22978.5. (a) Each distributor and each wholesaler of cigarette and tobacco products subject to licensing under this chapter shall maintain accurate and complete records relating to the sale of those products, including, but not limited to, receipts, invoices, and other records as may be required by the board, during the past four years with invoices for the past year to be maintained on the premises for which the license was issued, and shall make these records available upon request by a the board or a law enforcement agency.

(b) Failure of a distributor or a wholesaler to comply with this section shall be a misdemeanor subject to penalties pursuant to Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22978.6. The board shall revoke the license, pursuant to the provisions applicable to the revocation of a license as set forth in Section 30148 of the Revenue and Taxation Code, of any distributor or any wholesaler or any person controlling any distributor or any wholesaler that has:

(a) Been convicted of a felony pursuant to Section 30473 or 30480 of the Revenue and Taxation Code.

(b) Had any permit or license revoked under any provision of the Revenue and Taxation Code.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22978.7. In addition to any other civil or criminal penalty provided by law, upon a finding that any distributor or any wholesaler has violated any provision of this division, the board may take the following actions:

(a) In the case of the first offense, the board may revoke or suspend the license or licenses of the distributor or the wholesaler pursuant to the procedures applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code.

(b) In the case of a second or any subsequent offense, in addition to the action authorized under subdivision (a), the board may impose a civil penalty in an amount not to exceed the greater of either of the following:

(1) Five times the retail value of the seized cigarettes or tobacco products.

(2) Five thousand dollars (\$5,000).

(Amended by Stats. 2005, Ch. 512, Sec. 2. Effective January 1, 2006.)

22978.8. The board shall include on its Web site the name of any wholesaler or distributor whose license has been suspended or revoked.

(Added by Stats. 2004, Ch. 82, Sec. 4. Effective June 30, 2004.)



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DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991] (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)

CHAPTER 4. License and Administration Fee for Manufacturers and Importers [22979 - 22979.7] (*Chapter 4 added by Stats. 2003, Ch. 890, Sec. 1.*)

22979. (a) Every manufacturer and every importer shall obtain and maintain a license to engage in the sale of cigarettes. In order to be eligible for obtaining and maintaining a license under this division, a manufacturer or importer shall do all of the following in the manner specified by the board:

- (1) Submit to the board a list of all brand families that they manufacture or import.
- (2) Update the list of all brand families that they manufacture or import whenever a new or additional brand is manufactured or imported, or a listed brand is no longer manufactured or imported.
- (3) Consent to jurisdiction of the California courts for the purpose of enforcement of this division, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Section 30165.1 of the Revenue and Taxation Code, and regulations adopted pursuant thereto, and appoint a registered agent for service of process in this state and identify the registered agent to the board and the Attorney General.
- (4) Waive any sovereign immunity defense that may apply to any enforcement action brought by the Attorney General or the board to enforce this division, Sections 104555 to 104557, inclusive, of the Health and Safety Code, or Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted thereto. Any waiver shall be express and in writing, in a form and manner acceptable to the Attorney General. In lieu of this waiver, a manufacturer or importer may file with the Attorney General a surety bond in a form and manner directed by the Attorney General, written in favor of the State of California and conditioned on the performance by the manufacturer or importer of all its duties and obligations under this division, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, and regulations adopted thereto. The bond shall be posted by a corporate surety located within the United States in an amount equal to the greater of fifty thousand dollars (\$50,000) or the amount of escrow the manufacturer or importer in either its current or predecessor form was required to deposit as a result of the largest of its most recent five calendar years' sales in California. The bond may be drawn upon by the Attorney General to cover unsatisfied escrow obligations, tax obligations, claims for penalties, claims for monetary damages, and any other liabilities that are subject to the licensee's claim of sovereign immunity against enforcement of the laws specified above. In the event a nonparticipating manufacturer is required to post a surety bond under this paragraph, the amount of the bond shall be reduced by the amount of any surety bond that is in force and required of that nonparticipating manufacturer under paragraph (5) of subdivision (c) of Section 30165.1 of the Revenue and Taxation Code. A manufacturer or importer that has neither waived any sovereign immunity defense nor posted a surety bond as provided in this section shall not be eligible to obtain and maintain a license under this division.

(b) In order to be eligible for obtaining and maintaining a license under this division, a manufacturer or importer that is a "tobacco product manufacturer" in subdivision (i) of Section 104556 of the Health and Safety Code, shall do all of the following in the manner specified by the board:

- (1) Certify to the board that it is a "participating manufacturer" as defined in subsection II(jj) of the "Master Settlement Agreement" (MSA), or is in full compliance with paragraph (2) of subdivision (a) of Section 104557 of the Health and Safety Code, Section 30165.1 of the Revenue and Taxation Code, and regulations adopted

pursuant thereto. Any person who makes a certification pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both the imprisonment and the fine.

(2) Submit to the board a list of all brand families that fit under the category applicable to the manufacturer or importer, in accordance with the following:

(A) Brand families that are to be counted, in the unit volume and market shares determined pursuant to subsections II(z) and II(mm) of the MSA and Exhibit E thereto, in calculating the manufacturer's annual payments under the MSA.

(B) Brand families that are to be counted in calculating the manufacturer's escrow deposits under paragraph (2) of subdivision (a) of Section 104557 of the Health and Safety Code.

(C) The manufacturer or importer shall update the list whenever a new or additional brand is manufactured or imported or a listed brand is no longer manufactured or imported.

(c) The board may not grant or permit the maintenance of a license to any manufacturer or an importer of cigarettes that does not affirmatively certify, both at the time the license is granted and annually thereafter, compliance with paragraph (4) of subdivision (a), that all packages of cigarettes manufactured or imported by that person and distributed in California fully comply with subdivision (b) of Section 30163 of the Revenue and Taxation Code, and that the cigarettes contained in those packages are the subject of filed reports that fully comply with all requirements of the federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 1331 et seq.) for the reporting of ingredients added to cigarettes. For purposes of the federal Cigarette Labeling and Advertising Act requirement, cigars weighing three pounds or less per 1,000 are excluded from the definition of cigarette.

(d) A license issued to a manufacturer or an importer under this division is only valid with respect to the manufacturer or importer designated on the license and may not be transferred or assigned to another manufacturer or importer.

(e) Any manufacturer or importer that is issued a license under this division that does not commence business in the manner specified or designated in the license, ceases to do business in the manner specified or designated in the license, or is notified that the license is suspended or revoked, shall immediately surrender that license to the board.

(f) (1) Any manufacturer or any importer who is denied a license may petition for a redetermination of the board's denial of the license within 30 days after service upon that manufacturer or that importer of the notice of the denial of the license. If a petition for redetermination is not filed within the 30-day period, the determination of denial becomes final at the expiration of the 30-day period.

(2) Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at anytime prior to the date on which the board issues its order or decision upon the petition for redetermination.

(3) If the petition for redetermination is filed within the 30-day period, the board shall reconsider the determination of the denial and, if the manufacturer or the importer has so requested in the petition, shall grant an oral hearing and shall give the manufacturer or the importer at least 10 days' notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

(4) The order or decision of the board upon a petition for redetermination becomes final 30 days after mailing of notice thereof.

(g) In any action brought by the Attorney General or the board to enforce this division, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, or regulations adopted thereto, including, but not limited to, an action to suspend or revoke a license issued under this section, if the licensee raises a sovereign immunity defense with respect to an aspect of that proceeding, the license in question shall be subject to revocation. In the event of a revocation under this subdivision, the person whose license has been revoked shall not be eligible for a license under this section in the future, unless that person agrees to waive any sovereign immunity defense that may apply to an enforcement action brought by the Attorney General or the board to enforce this division, Sections 104555 to 104557, inclusive, of the Health and Safety Code, Part 13 (commencing with Section 30001) of Division 2 of the Revenue and Taxation Code, or regulations adopted thereto. The Attorney General shall inform the board in the event a sovereign immunity defense is raised by a licenseholder.

(Amended by Stats. 2010, Ch. 607, Sec. 5.5. (AB 2733) Effective January 1, 2011.)

22979.1. (a) An application for a license by a manufacturer or by an importer shall be on a form prescribed by the board and shall include the following:

- (1) The name, address, and telephone number of the applicant. The business name, address, and telephone number of the corporate offices. Citations issued to licensees shall be forwarded to all addressees on the license.
- (2) License number for any other valid licenses or permits issued by the board.
- (3) Signature of the applicant under oath to verify application information.
- (4) The name, address, and telephone number of the person designated by the manufacturer or the importer as its agent for receipt of service of process in this state.
- (5) Any other information the board may require.

(b) The board may conduct an inquiry to determine whether the applicant complies with the provisions of this division.

(c) The board shall provide electronic means for applicants to download and submit applications.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22979.2. (a) On or before January 1, 2004, every manufacturer and every importer shall pay to the board an administration fee. The amount of the administration fee shall be one cent (\$0.01) per package of cigarettes (1) manufactured or imported by the manufacturer or the importer and (2) shipped into this state during the 2001 calendar year as reported to the board. The board shall notify each manufacturer and each importer of the amount due under this section.

(b) This section shall apply to every manufacturer and every importer required to be licensed pursuant to Section 22979. All manufacturers and all importers that may become eligible for licensure on or after December 1, 2003, shall be notified by the board of the appropriate fee due and shall pay that fee within 90 days of notification.

(c) All manufacturers and all importers that begin operations in the state after enactment of this division shall be charged a fee commensurate with their respective market share of (1) cigarettes manufactured or imported by the manufacturer or the importer and (2) sold in this state during the next calendar year as estimated by the board. The fee shall be at an amount not less than that paid pursuant to subdivision (a) by the smallest manufacturer, but may not be more than that paid by the eighth largest manufacturer.

(d) The board shall administer this fee in accordance with the Fee Collection Procedures Law, Part 30 (commencing with Section 55001) of Division 2 of the Revenue and Taxation Code.

(Amended by Stats. 2005, Ch. 512, Sec. 3. Effective January 1, 2006.)

22979.21. Every manufacturer or importer of tobacco products shall obtain and maintain a license under this division to engage in the sale of tobacco products. In order to be eligible for obtaining and maintaining a license under this division, a manufacturer or importer shall do all of the following in the manner specified by the board:

(a) Submit to the board a list of all tobacco products they manufacture or import.

(b) Update the list of all tobacco products brands they manufacture or import whenever a new or additional brand is manufactured or imported or a listed brand is no longer manufactured or imported.

(c) Consent to jurisdiction of the California courts for the purpose of enforcement of this division and appoint a registered agent for service of process in this state and identify the registered agent to the board.

(d) The Legislature finds that solely appointing a registered agent for the purpose of service of process in this state pursuant to this subdivision does not establish a nexus with this state for tax purposes.

(e) This section shall become operative May 1, 2007.

(Added by Stats. 2006, Ch. 501, Sec. 4. Effective January 1, 2007. Section operative May 1, 2007, by its own provisions.)

22979.22. (a) An application for a license by a manufacturer or by an importer of tobacco products shall be on a form prescribed by the board and shall include the following:

(1) The name, address, and telephone number of the applicant. For applicants whose corporate offices are at a separate location, the business name, address, and telephone number of the corporate office. Citations issued to licensees shall be forwarded to all addressees on the license.

(2) If any other licenses have been issued by the board to the applicant, the license or permit numbers for each license or permit then in effect.

(3) A statement by the applicant affirming that the applicant has not been convicted of a felony and has not violated and will not violate or cause or permit to be violated any of the provisions of this division or any rule of the board applicable to the applicant or pertaining to the manufacture, sale, or distribution of cigarettes or tobacco products. If the applicant is unable to affirm this statement, the application shall contain a statement by the applicant of the nature of any violation or the reasons that will prevent the applicant from complying with the requirements with respect to the statement.

(4) A statement by the applicant that the contents of the application are complete, true, and correct. Any person who signs a statement pursuant to this subdivision that asserts the truth of any material matter that he or she knows to be false is guilty of a misdemeanor punishable by imprisonment of up to one year in the county jail, or a fine of not more than one thousand dollars (\$1,000), or both imprisonment and fine.

(5) Signature of the applicant.

(6) The name, address, and telephone number of the person designated by the manufacturer or the importer as its agent for receipt of service of process in this state.

(7) Any other information the board may require.

(b) The board may investigate to determine the truthfulness and completeness of the information provided in the application.

(c) The board shall provide electronic means for applicants to download and submit applications.

(Added by Stats. 2006, Ch. 501, Sec. 5. Effective January 1, 2007.)

22979.23. (a) Every manufacturer or importer of chewing tobacco or snuff shall submit with each application a one-time license fee of ten thousand dollars (\$10,000).

(b) Every manufacturer or importer of tobacco products, excluding chewing tobacco or snuff, shall submit with each application a one-time license fee of two thousand dollars (\$2,000).

(c) If a manufacturer or importer is required to submit an application under, and to pay the fees required by, both subdivisions (a) and (b), the total amount of fees required to be submitted under this section shall not exceed ten thousand dollars (\$10,000).

(Added by Stats. 2006, Ch. 501, Sec. 6. Effective January 1, 2007.)

22979.24. (a) Every manufacturer or importer holding a license pursuant to Section 22979.21 shall file, using electronic media in a manner specified by the department, a monthly report to the department. The monthly report shall include, but is not limited to, the following:

(1) A list of all distributors licensed pursuant to Section 22975 to which the manufacturer or importer shipped its tobacco products or caused its tobacco products to be shipped.

(2) The total wholesale cost of the products.

(b) The department may suspend the license or revoke the license, pursuant to the provisions applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code, of any importer or any manufacturer that has failed to comply with the requirements of this section.

(c) All information and records provided to the department pursuant to subdivision (a) are confidential in nature and shall not be disclosed by the department. Information required under subdivision (a) are not public records under the California Public Records Act, as described in Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code and shall not be open to public inspection.

(d) The amendments made to this section by the act adding this subdivision shall become operative May 1, 2007.

(Amended by Stats. 2022, Ch. 28, Sec. 16. (SB 1380) Effective January 1, 2023.)

22979.3. The department shall, upon request, provide to the State Department of Public Health, the office of the Attorney General, a law enforcement agency, a local lead agency, and any agency authorized to enforce or administer state or local tobacco control laws, access to the department's database of licenses issued to manufacturers and importers for locations within the jurisdiction of that agency, local lead agency, or law enforcement agency. The agencies authorized by this section to access the department's database shall access and use the department's database only for purposes of enforcing tobacco control laws and shall adhere to all state laws, policies, and regulations pertaining to the protection of personal information and individual privacy.

(Amended by Stats. 2021, Ch. 432, Sec. 5. (SB 824) Effective January 1, 2022.)

22979.4. All importers shall retain purchase records that meet the requirements set forth in Section 22979.5 for all cigarettes or tobacco products purchased and other records required by the board. The records shall be maintained for a period of one year from the date of purchase on the importer's premises identified in the license, and thereafter, the records shall be made available for inspection by the board or a law enforcement agency for a period of four years. Any importer found in violation of these requirements, or any person who fails, refuses, or neglects to retain or make available invoices for inspection and copying in accordance with this section shall be subject to penalties pursuant to Section 22981.

(Amended by Stats. 2004, Ch. 82, Sec. 6. Effective June 30, 2004.)

22979.5. (a) Each manufacturer and each importer of cigarette and tobacco products subject to licensing under this chapter shall maintain accurate and complete records relating to the sale of those products, including, but not limited to, receipts, invoices, and other records as may be required by the board, during the past four years with invoices for the past year to be maintained on the premises for which the license was issued, and shall make these records available upon request by a representative of the board or a law enforcement agency.

(b) Failure of a manufacturer or an importer to comply with this section shall be a misdemeanor subject to penalties pursuant to Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22979.6. (a) Each manufacturer and each importer shall include the following information on each invoice for the sale for distribution, wholesale, or retail sale of cigarettes or tobacco products:

- (1) The name, address, and telephone number of the manufacturer, or importer.
- (2) The license number of the manufacturer or importer as provided by the board.
- (3) The name, address, and license number of the person to whom cigarettes or tobacco products are sold.
- (4) An itemized listing of the cigarettes or tobacco products sold.

(b) Each invoice for the sale of cigarettes or tobacco products shall be legible and readable.

(c) Failure to comply with the requirements of this section shall be a misdemeanor subject to penalties pursuant to Section 22981.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22979.7. In addition to any other civil or criminal penalty provided by law, upon a finding that a manufacturer or importer has violated any provision of this division, the board may take the following actions:

(a) In the case of the first offense, the board may revoke or suspend the license or licenses of the manufacturer or importer pursuant to the procedures applicable to the revocation of a license set forth in Section 30148 of the Revenue and Taxation Code.

(b) In the case of a second or any subsequent offense, in addition to the action authorized under subdivision (a), the board may impose a civil penalty in an amount not to exceed the greater of either of the following:

- (1) Five times the retail value of the seized cigarettes or tobacco products defined as cigarettes under this section.
- (2) Five thousand dollars (\$5,000).

(Amended by Stats. 2005, Ch. 512, Sec. 4. Effective January 1, 2006.)

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DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991] (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)

CHAPTER 5. Inspections, Prohibitions, and Penalties [22980 - 22983] (*Heading of Chapter 5 amended by Stats. 2018, Ch. 92, Sec. 17.*)

22980. (a) A peace officer or department employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (2) or (3) and to conduct inspections in accordance with all of the following:

- (1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.
- (2) Inspections may be at any place at which cigarettes or tobacco products are sold, produced, or stored or at any site where evidence of activities involving evasion of cigarette or tobacco products tax and violations of Section 30165.1 of the Revenue and Taxation Code may be discovered.
- (3) Inspections may be at any place where evidence of a violation of Section 104559.1 or 104559.5 of the Health and Safety Code may be discovered.
- (4) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person that refuses to allow an inspection shall be subject to the penalties imposed pursuant to Section 22981.

(*Amended by Stats. 2024, Ch. 849, Sec. 4. (AB 3218) Effective January 1, 2025.*)

22980.1. (a) A manufacturer or importer shall not sell cigarettes or tobacco products to a distributor, wholesaler, retailer, or any other person who is not licensed pursuant to this division or whose license has been suspended or revoked.

(b) (1) Except as provided in paragraph (2), a distributor or wholesaler shall not sell cigarettes or tobacco products to a retailer, wholesaler, distributor, or any other person who is not licensed pursuant to this division or whose license has been suspended or revoked.

(2) This subdivision does not apply to any sale of cigarettes or tobacco products by a distributor, wholesaler, or any other person to a retailer, wholesaler, distributor, or any other person that the state, pursuant to the United States Constitution, the laws of the United States, or the California Constitution, is prohibited from regulating.

(c) A retailer, distributor, or wholesaler shall not purchase packages of cigarettes or tobacco products from a manufacturer or importer who is not licensed pursuant to this division or whose license has been suspended or revoked.

(d) (1) A retailer or wholesaler shall not purchase cigarettes or tobacco products from any person who is not licensed pursuant to this division or whose license has been suspended or revoked.

(2) Notwithstanding subdivision (c), a distributor shall not purchase cigarettes or tobacco products from any person who is required to be licensed pursuant to this division but who is not licensed or whose license has been suspended or revoked.

(e) Each separate sale to, or by, a retailer, wholesaler, distributor, importer, manufacturer, or any other person who is not licensed pursuant to this division shall constitute a separate violation.

(f) A manufacturer, distributor, wholesaler, or importer shall not sell cigarette or tobacco products to any retailer or wholesaler whose license has been suspended or revoked unless all outstanding debts of that retailer or wholesaler that are owed to a wholesaler or distributor for cigarette or tobacco products are paid and the license of that retailer or wholesaler has been reinstated by the board. Any payment received from a retailer or wholesaler shall be credited first to the outstanding debt for cigarettes or tobacco products and must be immediately reported to the board. The board shall determine the debt status of a suspended retailer or wholesaler licensee 25 days prior to the reinstatement of the license.

(g) An importer, distributor, or wholesaler, or distributor functioning as a wholesaler, or retailer, shall not purchase, obtain, or otherwise acquire any package of cigarettes to which a stamp or meter impression may not be affixed in accordance with subdivision (b) of Section 30163 or subdivision (e) of Section 30165.1 of the Revenue and Taxation Code, or any cigarettes obtained from a manufacturer or importer that cannot demonstrate full compliance with all requirements of the federal Cigarette Labeling and Advertising Act (15 U.S.C. Sec. 1335a et seq.) for the reporting of ingredients added to cigarettes.

(h) (1) Failure to comply with the provisions of this section is a misdemeanor subject to penalties pursuant to Section 22981.

(2) Notwithstanding paragraph (1), a manufacturer or importer who uses the most up-to-date licensing information provided by the board on the board's website to determine a person's licensing status is presumed to be in compliance with this section.

(i) The amendments that are made to this section by the act adding this subdivision shall become operative May 1, 2007.

(Amended by Stats. 2019, Ch. 497, Sec. 18. (AB 991) Effective January 1, 2020.)

22980.2. (a) A person or entity that engages in the business of selling cigarettes or tobacco products in this state either without a valid license or after a license has been suspended or revoked, and each officer of any corporation that so engages in this business, is guilty of a misdemeanor punishable as provided in Section 22981.

(b) Each day after notification by the board or by a law enforcement agency that a manufacturer, wholesaler, distributor, importer, retailer, or any other person required to be licensed under this division offers cigarette and tobacco products for sale or exchange without a valid license for the location from which they are offered for sale shall constitute a separate violation.

(c) Continued sales or gifting of cigarettes and tobacco products either without a valid license or after a notification of suspension or revocation shall constitute a violation punishable as provided in Section 22981, and shall result in the seizure of all cigarettes and tobacco products in the possession of the person by the board or a law enforcement agency. Any cigarettes and tobacco products seized by the board or by a law enforcement agency shall be deemed forfeited.

(d) For the purposes of this section, notwithstanding subdivision (s) of Section 22971, "tobacco products" includes a product or device as defined in subdivision (d) of Section 22950.5.

(e) This section shall be operative on January 1, 2017.

(Repealed (in Sec. 6) and added by Stats. 2016, 2nd Ex. Sess., Ch. 7, Sec. 7. (SB 5 2x) Effective June 9, 2016. Section operative January 1, 2017, by its own provisions.)

22980.3. (a) Licenses issued pursuant to this division shall be subject to suspension or revocation for violations of this division or the Revenue and Taxation Code as provided in this section.

(1) In addition to any applicable fines or penalties for a violation, upon first conviction of a violation, a licensee shall receive a written notice from the board detailing the suspension and revocation provisions of this division. At its discretion, the board may also suspend a license for up to 30 days.

(2) In addition to any applicable fines or penalties for a violation, upon a second conviction of a violation within four years of a previous violation, the license shall be revoked.

(b) The date of the occurrence of a violation shall be used to calculate the duration between subsequent violations. A violation shall be noted in the license record at the board only after judicial conviction or final adjudication of a violation.

(c) Upon updating a record for a violation triggering a suspension, the board shall serve the licensee with a notice of suspension and shall order the licensee to cease the sale, gifting, or displaying for sale of cigarettes or tobacco products for the period of the suspension. The notice of suspension shall inform the licensee of the effective dates of the suspension.

(d) Continued sales or gifting of cigarettes or tobacco products after the effective date of the suspension shall constitute a violation of this division and result in the revocation of a license.

(e) Upon completion of a suspension period, a license shall be reinstated by the board upon certification that all outstanding debts of that retailer or wholesaler that are owed to a wholesaler or distributor for the purchase of cigarettes and tobacco products are paid.

(f) Upon updating a record for a violation triggering a revocation, the board shall serve the licensee with a notice of revocation and shall order the licensee to cease the sale, gifting, or displaying for sale of cigarettes or tobacco products on and after the effective date of the revocation. The notice of revocation shall inform the licensee of the effective date of the revocation.

(g) After a revocation, a previously licensed applicant may apply for a new license after six months. The board may, at its discretion, issue a new license.

(h) Upon updating a license record for a violation, suspension, or revocation to a license of a person or entity that owns or controls more than one location, the board shall send notice in writing of the violations, suspensions, or revocations within 15 days of the board's action to the address included in the application and listed on the license for receipt of correspondence or notices from the board.

(i) Upon suspension or revocation of a license pursuant to this section, the board shall notify all licensed distributors and wholesalers by electronic mail within 48 hours of the suspension or revocation of that license. All licensed distributors and wholesalers shall provide the board and shall update, as necessary, an electronic mail address that the board can use for purposes of making the notifications required by this subdivision.

(j) Violations by a licensee at one location may not be accumulated against other locations of that same licensee. Violations accumulated against a prior owner at a licensed location may not be accumulated against a new owner at the same licensed location.

(k) For purposes of this section, a violation includes violations of the Revenue and Taxation Code relating to cigarettes and tobacco products, and violations of this division. Only one violation per discrete action shall be counted toward a suspension or revocation of a license.

(Amended by Stats. 2010, Ch. 607, Sec. 7. (AB 2733) Effective January 1, 2011.)

22980.4. A person who, after receiving a notice of suspension or revocation, continues to display for sale cigarettes or tobacco products shall be subject to a civil penalty of one thousand dollars (\$1,000) for each offense, and shall not be subject to Section 22981.

(Added by Stats. 2010, Ch. 607, Sec. 8. (AB 2733) Effective January 1, 2011.)

22980.5. (a) A retailer whose license has been suspended or revoked by order of the board shall conspicuously post a notice at both of the following locations:

(1) Each public entrance to the retail location. The notice shall directly face any person who enters the retail location and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(2) Each cash register and other point of retail sale. The notice shall be posted so as to be readily viewable by a person standing at or approaching the cash register or other point of retail sale. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.

(b) The notices described in this section shall be in the size and form prescribed by the board. The notice shall be provided by the board and may be reproduced in the same size and form in order to comply with subdivision (a).

(c) A retailer whose license was suspended shall post the notice at the retail location that was the subject of the suspension for the duration of the suspension.

(d) A retailer whose license was revoked shall post the notice at the retail location that was the subject of the revocation for a 30-day period from the effective date of the revocation.

(e) Every retailer who fails to post the notices as required by this section, who alters the notice provided by the board, or who removes the notice before the posting period required in subdivision (c) or (d), as appropriate, expires, shall be subject, notwithstanding Section 22981, to a civil penalty of one thousand dollars (\$1,000) for each offense.

(Added by Stats. 2010, Ch. 607, Sec. 9. (AB 2733) Effective January 1, 2011.)

22981. Any violation of this division by any person, except as otherwise provided, is a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the Cigarette and Tobacco Products Compliance Fund.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22982. Any prosecution for a violation of any of the penal provisions of this division shall be instituted within four years after the commission of the offense.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

22983. The provisions of Chapter 4 (commencing with Section 55121) of Part 30 of Division 2 of the Revenue and Taxation Code apply with respect to the collection of the fees, civil fines, and penalties imposed pursuant to this division.

(Added by Stats. 2004, Ch. 82, Sec. 8. Effective June 30, 2004.)

Code: Section: [Up^](#) [Add To My Favorites](#)**BUSINESS AND PROFESSIONS CODE - BPC****DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]** (*Heading of Division 8.6 amended by Stats. 2017, Ch. 561, Sec. 10.*)**CHAPTER 6. Disposition of Funds [22990 - 22991]** (*Chapter 6 added by Stats. 2003, Ch. 890, Sec. 1.*)

22990. (a) All moneys collected pursuant to this division shall be deposited in the Cigarette and Tobacco Products Compliance Fund, which is hereby created in the State Treasury. No moneys in the Cigarette and Tobacco Products Compliance Fund shall be used to supplant state or local General Fund money for any purpose.

(b) All moneys in the Cigarette and Tobacco Products Compliance Fund are available for expenditure, upon appropriation by the Legislature, solely for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003, including the seizure and destruction of cigarettes and tobacco products.

(Amended by Stats. 2024, Ch. 849, Sec. 5. (AB 3218) Effective January 1, 2025.)

22990.5. Notwithstanding Sections 30124 and 30131.3 of the Revenue and Taxation Code or any other law, on or after July 1, 2019, no revenues derived from the taxes imposed upon the distribution of cigarettes and tobacco products by Article 1 (commencing with Section 30101), Article 2 (commencing with Sections 30121), and Article 3 (commencing with Section 30131) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code shall be appropriated to the board for the purpose of implementing, enforcing, or administering the California Cigarette and Tobacco Products Licensing Act of 2003.

(Added by Stats. 2016, Ch. 699, Sec. 5. (AB 2770) Effective January 1, 2017.)

22990.7. (a) The board shall report to the Legislature, Governor, and Department of Finance on or before January 1, 2019, and on and before January 1 annually thereafter, regarding the adequacy of funding for the Cigarette and Tobacco Products Licensing Act of 2003. The report shall include data and recommendations about whether the annual licensing fee funding levels are set at an appropriate level to maintain an effective enforcement program.

(b) The report to the Legislature required by subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(Added by Stats. 2016, Ch. 699, Sec. 6. (AB 2770) Effective January 1, 2017.)

22991. The amount of eleven million dollars (\$11,000,000) is appropriated from the Cigarette and Tobacco Products Compliance Fund during the 2003–04 fiscal year to the State Board of Equalization for the purpose of implementing, enforcing, and administering the California Cigarette and Tobacco Products Licensing Act of 2003, subject to the following provisions:

(a) Spending under the appropriation made by this subdivision is limited solely to revenues in the fund that are derived from fees imposed on cigarette and tobacco product manufacturers, wholesalers, distributors, importers, and retailers.

(b) Of the total amount appropriated under this subdivision, five million four hundred thousand dollars (\$5,400,000) is available for reimbursement to the Department of Justice through an interagency agreement with the board for investigation and enforcement assistance.

(c) The expenditure of any funds from the appropriation made by this subdivision shall require the prior approval of the Director of Finance. The amounts appropriated may be approved for expenditure on an allotment basis and shall be limited to the amounts necessary to carry out the operating and staffing plans for the implementation of the California Cigarette and Tobacco Products Licensing Act of 2003 as approved by the Department of Finance. The

Department of Finance shall notify the Joint Legislative Budget Committee of its approval of any expenditure authorization 30 days prior to that approval.

(Added by Stats. 2003, Ch. 890, Sec. 1. Effective January 1, 2004.)

California Municipalities with a Tobacco Retailer License & Fees

January 2024

The following list contains the fees associated with obtaining a local tobacco retailer license in each of the 230 California jurisdictions that require such a license. The fees were collected in 2021 – 2024, unless otherwise noted.

Municipality	Enactment Date	Population	Fee
Alameda County			
1. Alameda	11/2018	77,565	No fee set
2. Alameda County	1/2020	150,015	\$940/yr
3. Albany	2/2009	20,027	\$250/yr
4. Berkeley	12/2002	121,385	\$427/yr
5. Dublin	12/2012	71,068	\$298/yr and \$25 app. fee
6. Fremont	10/2019	228,795	No fee set
7. Hayward	7/2014	160,602	\$400/yr
8. Livermore	7/2019	87,154	\$1,005/yr
9. Oakland	4/2008	437,825	\$1,500/yr and \$50 app. fee
10. Pleasanton	8/2020	78,691	\$450/yr and \$550 initial fee
11. San Leandro	10/2017	89,723	\$500/yr
12. Union City	11/2010	69,502	\$863yr
Butte County			
13. Oroville	3/2013	20,283	\$35/yr
Contra Costa County			
14. Antioch~	9/1999	115,016	\$29/yr
15. Clayton	6/2000	11,070	\$49/yr and \$99 initial fee
16. Concord~	5/2001	125,007	\$160 initial fee and annual fee subject to change
17. Contra Costa County	12/1998	176,166	\$287/yr and \$50 app. fee
18. Danville	6/1999	43,449	No fee
19. El Cerrito	4/1999	25,869	\$439/yr and \$485 initial fee
20. Lafayette	11/1999	25,310	\$65/yr
21. Martinez~	1/2001	37,093	\$500/3 years
22. Oakley~	12/2018	43,525	\$435/yr
23. Orinda~	8/2000	19,477	Unknown
24. Pinole	6/1999	18,946	TBD
25. Pittsburg~	5/1999	76,419	Unknown
26. Pleasant Hill~	11/2015	34,504	\$86/hr (\$500 max/yr)
27. Richmond	9/2019	115,619	\$1,602.44/yr*
28. San Pablo	4/2004	31,907	\$335/yr
29. San Ramon	6/1999	86,119	Unknown
30. Walnut Creek~	3/1999	69,809	Unknown
Del Norte County			
31. Crescent City	10/2023	6,379	Unknown

Fresno County			
32. Firebaugh	8/2009	8,139	\$190/yr
33. Fowler	10/2012	6,819	\$40/yr
34. Parlier	4/2012	14,625	\$200/yr
Humboldt County			
35. Humboldt County	7/2023	72,305	Unknown
Imperial County			
36. Calexico	3/2004	38,599	Unknown
Kern County			
37. Arvin	9/2016	19,613	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
38. Bakersfield	7/2023	404,321	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
39. California City	2/2007	15,002	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
40. Delano	6/2008	50,498	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
41. Kern County	10/2006	307,395	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
42. McFarland	5/2007	13,971	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
43. Shafter	11/2016	20,162	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
44. Taft	8/2016	7,414	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
45. Tehachapi	3/2007	12,855	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
46. Wasco	3/2007	26,317	\$140 app. fee and annual fee of \$265/\$535/\$790 based on risk level
Los Angeles County			
47. Alhambra	5/2021	82,295	\$300/yr
48. Artesia	1/2009	16,237	\$300/yr
49. Baldwin Park	10/2008	71,692	\$342/yr
50. Beverly Hills	8/2010	32,406	No fee planned
51. Burbank	2/2007	106,389	\$191.30/yr and \$111 app. fee
52. Calabasas	6/2009	23,106	No fee planned
53. Carson	11/2006	94,475	\$600/yr
54. Cerritos	2/2008	49,016	\$50/yr
55. Compton	7/2007	94,822	\$500/yr
56. Cudahy	10/2018	22,657	Unknown
57. Culver City	7/2009	40,357	\$235/yr
58. Duarte	5/2021	21,686	\$123/yr
59. El Monte	11/2011	108,682	\$400/yr
60. El Segundo	4/2003	17,081	\$263 app. fee only
61. Gardena	7/2008	60,377	\$120/yr and \$167 app. fee
62. Glendale	9/2007	194,512	\$468/yr and \$624 app. fee
63. Hawaiian Gardens	7/2011	14,011	\$246/yr
64. Hawthorne	5/2008	86,978	\$379/yr
65. Hermosa Beach	1/2019	19,551	\$375/yr and \$440 app. fee
66. Huntington Park	11/2011	54,547	No fee planned
67. Inglewood	10/2007	106,806	\$370/yr
68. La Cañada Flintridge	7/2009	20,378	\$50/yr
69. La Verne	1/2017	31,239	\$300/yr

70. Lancaster	8/2006	171,465	\$83 app. fee only
71. Lawndale	7/2003	31,553	\$155/yr
72. Lomita	6/2007	20,662	\$150/yr
73. Long Beach	2/2008	462,293	\$600/yr
74. Los Angeles	5/2000	3,881,041	\$437/yr
75. Los Angeles County	12/2007	1,012,265	\$235/yr
76. Lynwood	10/2012	66,346	TBD
77. Malibu	11/2011	10,698	No fee planned
78. Manhattan Beach	12/2015	35,123	\$183/yr and \$242 app. fee
79. Maywood	8/2006	25,009	\$11.50/yr and \$46 app. fee
80. Montebello	9/2009	62,056	\$337/yr
81. Monterey Park	4/2010	60,386	\$45.50/yr
82. Palmdale	1/2010	166,895	\$362.60/yr
83. Pasadena	2/2004	137,554	\$410/yr
84. Pico Rivera	3/2022	61,561	Unknown
85. Redondo Beach	10/2019	70,620	Unknown
86. San Fernando	1/2002	23,958	\$450/yr
87. San Gabriel	3/2010	39,211	\$300/yr
88. Santa Monica	11/2008	92,168	\$135/yr
89. Sierra Madre	11/2006	11,151	\$30/yr
90. South El Monte	6/2014	19,694	\$120/yr
91. South Pasadena	2/2009	26,583	\$120/yr
92. Temple City	12/2012	36,165	License fee: \$77 + \$8.45 per employee and per owner Permit fee: \$257
93. Walnut	3/2022	28,212	Unknown
94. West Covina	5/2010	108,173	No fee planned
95. West Hollywood	10/2016	35,358	\$300 app. fee only
Marin County			
96. Corte Madera	3/2019	10,155	\$25/yr
97. Fairfax	12/2017	7,567	\$25/yr
98. Larkspur	4/2019	12,969	\$25/yr
99. Marin County	5/2012	67,676	\$25/yr
100. Mill Valley	9/2012	14,199	\$25/yr
101. Novato	1/2017	53,055	\$25/yr
102. Ross	1/2019	2,537	\$25/yr
103. San Anselmo	5/2019	12,761	\$25/yr
104. San Rafael	8/1999	60,891	\$25/yr
105. Sausalito	7/2018	7,233	\$25/yr
Mendocino County			
106. Fort Bragg	12/2012	7,007	\$195/yr*
107. Mendocino County	5/2022	62,013	\$350/yr*
108. Ukiah	11/2005	16,496	\$35/yr*
109. Willits	10/2003	4,968	\$75/yr*
Modoc County			
110. Alturas	2/2017	2,683	Business License Renewal and startup fee: \$54 Tobacco fee: \$25 First time tobacco license: \$75
Monterey County			
111. Carmel-By-The-Sea	9/2013	3,239	\$384/yr
112. Gonzales	11/2019	8,581	\$384/yr
113. King City	4/2021	13,471	\$384/yr

114.	Monterey	11/2014	30,007	\$384/yr
115.	Monterey County	5/2012	104,177	\$384/yr
116.	Pacific Grove	1/2020	15,098	\$384/yr
117.	Salinas	1/2015	162,783	\$384/yr
118.	Seaside	2/2020	32,291	\$384/yr
119.	Soledad	5/2022	24,781	Unknown
Nevada County				
120.	Grass Valley	11/2009	13,964	\$50/yr
121.	Nevada City	11/2006	3,142	\$50/yr
Orange County				
122.	Buena Park	7/2021	83,542	\$275/yr and \$495 initial fee
123.	Santa Ana	11/2006	311,379	\$776.08/yr
124.	Stanton	11/2019	38,271	\$92/yr and \$192 initial fee
125.	Westminster	9/2014	90,638	Unknown
Placer County				
126.	Auburn	9/2019	13,773	\$850/yr
Plumas County				
127.	Plumas County	9/2016	17,223	No fee
Riverside County				
128.	Banning	8/2006	29,929	\$475/yr
129.	Beaumont	12/2006	53,544	\$475/yr
130.	Calimesa	6/2007	10,366	\$475/yr
131.	Canyon Lake	6/2009	11,108	\$475/yr
132.	Cathedral City	7/2016	51,964	\$475/yr
133.	Coachella	7/2007	42,279	\$475/yr
134.	Corona	10/2005	158,346	\$475/yr
135.	Desert Hot Springs	9/2007	32,386	\$475/yr
136.	Eastvale	10/2010	69,594	\$475/yr
137.	Hemet	3/2008	89,651	\$475/yr
138.	Jurupa Valley	7/2011	105,672	\$475/yr
139.	Lake Elsinore	8/2007	69,993	\$475/yr
140.	Menifee	10/2008	103,680	\$475/yr
141.	Moreno Valley	9/2007	209,578	\$475/yr
142.	Murrieta	6/2006	111,899	\$475/yr
143.	Norco	3/2006	25,328	\$475/yr
144.	Palm Desert	6/2003	51,290	\$29/yr
145.	Palm Springs	10/2018	44,935	\$475/yr
146.	Perris	8/2008	78,881	\$475/yr
147.	Rancho Mirage	12/1990	17,257	\$475/yr
148.	Riverside	6/2006	316,076	\$475/yr
149.	Riverside County	9/2005	394,388	\$475/yr
150.	San Jacinto	6/2006	54,077	\$475/yr
151.	Temecula	6/2006	110,114	\$39/yr
152.	Wildomar	7/2008	36,822	\$475/yr
Sacramento County				
153.	Elk Grove	10/2004	176,105	\$270/yr
154.	Rancho Cordova	2/2005	79,128	\$218/yr
155.	Sacramento	10/2020	523,600	\$370/yr
156.	Sacramento County	5/2004	606,286	\$359/yr
San Benito County				
157.	Hollister	6/2006	42,093	\$269/yr

San Bernardino County				
158.	Adelanto	12/2019	37,960	\$595/yr
159.	Apple Valley	5/2010	75,603	Unknown
160.	Colton	11/2019	53,959	\$265/yr
161.	Hesperia	11/2021	99,878	\$210/yr and \$60 re-inspection fee
San Diego County				
162.	Chula Vista	3/2018	276,103	\$322/yr
163.	El Cajon	6/2004	105,721	\$770/yr
164.	Escondido	11/2020	151,114	\$88/yr
165.	Lemon Grove	12/2018	27,482	\$250/yr
166.	Oceanside	9/2020	173,722	\$319.63/yr
167.	San Diego	10/2007	1,383,987	\$141/yr and \$59 app. fee
168.	San Diego County	12/2020	514,736	1 st year: \$730 (50% of annual fee) 2 nd year: 75% of annual fee 3 rd year: 100% of annual fee
169.	San Marcos	7/2021	94,360	\$190/yr
170.	Solana Beach	7/2009	12,946	\$110/yr
171.	Vista	6/2005	98,392	\$250/yr
San Francisco County				
172.	San Francisco	11/2003	851,036	\$383/yr and \$111 app. fee
San Luis Obispo County				
173.	Arroyo Grande	2/2005	18,435	\$141/yr
174.	Grover Beach	9/2005	12,757	\$325/yr
175.	Morro Bay	4/2020	10,766	\$154.67/yr
176.	San Luis Obispo	9/2003	47,529	\$788.72/yr
177.	San Luis Obispo County	9/2008	122,822	\$586/yr
San Mateo County				
178.	Brisbane	5/2008	4,756	\$153/yr
179.	Colma	8/1998	1,376	\$153/yr
180.	Daly City	9/2008	103,648	\$153/yr
181.	East Palo Alto	10/1998	29,520	\$153/yr
182.	Foster City	11/2022	33,215	Unknown
183.	Half Moon Bay	10/2018	11,633	\$153/yr
184.	Menlo Park	5/2010	33,324	\$153/yr
185.	Millbrae	6/1998	22,825	\$153/yr
186.	Pacifica	2/2008	38,048	\$86/yr
187.	Portola Valley	6/2008	4,397	\$153/yr
188.	Redwood City	11/1998	83,077	\$153/yr
189.	San Bruno	7/2008	43,218	\$153/yr
190.	San Carlos	8/1998	30,490	\$153/yr
191.	San Mateo	5/1998	104,165	\$153/yr
192.	San Mateo County	5/1998	62,509	\$174/yr
193.	South San Francisco	4/2008	65,596	\$153/yr
Santa Barbara County				
194.	Carpinteria	5/2013	13,187	\$379/yr
195.	Goleta	1/2001	32,640	\$534/yr
196.	Guadalupe	5/2021	8,272	\$413/yr
197.	Santa Barbara	10/2002	88,640	\$30/yr
198.	Santa Barbara County	11/2001	137,659	\$409/yr
199.	Santa Maria	12/2019	109,543	\$480/yr and \$600 app. fee
Santa Clara County				

200.	Campbell	12/2012	43,464	\$61/yr
201.	Cupertino	11/2019	59,763	\$425/yr
202.	Gilroy	11/2014	58,696	\$100/yr
203.	Los Altos	2/2020	31,133	\$150/yr and \$250 app. fee
204.	Los Gatos	5/2017	33,093	\$425/yr
205.	Morgan Hill	4/2014	45,291	\$182/yr and \$238 app. fee
206.	Palo Alto	10/2017	67,901	\$425/yr
207.	San Jose	1/2011	1,001,176	\$596/yr (fluctuates annually)
208.	Santa Clara County	11/2010	89,803	\$425/yr
209.	Saratoga	6/2015	30,771	\$50/yr and \$100 app. fee
Santa Cruz County				
210.	Capitola	7/2019	9,921	\$261/yr
211.	Santa Cruz	10/2012	61,367	\$425/yr
212.	Santa Cruz County	4/2011	132,587	\$318/yr
213.	Scotts Valley	12/2015	12,239	No fee
214.	Watsonville	9/2010	52,457	\$255/yr
Siskiyou County				
215.	Siskiyou County	7/2009	23,918	\$76/yr
Solano County				
216.	Benicia	12/2019	27,040	\$450/yr and \$500 initial fee
Sonoma County				
217.	Healdsburg	11/2014	11,481	\$460/yr
218.	Petaluma	12/2021	59,682	\$525/yr
219.	Sebastopol	9/2020	7,503	\$60/yr
220.	Sonoma	6/2015	10,702	\$246/yr
221.	Sonoma County	4/2016	133,557	\$350/yr (subsidized); increases to \$505/yr if subsidy ends
222.	Windsor	3/2018	26,320	\$350/yr
Stanislaus County				
223.	Riverbank	7/2010	24,803	No fee planned
Ventura County				
224.	Oxnard	12/2019	202,279	\$51/yr and \$95 initial fee
225.	Ventura	1/2020	110,358	\$875/yr
Yolo County				
226.	Davis	8/2007	67,203	\$427/yr
227.	West Sacramento	11/2009	54,163	\$427/yr
228.	Winters	1/2016	7,270	\$427/yr
229.	Woodland	6/2015	61,227	\$427/yr
230.	Yolo County	7/2019	27,278	\$427/yr

The population data in this matrix is from the U.S. Census Bureau 2018-2022 American Community Survey 5-Year Estimates.

~License required only for retailers found in violation of laws regulating sale or distribution of tobacco within last 12 months. License no longer required if no violations occur for 3-5 years (variable by community).

*Source: Matrix of Strong Local Tobacco Retailer Licensing, The Center for Tobacco Policy & Organizing, May 2019.

ANR Foundation is actively collecting policies and TRL fees for the PETS Database. **If you know of local laws or TRL fees that you think should be included on this list**, or want to inquire about additional information on particular laws, please contact the ANR Foundation at PETS-policies@no-smoke.org.

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Matrix of Policies Regulating Tobacco Retail Sales in California

January 2024

California municipalities have led the way in the U.S. in adopting tobacco retail sales policies, and communities continue to consider and adopt innovative policies with the goal of reducing access to and the availability of tobacco products in the community. This matrix provides an overview of select key policy provisions in the municipalities that have enacted policies that regulate tobacco retail sales in some manner.

Jurisdictions qualify for this Tobacco Retail Sales matrix if they have **1 or more** of these policy provisions: no free samples, no discounts, minimum pack size, minimum price, tobacco free pharmacies, ending the sale of electronic smoking devices (ESDs), and ending the sale of tobacco products. Additionally, the matrix notes if these jurisdictions **also** require a TRL and/or regulate the sale of flavored tobacco. This matrix **does not include** the full list of jurisdictions that require a TRL, nor the full list of jurisdictions that regulate the sale of flavored tobacco. For more information on those topics, see the list of Municipalities with Tobacco Retailer Licenses and the Matrix of Policies Regulating the Sale of Flavored Tobacco Products.

Note: This matrix includes **both** policies that are on the PETS website, which is current through March 31, 2021, **and** more recently enacted and amended policies that have been analyzed but are not yet in the PETS database. Jurisdictions and/or policy provisions on this matrix that are not yet on PETS are identified with ~.

The best practice is for municipalities to adopt tobacco retail sales restrictions within a framework of requiring a tobacco retailer license. Currently, at least **230** municipalities require a local tobacco retailer license to sell tobacco products. For more information, see the list of California Municipalities with Tobacco Retailer Licenses. This matrix also includes policies in municipalities that have tobacco retail sales requirements but do not require a local tobacco retailer license.

Currently, **149** California municipalities have enacted policies that regulate tobacco retail sales in the following ways:

- **84** municipalities fully prohibit or partially regulate the distribution of **free samples** of tobacco leaf products; **28** of these fully prohibit the distribution of **free samples** of tobacco leaf products.
- **42** municipalities fully or partially require **full price** (no coupons/discounts) for tobacco leaf products.
- **55** municipalities regulate the **pack size**/volume of one or more types of regulated products other than cigarettes.
- **36** municipalities require a **minimum price** for one or more types of regulated products.

- **54** municipalities prohibit the sale of **tobacco leaf** products in **pharmacies** and retailers that contain a pharmacy counter, including **44** municipalities whose policies also prohibit the sale of **ESDs** in pharmacies.
- **19** municipalities **fully** prohibit the **sale of all ESDs**, and **28** municipalities **partially** prohibit the sale of ESDs with limited exemptions (see Definitions on p. 11).
- **1** municipality fully prohibits the **sale of all tobacco leaf products**, excluding ESDs, and **2** municipalities **partially** prohibit the sale of tobacco leaf products with limited exemptions (see Definitions on p. 11).
- **59** municipalities on this matrix prohibit the sale of all **flavors** of all tobacco products, **including menthol**, at all venues, and another **33** municipalities regulate the sale of flavored tobacco products in some manner. To see all jurisdictions that regulate the sale of flavored tobacco products, see Matrix of Policies Regulating the Sale of Flavored Tobacco Products in California.

See Definitions and Explanatory Notes starting on page 11.

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
1. Alameda	Alameda	11/27/2018	77,565	Partial	Yes	Yes	Yes	Yes			Yes	Yes
2. Alameda County	Alameda	3/10/2020	150,015	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
3. Albany	Alameda	4/15/2019	20,027		Yes	Yes	Yes				Yes	Partial
4. Alhambra~	Los Angeles	5/10/2021	82,295		Yes	Yes					Yes	Yes
5. Antioch~	Contra Costa	3/8/2022	115,016	Partial		Yes	Yes		Yes		Yes	Yes
6. Arroyo Grande	San Luis Obispo	11/26/2019	18,435						Partial		Yes	
7. Avalon	Los Angeles	12/13/2000	3,441	Partial							No	
8. Benicia	Solano	12/3/2019	27,040		Yes	Yes	Yes	Yes	Partial		Yes	Yes
9. Berkeley	Alameda	9/10/2019	121,385	Partial	Yes	Yes	Yes	Yes			Yes	Yes
10. Beverly Hills	Los Angeles	6/4/2019	32,406					Yes	Partial	Partial - Venues	Yes	Yes

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
11. Brisbane	San Mateo	12/17/2015	4,756	Partial							Yes	
12. Buena Park~	Orange	7/27/2021	83,542		Yes						Yes	Partial
13. Calabasas~	Los Angeles	5/27/2020	23,106						Partial		Yes	Partial
14. Camarillo	Ventura	9/28/2016	70,622	Partial							No	
15. Carpinteria	Santa Barbara	11/12/2019	13,187						Partial		Yes	Partial
16. Carson	Los Angeles	1/14/2020	94,475						Partial		Yes	Partial
17. Cathedral City	Riverside	7/13/2016	51,964	Partial		Yes					Yes	
18. Cerritos	Los Angeles	11/14/2019	49,016						Partial		Yes	
19. Chico	Butte	12/18/2007	102,790	Partial							No	
20. Clayton	Contra Costa	5/1/2018	11,070	Partial							Yes	
21. Cloverdale	Sonoma	11/14/2017	8,964	Yes		Yes		Yes			No	Partial
22. Clovis	Fresno	9/8/2014	120,607					Yes			No	
23. Coachella~	Riverside	1/23/2019	42,279	Partial	Partial	Yes					Yes	
24. Colton	San Bernardino	11/5/2019	53,959		Yes						Yes	
25. Compton	Los Angeles	5/12/2020	94,822			Yes					Yes	Partial
26. Concord	Contra Costa	5/22/2001	125,007	Partial							Yes	
27. Contra Costa	Contra Costa	11/19/2019	176,166	Yes	Partial	Yes	Yes	Yes	Partial		Yes	Partial

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
28. Corte Madera	Marin	3/19/2019	10,155			Yes	Yes	Yes			Yes	Yes
29. Covina	Los Angeles	3/4/2014	50,717	Partial	Partial						No	
30. Cudahy~	Los Angeles	10/16/2018	22,657			Yes	Yes				Yes	Yes
31. Cupertino	Santa Clara	2/28/2020	59,763					Yes	Yes		Yes	Yes
32. Daly City~	San Mateo	9/14/2015	103,648	Yes	Partial			Yes			Yes	
33. Danville	Contra Costa	2/18/2020	43,449						Partial		Yes	
34. Dinuba	Tulare	1/9/2018	24,713	Partial							No	
35. Duarte	Los Angeles	8/26/2014	21,686	Yes							Yes	
36. Dublin	Alameda	2/4/2020	71,068	Partial					Yes		Yes	Yes
37. East Palo	San Mateo	5/19/2020	29,520	Yes				Yes	Yes		Yes	Yes
38. Eastvale~	Riverside	1/26/2011	69,594	Partial	Partial	Yes					Yes	
39. El Cajon	San Diego	8/12/2014	105,721	Partial							Yes	
40. El Cerrito	Contra Costa	10/6/2015	25,869	Partial	Partial	Yes	Yes				Yes	Partial
41. El Monte	Los Angeles	6/23/2020	108,682			Yes	Yes				Yes	Yes
42. Encinitas	San Diego	9/9/2020	61,942	Partial							No	Partial
43. Fairfax~	Marin	11/3/2021	7,567	Yes		Yes	Yes	Yes			Yes	Yes
44. Firebaugh	Fresno	5/20/2019	8,139	Partial							Yes	
45. Foster City~	San Mateo	11/21/2022	33,215						Partial		Yes	Partial
46. Fremont	Alameda	10/8/2019	228,795	Partial		Yes	Yes				Yes	Yes

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
47. Gardena	Los Angeles	7/10/2012	60,377			Yes					Yes	
48. Guadalupe~	Santa Barbara	7/28/2020	8,272	Yes	Yes	Yes	Yes	Yes			Yes	Yes
49. Half Moon Bay	San Mateo	10/16/2018	11,633	Partial				Yes			Yes	Yes
50. Hayward	Alameda	7/21/2020	160,602	Yes	Yes	Yes	Yes	Yes	Yes	Partial - Product	Yes	Yes
51. Healdsburg	Sonoma	11/3/2014	11,481					Yes			Yes	
52. Hermosa Beach	Los Angeles	2/11/2020	19,551			Yes		Yes	Yes		Yes	Yes
53. Hesperia	San Bernardino	6/6/2017	99,878	Yes	Yes						Yes	
54. Hollister	San Benito	6/15/2015	42,093					Yes			Yes	
55. Huntington Park	Los Angeles	11/21/2011	54,547	Partial		Yes					Yes	
56. Jurupa Valley	Riverside	1/26/2010	105,672	Partial		Yes					Yes	
57. Kerman	Fresno	11/2/2016	15,980	Partial							No	
58. Kern	Kern	6/14/2016	307,395	Partial							Yes	
59. La Mesa	San Diego	2/22/2000	60,888	Partial							No	
60. Lafayette	Contra Costa	5/28/2019	25,310	Yes	Yes			Yes			Yes	Yes
61. Laguna Niguel	Orange	11/19/2019	64,259	Partial							No	Partial
62. Larkspur	Marin	4/3/2019	12,969			Yes	Yes	Yes			Yes	Yes
63. Livermore	Alameda	7/8/2019	87,154	Partial					Partial		Yes	Yes

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
64. Long Beach~	Los Angeles	4/15/2021	462,293	Yes							Yes	Yes
65. Los Altos	Santa Clara	2/11/2020	31,133					Yes	Yes		Yes	Partial
66. Los Angeles~	Los Angeles	6/10/2022	3,881,041	Yes							Yes	Partial
67. Los Angeles County	Los Angeles	10/1/2019	1,012,265			Yes		Yes			Yes	Yes
68. Los Gatos	Santa Clara	11/19/2019	33,093					Yes	Yes		Yes	Yes
69. Lynwood	Los Angeles	10/16/2012	66,346	Yes							Yes	
70. Manhattan Beach	Los Angeles	2/18/2020	35,123					Yes	Partial	Yes	Yes	Yes
71. Marin County	Marin	11/6/2018	67,676					Yes			Yes	Yes
72. Martinez	Contra Costa	1/17/2001	37,093	Partial							No	
73. McFarland	Kern	12/14/2017	13,971	Partial							Yes	
74. Menlo Park	San Mateo	12/17/2019	33,324	Yes				Yes	Yes		Yes	Yes
75. Mill Valley	Marin	10/5/2020	14,199					Yes			Yes	Yes
76. Monterey~	Monterey	8/2/2022	30,007						Partial		Yes	Partial
77. Moraga~	Contra Costa	10/26/2022	16,859	Yes	Yes				Partial		No	Yes
78. Morgan Hill	Santa Clara	12/18/2019	45,291						Yes		Yes	Partial
79. Morro Bay	San Luis Obispo	4/28/2020	10,766			Yes	Yes	Yes	Partial		Yes	Partial
80. National City	San Diego	6/3/2003	56,345	Partial							No	
81. Nevada City	Nevada	7/6/2016	3,142			Yes	Yes				Yes	
82. Newark	Alameda	1/25/2018	47,470	Partial							No	

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
83. Novato~	Marin	10/26/2021	53,055			Yes	Yes	Yes			Yes	Yes
84. Oakland	Alameda	5/12/2020	437,825	Yes	Yes	Yes	Yes	Yes			Yes	Yes
85. Oceanside	San Diego	9/9/2020	173,722	Partial							Yes	
86. Ojai	Ventura	12/14/1993	7,610	Partial	Partial						No	
87. Orange Cove	Fresno	9/28/2019	9,635	Partial							No	
88. Orinda	Contra Costa	5/4/2010	19,477	Yes	Partial						Partial	
89. Oxnard	Ventura	12/17/2019	202,279	Partial	Yes	Yes	Yes				Yes	Yes
90. Pacifica~	San Mateo	3/8/2022	38,048					Yes	Partial		Yes	Partial
91. Palm Springs~	Riverside	10/17/2018	44,935	Partial	Partial	Yes					Yes	
92. Palo Alto~	Santa Clara	8/3/2020	67,901					Yes	Yes		Yes	Yes
93. Pasadena~	Los Angeles	11/1/2021	137,554	Partial							Yes	Yes
94. Petaluma~	Sonoma	12/6/2021	59,682	Yes	Partial	Yes	Yes	Yes	Yes		Yes	Yes
95. Pico Rivera~	Los Angeles	3/8/2022	61,561		Yes	Yes					Yes	Yes
96. Pinole	Contra Costa	9/17/2019	18,946			Yes	Yes				Yes	Partial
97. Pittsburg	Contra Costa	7/21/2014	76,419	Partial							No	
98. Pleasant Hill~	Contra Costa	2/7/2022	34,504	Partial					Partial		No	Partial
99. Pleasanton	Alameda	8/18/2020	78,691		Yes	Yes	Yes		Yes		Yes	Yes
100. Portola	San Mateo	9/12/2018	4,397					Yes			Yes	Yes
101. Rancho Mirage	Riverside	6/15/2017	17,257	Partial	Partial	Yes					Yes	

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
102. Redwood City~	San Mateo	12/21/2021	83,077					Yes	Partial		Yes	Partial
103. Richmond	Contra Costa	9/21/2019	115,619	Yes	Yes	Yes		Yes	Partial		Yes	Yes
104. Riverside County~	Riverside	1/26/2010	394,388	Partial	Partial	Yes					Yes	
105. San Anselmo	Marin	5/28/2019	12,761			Yes	Yes	Yes			Yes	Partial
106. San Benito County**~	San Benito	8/23/2022	20,684						Partial		No	
107. San Carlos	San Mateo	4/8/2019	30,490					Yes			Yes	Yes
108. San Diego~	San Diego	10/2/2014	1,383,987	Partial							Yes	Partial
109. San Diego County	San Diego	1/28/2020	514,736	Partial	Yes	Yes	Yes	Yes			Yes	Partial
110. San Francisco	San Francisco	6/28/2019	851,036	Partial				Yes	Partial		Yes	Yes
111. San Jose~	Santa Clara	1/11/2011	1,001,176	Yes	Partial						Yes	Partial
112. San Leandro~	Alameda	10/16/2017	89,723	Yes		Yes	Yes				Yes	Yes
113. San Luis Obispo~	San Luis Obispo	2/4/2020	47,529						Partial		Yes	Partial
114. San Luis Obispo County~	San Luis Obispo	1/14/2020	122,822						Partial		Yes	
115. San Marcos	San Diego	2/12/2019	94,360	Partial							Yes	
116. San Mateo	San Mateo	10/5/2020	104,165					Yes	Partial		Yes	Yes

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
117. San Mateo County	San Mateo	11/12/2019	62,509	Yes				Yes	Partial		Yes	Yes
118. San Pablo	Contra Costa	12/17/2018	31,907			Yes	Yes				Yes	Yes
119. San Rafael	Marin	6/17/2019	60,891					Yes			Yes	Yes
120. San Ramon	Contra Costa	11/26/2019	86,119	Partial							Yes	
121. Sanger	Fresno	6/1/2017	26,553	Partial							No	
122. Santa Barbara County	Santa Barbara	12/17/2019	137,659		Yes	Yes	Yes				Yes	Yes
123. Santa Clara County	Santa Clara	11/19/2019	89,803					Yes	Yes		Yes	Yes
124. Santa Maria	Santa Barbara	12/3/2019	109,543		Yes	Yes	Yes	Yes			Yes	Yes
125. Santee	San Diego	4/24/2019	59,497	Partial							No	
126. Saratoga	Santa Clara	9/16/2020	30,771					Yes	Yes		Yes	Partial
127. Seal Beach	Orange	2/10/2014	25,046	Partial							No	
128. Seaside	Monterey	2/6/2020	32,291	Yes							Yes	
129. Sebastopol~	Sonoma	9/15/2020	7,503	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes
130. Solana Beach	San Diego	6/11/2014	12,946	Partial							Yes	Yes
131. Solano County	Solano	11/26/1991	19,277	Partial							No	
132. Soledad~	Monterey	5/18/2022	24,781						Partial		Yes	Partial

				Policy Provisions Required for this Matrix							Supplemental Information	
Municipality	County	Most Recent Enactment Date	Population	No Free Samples	No Discounts	Minimum Pack Size	Minimum Price	Tobacco Free Pharmacies	Ends Sale of ESDs	Ends Sale of Tobacco	TRL Required	Regulates Sale of Flavored Tobacco
133. Sonoma~	Sonoma	6/1/2015	10,702			Yes	Yes				Yes	Partial
134. Sonoma County	Sonoma	4/19/2016	133,557				Yes	Yes			Yes	
135. South San Francisco	San Mateo	10/9/2019	65,596					Yes	Partial		Yes	Partial
136. Stanton	Orange	11/26/2019	38,271			Yes		Yes			Yes	Yes
137. Tiburon	Marin	9/2/2020	9,115					Yes			No	Yes
138. Union City	Alameda	12/10/2013	69,502	Partial		Yes					Yes	
139. Vallejo	Solano	4/23/1991	125,132	Partial							No	
140. Ventura~	Ventura	1/13/2020	110,358	Partial	Partial						Yes	Partial
141. Victorville	San Bernardino	8/18/2015	134,417	Yes	Yes						No	
142. Walnut~	Los Angeles	3/9/2022	28,212		Yes	Yes					Yes	Yes
143. Walnut Creek~	Contra Costa	11/6/2021	69,809						Yes		Yes	Partial
144. Watsonville	Santa Cruz	10/22/2019	52,457					Yes	Partial		Yes	Yes
145. West Hollywood~	Los Angeles	2/16/2021	35,358		Yes	Yes					Yes	Partial
146. West Sacramento	Yolo	1/15/2020	54,163	Partial							Yes	Yes
147. Windsor~	Sonoma	8/18/2021	26,320	Yes	Partial	Yes	Yes	Yes	Yes		Yes	Yes
148. Winters~	Yolo	12/6/2022	7,270	Yes	Yes	Yes	Yes				Yes	Yes
149. Yolo County~	Yolo	11/22/2022	27,278	Yes	Yes	Yes	Yes				Yes	Yes

Explanatory Notes:

The population data in this matrix is from the U.S. Census Bureau 2018-2022 American Community Survey 5-Year Estimates.

~ **Not in PETS:** Jurisdiction has new or updated policy provisions that are not yet available on the PETS website.

** San Benito County's policy covers the cities of Hollister and San Juan Bautista.

Definitions:

Most Recent Enactment Date: Jurisdictions may have enacted multiple policies regulating the sale of tobacco, such as amending prior policy provisions. The matrix lists the most recent date that a policy addressing the sale of tobacco for the topics covered by this matrix was enacted or amended.

No Free Samples:

Yes = Policy fully requires payment (as opposed to distribution of free samples) for tobacco leaf products and/or paraphernalia.

Partial = Policy requires payment (as opposed to distribution of free samples) for tobacco leaf products and/or paraphernalia in some but not all circumstances.

No Discounts:

Yes = Policy prohibits discounts and requires full price for tobacco leaf products and/or paraphernalia.

Partial = Policy regulates discounts on tobacco leaf products and/or paraphernalia in some manner but does not completely prohibit them.

Minimum Pack Size:

Yes = Policy regulates the pack size/volume of one or more types of tobacco, ESD, and/or nicotine products, other than cigarettes.

Minimum Price:

Yes = Policy requires a minimum price for one or more types of tobacco, ESD, and/or nicotine products.

Tobacco Free Pharmacies:

Yes = Policy prohibits the sale of tobacco leaf products in pharmacies and retailers that contain a pharmacy counter.

Ends Sale of ESDs:

Yes = Policy fully ends the sale of all ESDs including but not limited to e-cigarettes, e-hookah, vape pens, e-liquids, etc.

Partial = Policy ends the sale of all ESDs including but not limited to e-cigarettes, e-hookah, vape pens, e-liquids, etc., except for limited exemptions. Common exemptions resulting in Partial include allowing the sale of ESDs in adult-only/specialty retailers, or allowing the sale of ESDs authorized for sale under the FDA's premarket review process, or allowing the sale of ESDs that do not contain nicotine.

Ends Sale of Tobacco:

Yes = Policy ends the sale of all tobacco leaf products, whether smoked or ingested (excluding ESDs).

Partial = Policy ends the sale of all tobacco leaf products, whether smoked or ingested (excluding ESDs), except for limited exemptions. Partial is typically the result of an exemption that allows the sale of tobacco leaf products at certain venues, such as adult-only/specialty retailer or cigar bars or hookah venues, or an exemption that allows the sale of certain tobacco leaf products, such as cigars or hookah/shisha.

TRL Required:

Yes = Policy requires merchants to obtain a local tobacco retail license (TRL) to sell tobacco products.

Partial = Policy requires some but not all merchants to obtain a local tobacco retail license (TRL) to sell tobacco products.

Regulates Sale of Flavored Tobacco:

Yes = Policy prohibits the sale of all flavors of all tobacco products, including menthol, at all venues.

Partial = Policy regulates the sale of flavored tobacco products, but contains one or more exemptions, such as exempting menthol products, exempting flavored hookah/shisha products, or allowing the sale of flavored tobacco at certain locations, such as adult-only tobacco retailers.

Note: For more detailed information on jurisdictions with flavored tobacco policy provisions, see Matrix of Policies Regulating the Sale of Flavored Tobacco Products in California.

ANR Foundation is actively collecting policies for the PETS Database. **If you know of local laws that you think should be included in this matrix**, or want to inquire about additional information on particular laws, please contact the ANR Foundation at PETS-TA@no-smoke.org.

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Tobacco Retailers in La Habra

Address	Business Name
100 W LA HABRA BLVD	7-11
101 E LAMBERT RD	G&M Gas Station
101 E WHITTIER BLVD	Thrifty Oil 191 Gas Station
101 W IMPERIAL HWY	Walgreens
1050 S EUCLID ST	Rockview Dairy
110 S HARBOR BLVD	Best 4 Less Gas Station
1150 W LA HABRA BLVD	G&M Gas Station
1180 S IDAHO ST	Drinkies Liquor Store
1230 W IMPERIAL HWY	Orbit Smoke Shop
1305 W WHITTIER BLVD	Northgate Market
136 W LA HABRA BLVD	La Habra Donuts and Deli
1401 E LAMBERT RD	Arco Gas Station
1403 E LAMBERT RD	Lambert Smoke Shop I
141 E IMPERIAL HWY	King Liquor
1484 W WHITTIER BLVD	La Habra Tobacconist
150 W LA HABRA BLVD	La Habra Smoke Shop
1510 S HARBOR BLVD	Sunny Hills Liquor
1530 S HARBOR BLVD	Smoke Zone Cigar and Funky Exotic Snacks
1581 W WHITTIER BLVD	M&M Tobacco
1590 E LA HABRA BLVD	Big 6 Food Market
1626 W WHITTIER BLVD	Sunny Hills Exotics
1800 W WHITTIER BLVD	Albertsons
1851 W LA HABRA BLVD	Circle Liquor
1861 W LA HABRA BLVD	Wake N Vape
1931 E LA HABRA BLVD	George's Liquor
1950 W IMPERIAL HWY	Chevron Gas Station
1950 W LA HABRA BLVD	G&M Gas Station
1990 W WHITTIER BLVD	Speedway Gas Station
2000 W LA HABRA BLVD	7-11
2000 W WHITTIER BLVD	Walgreens
2001 E LA HABRA BLVD	7-11
2051 W WHITTIER BLVD	E-Z Day Liquor
211 S HARBOR BLVD	Raffa's
2121 W IMPERIAL HWY STE B	Smoke House #1
2350 W WHITTIER BLVD	Rockview Dairy
2400 W WHITTIER BLVD	Sunny Liquor Jr Market
2420 W WHITTIER BLVD	Smoken Smoke Shop
300 W WHITTIER BLVD	One Stop Liquor
320 N HARBOR BLVD	Harbor Mart Liquor
335 S HARBOR BLVD	The Hub Smoke Shop La Habra
376 N HARBOR BLVD	AMK Smoke Shop & More
381 E WHITTIER BLVD	7-11
384 E LA HABRA BLVD	Toby Market
409 E LA HABRA BLVD	Big Bob Liquor
425 N WALNUT ST	Ace Craft Beer

Tobacco Retailers in La Habra

Address	Business Name
432 W LA HABRA BLVD	Walnut Liquor
440 N HARBOR BLVD	Orange Grove Market
501 W WHITTIER BLVD	Triple S Arco Gas Station
502 W LAMBERT RD	Mega Liquor Warehouse Inc
528 W LAMBERT RD	Lambert Smoke Shop II
539 S EUCLID ST	Warner's Corner Liquor
541 W IMPERIAL HWY	7-11
545 W WHITTIER BLVD	Gold 7 Liquor
581 W LA HABRA BLVD	El Beso Cigars
601 W IMPERIAL HWY	United Oil #125 Gas Station
607 W LA HABRA BLVD	La Habra Liquor
619 E LA HABRA BLVD	Imperial Station Inc #2 Gas Station
627 S EUCLID ST	My Liquor Jr Mart
639 W LA HABRA BLVD	Parkview Market
665 S BEACH BLVD	GD Smoke Shop
671 S BEACH BLVD	G&D Liquor 2
681 S BEACH BLVD UNIT A	Beach & Lambert Water & Smoke
700 E LAMBERT RD STE D	Fresh Donuts
700 E WHITTIER BLVD	Showtime Smoke and Vape
750 N HARBOR BLVD	7-11
751 E WHITTIER BLVD	Up Sky Smoke Shop
753 E WHITTIER BLVD	Happy Liquor
919 N HARBOR BLVD	La Habra Smoke Shop

ORDINANCE NO. 1871

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDENA, CALIFORNIA AMENDING SECTIONS OF CHAPTER 5.52 AND TITLE 18 OF THE GARDENA MUNICIPAL CODE RELATING TO SIGNIFICANT TOBACCO RETAILERS, CIGAR LOUNGES, AND HOOKAH LOUNGES AND MAKING A FINDING THAT THE ORDINANCE IS EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)

WHEREAS, Tobacco consumption remains a pressing public health concern, with dire consequences evidenced by the premature deaths of 480,000 individuals annually in the United States due to smoking-related illnesses. This makes tobacco use the primary preventable cause of death. Its detrimental effects extend across nearly all bodily systems, contributing to 87 percent of lung cancer fatalities, 79 percent of chronic obstructive pulmonary disease (COPD) fatalities, and 32 percent of coronary heart disease fatalities. Globally, the World Health Organization estimates that tobacco is the leading cause of death, responsible for nearly 6 million deaths each year; and

WHEREAS, the City has seen a proliferation of Significant Tobacco Retailer businesses within the City, going from 10 in October 2021 to 16 in March 2023; and

WHEREAS, the City Council is concerned about this proliferation of businesses and the harmful effects of tobacco on the residents of the City; and

WHEREAS, the City has no specific regulations for Significant Tobacco Retailers that would protect minors; and

WHEREAS, it is the intent of the City Council to provide for the public's health, safety, and welfare in part by protecting youth from commencing the inherently dangerous activity of smoking, and protecting the public health and safety of the general public, while balancing business interests of existing City businesses; and

WHEREAS, young individuals are especially vulnerable to the addictive nature of tobacco products and are at a heightened risk of becoming lifelong users; and

WHEREAS, Cigar and hookah lounges enforce a strict policy of prohibiting individuals under the age of 21 from entering their premises; and

WHEREAS, on March 28, 2023, the City Council adopted an urgency ordinance placing a moratorium on all new significant tobacco retailers in the City in accordance with Government Code section 65858; and

WHEREAS, on May 9, 2023, the City Council held a duly noticed public hearing and adopted an extension of the urgency ordinance in accordance with Government Code section 65858; and

WHEREAS, on March 12, 2024, the City Council held an additional duly noticed public hearing and adopted a further extension of the urgency ordinance which will expire on March 27, 2025; and

WHEREAS, the City Council has determined that in order to protect the public health, safety and welfare, it would like to prohibit any future significant tobacco retailers from locating in the City and wants to make clear that significant tobacco retailers does not include hookah lounges and cigar lounges; and

WHEREAS, on April 2, 2024, the Planning Commission held a duly noticed public hearing on this Ordinance at which time it considered all evidence presented, both written and oral; and

WHEREAS, after the close of the public hearing the Planning Commission adopted Resolution No. 7-24 recommending that the City Council adopt this Ordinance; and

WHEREAS, on April 23, 2024 the City Council of the City of Gardena, California held a duly noticed public hearing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDENA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Sections 5.52.010, 5.52.020 and 5.52.090 of Chapter 5.52 of the Gardena Municipal Code are hereby amended to read as follows; all other sections remain the same:

5.52.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

A. "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 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 the violations of this chapter is not an arm's length transaction.

B. "Cigar" means any roll of tobacco wrapped entirely or in part in tobacco or in any substance containing tobacco, and includes all of the component parts of the cigar (including but not limited to tobacco, filters, or wrapping). For the purposes of this section, "cigar" includes, but is not limited to, tobacco products labeled "cigar," "cigarillo," "tiparillo," "little cigar," "blunt," or "blunt wrap."

C. "Cigar lounge" shall have the same meaning as that set forth in Chapter 18.04 of this Code.

D. “Hookah lounge” shall have the same meaning as that set forth in Chapter 18.04 of this Code.

EE. “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

ED. “Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a fifty percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

GE. “Self-service display” means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

HF. “Significant tobacco retailer” shall have the same meaning as that set forth in Chapter 18.04 of this Code. ~~means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: twenty percent or more of the floor or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty seven percent or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both; or fifty percent or more of completed sales transactions include tobacco products or tobacco paraphernalia.~~

IG. “Smoking” means possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind), the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind), or the use of an electronic cigarette.

JH. “Tobacco paraphernalia” means cigarette papers or wrappers, pipes, electronic cigarettes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

KI. “Tobacco product” means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) electronic cigarette cartridges and any other product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

LJ. “Tobacco retailer” means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low cost samples of tobacco products or tobacco paraphernalia. “Tobacco retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange. Tobacco retailer includes cigar and hookah lounges.

MK. “Vending machine” means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or any other form of payment that is designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

NL. “Electronic cigarette” or “e-cigarette” means a device, often shaped like a cigarette, cigar or pipe, that is designed to deliver nicotine or other substances to a user in the form of a vapor. Typically, e-cigarettes consist of battery-powered heating elements and replaceable cartridges that contain nicotine or other chemicals, and an atomizer that, when heated, converts the contents of the cartridge into a vapor that a user inhales.

5.52.020 Tobacco retailer permit required.

A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer permit pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer permit is a public nuisance.

B. A tobacco retailer without a valid tobacco retailer permit, including, for example, a person whose permit has been revoked:

1. Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a permit and the tobacco retailer shall not be eligible to apply for or be issued a permit as set forth in Section [5.52.120](#).

2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer’s location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

C. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer permit any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the permit. For example, nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law, including, but not limited to, any provision of this code including without limitation the zoning ordinance, building codes, and business license ordinance, or any condition or limitation on smoking in an enclosed place of

employment pursuant to California Labor Code Section [6404.5](#). For example, obtaining a tobacco retailer permit does not make the retailer a retail or wholesale tobacco shop for the purposes of California Labor Code Section [6404.5](#).

D. As of June 14, 2024, no tobacco retailer permit shall be issued for a significant tobacco retailer. Significant tobacco retailers may continue to renew their permit on an annual basis for as long as there is a significant tobacco retailer business in existence at the given location.

5.52.090 Other requirements and prohibitions.

A. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a permit has been issued, it shall be a violation of this chapter for a permittee, or any of the permittee's agents or employees, to:

1. Violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing.
2. Violate any local, state, or federal law regulating exterior, storefront, window, or door signage.

B. Display of Permit. Each tobacco retailer permit shall be prominently displayed in a publicly visible location at the permitted location.

C. Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.

D. Minimum Age for Persons Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.

E. Self-Service Displays Prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display.

F. Sale of Single Cigars Prohibited.

1. Notwithstanding any other provision of this chapter, no tobacco retailer shall sell, offer for sale, or exchange for any form of consideration:
 - a. Any single cigar, whether or not packaged for individual sale;

- b. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer; or
- c. Any package of cigars containing fewer than five cigars.

2. This section does not apply to the sale or offer for sale of a single cigar or multiple individual cigars by a significant tobacco retailer or by a cigar lounge.

SECTION 2. Chapter 18.04 of the Gardena Zoning Code is hereby amended by adding the following definitions in alphabetical order.

"Cigar lounge" means an establishment where patrons gather to socialize or smoke cigars, whether purchased on the premises or elsewhere.

"Hookah lounge" means a social establishment where patrons share shisha (flavored tobacco) from a communal hookah or from one placed at each table or a bar.

"Significant tobacco retailer" means any tobacco retailer for which the principal or core business is selling tobacco products, tobacco paraphernalia, or both, as evidenced by any of the following: twenty percent or more of the floor or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both; or fifty percent or more of completed sales transactions include tobacco products or tobacco paraphernalia. "Significant tobacco retailer" does not include a cigar lounge or hookah lounge.

SECTION 3. Sections 18.19.040 and 18.19.050 of the Gardena Zoning Code relating to uses allowed in the Mixed Use Overlay (MUO) Zone are hereby amended to read as follows:

18.19.040 Uses permitted subject to a conditional use permit.

The following uses may be permitted in a mixed use development under a conditional use permit in accordance with the procedures set forth in Chapter [18.46](#):

- A. Bars and nightclubs;
- B. Restaurants, coffee shops (drive-thru);
- C. Supermarkets;
- D. Public assembly:
 - 1. Lodges and meeting halls,

2. Museums,

3. Theaters (cinema and otherwise);

E. Pharmacies (drive-thru);

F. Health clubs of more than ten thousand square feet;

G. Retail sales and service:

1. Clothing stores of more than five thousand square feet,

2. Department and furniture stores of more than five thousand square feet,

3. Hardware and paint stores of more than five thousand square feet,

4. Television, radio, and home appliance stores of more than five thousand square feet;

H. Computer internet and amusement facilities;

I. Live-work in conjunction with:

1. Restaurants; or

2. Any use that may result in exterior or interior noise levels in excess of city residential noise standards;

J. Churches;

K. Massage establishments that are not otherwise subject to an exception pursuant to Section [5.48.030](#), except no massage establishment shall be allowed to locate in a live-work unit.

[L. Cigar and hookah lounges in compliance with section 18.46.030C.30.](#)

18.19.050 Uses prohibited.

A. All uses not listed in Sections [18.19.030](#) and [18.19.040](#) are deemed to be expressly prohibited in the MUO zone, except those determined to be similar pursuant to the provisions of Section [18.42.040](#);

B. Home sharing rentals; and

C. Short-term rentals.

D. Significant tobacco retailers.

SECTION 4. Section 18.19A.050 relating to uses prohibited in the Artesia Mixed Use (AMU) zone is hereby amended to read as follows:

18.19A.050 Uses prohibited.

All uses not listed in Sections [18.19A.030](#) and [18.19A.040](#) are deemed to be expressly prohibited, except those determined to be similar pursuant to the provisions of Section [18.42.040](#). No similar use determination may be made for the following specific uses, which are deemed to be either incompatible with the uses permitted in the ~~C-~~ 3AMU zone ~~and are therefore prohibited or otherwise prohibited:~~

A. Residential.

1. Any residential units other than live-work north of Main Street;
2. Home sharing rentals; and
3. Short-term rentals.

B. Commercial.

1. Any commercial uses other than live-work south of Main Street;
2. Fitness and training facilities.

3. Significant tobacco retailers.

C. Live-Work.

1. Industrial uses;
2. Wholesaling and warehousing;
3. Outdoor sales;
4. Adult-oriented businesses as defined by Section [18.62.020](#)(G).

SECTION 5. Sections 18.20.030 and 18.20.040 relating to uses allowed in the Commercial Residential (C-R) zone are hereby amended to read as follows:

18.20.030 Uses permitted subject to a conditional use permit.

The following uses, after a public hearing, may be permitted in accordance with the procedures set forth in Chapter [18.46](#):

A. Establishments serving alcoholic beverages for consumption on the premises provided the establishment of such a business would not adversely affect the health, safety and general welfare of the community;

B. Lodges and meeting halls;

C. Vocational colleges, such as barber and beauty colleges, modeling schools and medical training and trade schools;

D. Mobile homes certified under the National Mobile Home Construction and Safety Standards Act of 1974 ([42](#) U.S.C. Section [5401](#) et seq.) on a foundation system, pursuant to Section [18551](#) of the Health and Safety Code of the state. Further, such mobile homes shall be occupied only as a residential use type and shall be subject to any and all property development standards of the zone;

E. Amusement arcades;

F. Churches and related facilities. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages or minister's residences; and

G. Those uses permitted with a conditional use permit, pursuant to Section 18.46.030C.

[H. Cigar and hookah lounges in compliance with section 18.46.030C.30.](#)

18.20.040 Uses prohibited.

The following uses are deemed to be incompatible with the uses set forth in Sections [18.20.020](#) and [18.20.030](#) and are therefore prohibited:

A. Motor vehicle dealerships;

B. Automobile service stations;

C. Car wash facilities;

D. Fast food and drive-in restaurants;

E. Industrial uses;

F. Motels and hotels;

G. Commercial uses other than those specifically listed or provided for in Sections [18.20.020](#) and [18.20.030](#);

H. Adult-oriented businesses as defined by Section [18.62.020](#);

I. It is unlawful to sell, contract to sell, offer to sell, display for the purpose of sale, or permit the sale of any vehicle from a vacant or unimproved lot. "Vehicle," as used in this subsection, means and includes everything so defined in the Vehicle Code of the state and, in addition, boats;

J. Swap meets;

K. Automobile repair facilities;

L. Home sharing rentals;

M. Short-term rentals; ~~and~~

N. Significant tobacco retailers; and

ON. Any other use not listed in Section [18.20.020](#), [18.20.025](#), or [18.20.030](#), except those determined to be similar pursuant to the provisions of Section [18.42.040](#).

SECTION 6. Sections 18.26.030 and 18.26.040 of the Gardena Zoning Code relating to uses allowed in the Business and Professional Office (C-P) zone are hereby amended to read as follows:

18.26.030 Uses permitted subject to a conditional use permit.

The following uses may be permitted in the C-P zone subject to a conditional use permit in accordance with the procedures set forth in Chapter [18.46](#) of this code:

A. Lodges and meeting halls;

B. Museums;

C. Office supply stores;

D. Public parking lots;

E. Establishments serving alcoholic beverages for consumption on the premises provided the establishment of such a business would not adversely affect the health, safety and general welfare of the community;

F. Group care facilities and community care facilities, but excluding community care facilities for residential uses for less than seven persons;

G. Vocational colleges, such as barber and beauty colleges, modeling schools and medical training and trade schools;

H. Health facilities;

I. Day care facilities;

J. Hospitals;

K. Amusement arcades;

L. Urgent care centers;

M. Massage establishments that are not otherwise subject to an exception pursuant to Section [5.48.030](#);

N. Churches and related facilities. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages or minister's residences;-

O. Cigar and hookah lounges in compliance with section 18.46.030C.30:

PO. Those uses permitted with a conditional use permit, pursuant to Section 18.46.030C.

18.26.040 Uses prohibited.

The following uses are hereby expressly prohibited in the C-P zone, except as otherwise provided in Sections [18.26.020](#) and [18.26.030](#):

A. Residential uses;

B. Any combination of residential and nonresidential uses in any building or structure or on any lot;

C. Industrial uses;

D. Uses other than those specifically set forth or provided for in Sections [18.26.020](#) and [18.26.030](#), except those determined to be similar pursuant to the provisions of Section [18.42.040](#);

E. Outdoor sales, including sales of products from trucks, conducted on vacant lots and outdoor sales of products not related to the business conducted on the premises;

F. Adult-oriented businesses as defined by Section 18.62.020G;

G. It is unlawful to sell, contract to sell, offer to sell, display for the purpose of sale, or permit the sale of any vehicle from a vacant or unimproved lot. "Vehicle," as used in this subsection, means and includes everything so defined in the Vehicle Code of the state and, in addition, boats;

H. Significant tobacco retailers.

SECTION 7. Sections 18.30.030 and 18.30.040 of the Gardena Zoning Code relating to uses allowed in the Commercial (C-2) zone are hereby amended to read as follows:

18.30.030 Uses permitted subject to a conditional use permit.

The following uses may be permitted subject to issuance of a conditional use permit pursuant to the provisions of Chapter [18.46](#) of this code:

A. Establishments selling or serving alcoholic beverages for consumption on or off the premises;

B. Day care facilities;

C. Group care facilities and community care facilities, but excluding community care facilities for residential uses for less than seven persons;

D. Hospitals;

E. Amusement arcades;

F. Health facilities;

G. Massage establishments that are not otherwise subject to an exception pursuant to Section [5.48.030](#);

H. Urgent care centers;

I. Churches and related facilities. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages or minister's residences;

J. Self-service laundromats;

K. Supermarkets;

L. Cigar and hookah lounges in compliance with section 18.46.030C.30; and

~~ML~~. Those uses permitted with a conditional use permit, pursuant to Section 18.46.030C.

18.30.040 Uses prohibited.

All uses not listed in Sections [18.30.020](#) and [18.30.030](#) are deemed to be expressly prohibited, except those determined to be similar pursuant to the provisions of Section [18.42.040](#). No similar use determination may be made for the following specific uses, which are deemed to be ~~either~~ incompatible with the uses permitted in the C-2 zone or otherwise ~~and are therefore~~ prohibited:

- A. Residential uses;
- B. Any combination of residential and nonresidential uses in any building or structure or on any lot;
- C. Hotels and motels;
- D. Industrial uses;
- E. Laboratories, other than medical and dental;
- F. Wholesaling and warehousing;
- G. ~~(Deleted)~~ Significant tobacco retailer;
- H. Outdoor sales, including sales of products from trucks, conducted on vacant lots and outdoor sales of products not related to the business conducted on the premises;
- I. Adult-oriented businesses as defined by Section 18.62.020G;
- J. It is unlawful to sell, contract to sell, offer to sell, display for the purpose of sale, or permit the sale of any vehicle from a vacant or unimproved lot. "Vehicle," as used in this subsection, means and includes everything so defined in the Vehicle Code of the state and, in addition, boats;
- K. Swap meets.

SECTION 8. Sections 18.32.030 and 18.32.040 of the Gardena Zoning Code relating to uses allowed in the General Commercial (C-3) zone are hereby amended to read as follows:

18.32.030 Uses permitted subject to a conditional use permit.

The following uses may be permitted in the C-3 zone subject to the issuance of a conditional use permit in accordance with the procedure set forth in Chapter [18.46](#):

- A. Car wash facilities;
- B. Establishments selling or serving alcoholic beverages for consumption on or off the premises;
- C. Group care facilities and community care facilities, but excluding community care facilities for residential uses for less than seven persons;
- D. Recreational vehicle storage facilities, provided they are not located on arterial and major collector streets;
- E. Motor vehicle dealerships;
- F. Hospitals;
- G. Day care facilities;
- H. Amusement arcades;
- I. Hotels and motels, subject to the requirements set forth in Section 18.46.030C.15;
- J. Amenity hotels, subject to the requirements set forth in Section 18.46.030C.29;
- K. Health facilities;
- L. Massage establishments that are not otherwise subject to an exception pursuant to Section [5.48.030](#);
- M. Urgent care center;
- N. Vocational colleges, such as barber and beauty colleges, modeling schools and medical training and trade schools;
- O. Churches and related facilities. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages or ministers' residences;
- P. Automobile service stations;
- Q. Self-service laundromats;
- R. Neighborhood markets;
- S. Health clubs;

T. Supermarkets;

U. Lodges and meeting halls;

V. Cigar and hookah lounges in compliance with section 18.46.030C.30;

~~WV~~. Those uses permitted with a conditional use permit, pursuant to Section 18.46.030C.

18.32.040 Uses prohibited.

All uses not listed in Sections [18.32.020](#) and [18.32.030](#) are deemed to be expressly prohibited, except those determined to be similar pursuant to the provisions of Section [18.42.040](#). No similar use determination may be made for the following specific uses, which are deemed to be either incompatible with the uses permitted in the C-3 zone ~~and are therefore~~ otherwise prohibited:

A. Residential uses;

B. Any combination of residential and nonresidential uses in any building or structure or on any lot;

C. Industrial uses;

D. Wholesaling and warehousing;

E. Outdoor sales, including sales of products from trucks, conducted on vacant lots and outdoor sales of products not related to the business conducted on the premises;

F. It is unlawful to sell, contract to sell, offer to sell, display for the purpose of sale, or permit the sale of any vehicle from a vacant or unimproved lot. "Vehicle," as used in this subsection, means and includes everything so defined in the Vehicle Code of the state and, in addition, boats;

G. Swap meets;

H. Adult-oriented businesses as defined by Section 18.62.020G;

I. Significant tobacco retailers-

SECTION 9. Sections 18.34.030 and 18.34.040 of the Gardena Zoning Code relating to uses allowed in the Heavy Commercial (C-4) zone are hereby amended to read as follows:

18.34.030 Uses permitted subject to a conditional use permit.

The following uses may be permitted in the C-4 zone subject to the issuance of a conditional use permit in accordance with the procedure set forth in Chapter [18.46](#):

- A. Car wash facilities;
- B. Establishments selling or serving alcoholic beverages for consumption on or off the premises;
- C. Recreational vehicle storage facilities;
- D. Amusement arcades;
- E. Hotels and motels, subject to the requirements set forth in Section 18.46.030C.15;
- F. Amenity hotels, subject to the requirements set forth in Section 18.46.030C.29;
- G. Health facilities;
- H. Group care facilities and community care facilities, but excluding community care facilities for residential uses for less than seven persons;
- I. Hospitals;
- J. Urgent care centers;
- K. Churches and related facilities. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages or ministers' residences;
- L. Motor vehicle dealerships;
- M. Automobile service stations;
- N. Self-service laundromats;
- O. Neighborhood markets;
- P. Supermarkets;
- Q. Health clubs;
- R. Lodges and meeting halls;
- S. Drive-in restaurant;

T. Drive-in theaters;

U. Golf driving range and golf pitch and putt courses;

V. Taxicab services;

W. Massage establishments that are not otherwise exempt from the requirements of Chapter [5.48](#);

X. Self-storage facilities; provided, that the self-storage units do not exceed more than seventy-five feet of ground floor street frontage on a major collector or arterial street, or are otherwise buffered by another allowed, or conditionally allowed, use, including a retail component of the facility, and subject to the requirements set forth in Section 18.46.030C.17; ~~and~~

Y. Cigar and hookah lounges in compliance with section 18.46.030C.30;

~~ZY.~~ Those uses permitted with a conditional use permit, pursuant to Section 18.46.030C.

18.34.040 Uses prohibited.

All uses not listed in Sections [18.34.020](#) and [18.34.030](#) are deemed to be expressly prohibited, except those determined by the commission to be similar pursuant to the provisions of Section [18.42.040](#). The following specific uses are deemed to be incompatible with the uses permitted in the C-4 zone ~~and are therefore~~ otherwise prohibited:

A. Residential uses;

B. Any combination of residential and nonresidential uses in any building or structure or on any lot;

C. Industrial uses;

D. Wholesaling and warehousing;

E. Commercial uses other than those specifically listed or provided for in Sections [18.34.020](#) and [18.34.030](#);

F. Outdoor sales, including sales of products from trucks, conducted on vacant lots and outdoor sales of products not related to the business conducted on the premises;

G. Adult-oriented businesses as defined by Section 18.62.020G of this code;

H. It is unlawful to sell, contract to sell, offer to sell, display for the purpose of sale, or permit the sale of any vehicle from a vacant or unimproved lot. "Vehicle," as used in this subsection, shall mean and include everything so defined in the Vehicle Code of the state and, in addition, boats;

I. Swap meets;

J. Significant tobacco retailers.

SECTION 10. Section 18.36.030 and 18.36.050 of the Gardena Zoning Code relating to uses allowed in the Industrial (M-1) zone are hereby amended to read as follows:

18.36.030 Uses permitted subject to a conditional use permit.

Provided all activities are within an enclosed building, unless otherwise provided, the following uses may be permitted in the M-1 zone, subject to the issuance of a conditional use permit in accordance with the procedures set forth in Chapter [18.46](#):

A. Ambulance services, provided they are not located on arterial and major collector streets.

B. Automobile repair facilities, provided they are not located on arterial and major collector streets.

C. Automobile service stations.

D. Building supply centers.

E. Car wash facilities.

F. Churches and related facilities, subject to the requirements set forth in Section 18.46.030C.16. Related facilities do not include day care facilities, schools (kindergarten through twelfth grade), and rectories, convents, parsonages, or ministers' residences.

G. Contractor businesses; provided they are not located on arterial and major collector streets.

H. Establishments selling or serving alcoholic beverages for off- or on-premises consumption.

I. Health facilities.

J. Hotels and motels, subject to the requirements set forth in Section 18.46.030C.15.

K. Amenity hotels, subject to the requirements set forth in Section 18.46.030C.29.

L. Recreational vehicle storage facilities, provided they are not located on arterial and major collector streets.

M. Self-storage facilities, at least five thousand feet from another similar facility and not located along a major collector or arterial street, subject to the requirements set forth in Section 18.46.030C.17.

N. Urgent care centers.

O. Warehouse uses subject to the requirements set forth in Section 18.46.030C.18.

P. Single room occupancy (“SRO”) residential units subject to the following requirements in addition to the other requirements of Chapter [18.46](#):

1. Each room shall have a minimum floor area of one hundred fifty square feet and a maximum floor area of three hundred fifty square feet, which may include bathroom and/or kitchen facilities.

2. Dwelling units shall be offered for rent on a monthly basis or longer.

3. An SRO unit shall accommodate a maximum of two persons.

4. Each SRO development shall provide a minimum common area of ten square feet for each unit or two hundred fifty square feet, whichever is greater. All common areas shall be within the structure. Dining rooms, meeting rooms, recreational rooms, or other similar areas approved by the community development director may be considered common areas. Shared bathrooms, kitchens, janitorial storage, laundry facilities, common hallways, and other similar types of areas shall not be considered as common areas.

5. If a full kitchen is not provided in each SRO unit, common kitchen facilities shall be provided in the development. A full kitchen includes a sink, refrigerator, and a stove, range top and/or oven.

6. Each SRO unit shall have a private toilet in an enclosed compartment with a door and a sink, in addition to a kitchen sink if one is provided. The compartment shall be a minimum of fifteen square feet. If private bathing facilities are not provided for each unit, shared shower or bathtub facilities shall be provided in accordance with the most recent edition of the California Building Code for congregate residences. However, in no event shall there be less than one full shower or bathtub for every three units, and shower and bathtub facilities shall be located on each floor. Shared shower and bathtub facilities shall be accessible from a common area or hallway and shall be provided with an interior lockable door.

7. Each SRO unit shall have a separate closet.

8. Laundry facilities shall be provided in a separate room at the ratio of one washer and dryer for every ten units, with at least one washer and dryer per floor.

9. A cleaning supply room or utility closet with a wash tub with hot and cold running water shall be provided on each floor.

10. Parking shall be provided for an SRO facility at the rate of one parking space per unit plus an additional two spaces for the resident manager.

11. A management plan shall be submitted with the conditional use permit application for an SRO development, which shall be approved by the planning commission. The management plan must address management and operation of the facility, rental procedures, safety and security of the residents, and building maintenance. A twenty-four-hour resident manager shall be provided for any single-room occupancy with ten or more units. An on-site manager and a manager's office shall be provided for any SRO development with nine or less units; the manager must maintain hours in the office for at least thirty hours a week.

Q. Cigar and hookah lounges in compliance with section 18.46.030C.30.

18.36.050 Uses prohibited.

All uses not listed in Sections [18.36.020](#) and [18.36.030](#) are deemed to be expressly prohibited, except those determined to be similar pursuant to the provisions of Section [18.42.040](#). No similar use determination may be made for the following specific uses, which are deemed to be incompatible with the uses permitted in the M-1 zone and are therefore prohibited:

A. Cocktail lounges;

B. Displays and sales of motor vehicles from vacant or unimproved lots;

C. Outdoor sales conducted on vacant lots and not related to the business on the premises; ~~and~~

D. Residential uses; ~~and-~~

E. Significant tobacco retailers.

SECTION 11. Section 18.46.030 of the Gardena Municipal Code is hereby amended by adding a new C.30 to read as follows:

30. Cigar and hookah Lounges ("Lounge") as allowed in the MUO, C-R, C-P, C-2, C-3, C-4, M-1, and M-2 zones shall comply with the following requirements:

a. The Lounge has a valid tobacco retailers permit, pursuant to Chapter 5.52 of this Code;

b. Entry is prohibited to anyone under the age of 21 years and a sign is posted to that effect at the entrance;

c. No person who is obviously intoxicated or under the influence of any intoxicating drug or beverage shall be permitted entry;

d. The Lounge must have a stand-alone ventilation system that is not shared with any other business or any portion of the building in which the Lounge is located;

e. No advertisement, or display, of tobacco products shall be visible from the front of the business; and

f. The Lounge shall be in compliance with all City, state and federal laws and regulations.

SECTION 12. CEQA. This Ordinance is categorically exempt from CEQA pursuant to the common sense exemption set forth in Guidelines section 15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant effect on the environment and where it can be seen with certainty that there is no possibility that the activity will have a significant effect, the activity is not subject to CEQA. The changes are not for any specific project but is regulatory in nature and therefore will not impact any environmental resource of hazardous or critical concern, will not create cumulative impacts, or impacts to scenic highways, hazardous waste sites, or historical resources. As such, staff is directed to file a Notice of Exemption

SECTION 13. Severability. If any provision of this Ordinance is held to be unconstitutional, it is the intent of the City Council that such portion of this Ordinance be severable from the remainder and that the remainder be given full force and effect.

SECTION 14. Certification. The City Clerk shall certify to the adoption of this Ordinance.

SECTION 15. Effective Date. This Ordinance shall take effect on the thirty-first day after passage, and on that date Urgency Ordinance No. 1867 shall be of no further force or effect.

SECTION 16. Effect on Existing Uses. This Ordinance shall not apply to any cigar or hookah lounge that is legally existing as of April 23, 2024. Legally existing means that in addition to any required city licenses and permits, the business has the required state license and a tobacco retailers permit from the City.

PASSED, APPROVED AND ADOPTED this 14th day of May 2024.

Tasha Cerda, Mayor

TASHA CERDA, Mayor

ATTEST:

Mina Semenza

Mina Semenza, City Clerk

APPROVED AS TO FORM:

Carmen Vasquez

Carmen Vasquez, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF GARDENA)

I, **MINA SEMENZA**, City Clerk of the City of Gardena, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Ordinance, being **Ordinance No. 1871** duly passed and adopted by the City Council of said City of Gardena, approved and signed by the Mayor of said City, and attested by the City Clerk, all at a regular meeting of said City Council held on the **14th day of May 2024**, and that the same was so passed and adopted by the following roll call vote:

AYES: COUNCIL MEMBERS TANAKA AND FRANCIS, MAYOR PRO TEM
 HENDERSON, COUNCIL MEMBER LOVE, AND MAYOR CERDA

NOES: NONE

ABSENT: NONE

for Becky Romero
City Clerk of the City of Gardena, California

(SEAL)

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:

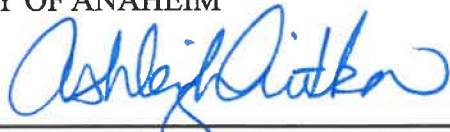
AYES: Mayor Aitken and Council Members Meeks, Balius, Leon, Rubalcava, Kurtz and Maahs

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)

RESOLUTION NO. PC-2024-19

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF FULLERTON, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL AMEND TITLE 15 ZONING OF THE FULLERTON MUNICIPAL CODE TO PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS, INCLUDING AMENDING SECTIONS 15.04.040 DEFINITIONS, 15.30.030.1 PERMITTED USES IN THE O-P ZONING DISTRICT, 15.30.030.2 PERMITTED USES IN THE G-C ZONING DISTRICT, 15.30.030.3 PERMITTED USES IN THE C-3 ZONING DISTRICT, 15.30.030.4 PERMITTED USES IN THE C-M ZONING DISTRICT, TABLE 15.40.020.A AND ADDING CHAPTER 15.33 REGULATIONS FOR TOBACCO SMOKE SHOPS

LRP-2024-0007

APPLICANT: CITY OF FULLERTON

WHEREAS, an application was filed by the City of Fullerton to consider revisions to Title 15 Zoning of the Fullerton Municipal Code; and

WHEREAS, on March 13, 2024, the Planning Commission of the City of Fullerton provided direction involving the development of regulations for businesses selling tobacco products; and

WHEREAS, on August 14, 2024, the Planning Commission provided additional direction; and

WHEREAS, on February 26, 2025, a study session was held with the Planning Commission which provided additional direction; and

WHEREAS, the Planning Commission, in compliance with the noticing requirements of FMC Section 15.76.050, has held a duly noticed public hearing for LRP-2024-0007 on April 9, 2025; and

WHEREAS, in accordance with the California Environmental Quality Act (CEQA) Guidelines the recommended action is exempt from further review pursuant to Section 15061(b)(3) as the action is covered by the common sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment and the changes in regulations relating to tobacco products.

RESOLUTION

THEREFORE, the Planning Commission of the City of Fullerton does hereby recommend APPROVAL of said amendments to Title 15 of the Fullerton Municipal Code as follows:

SECTION 1. SECTION 15.04.040. Definitions, is amended to add the following definitions:

CHARACTERIZING FLAVOR means a taste, odor or aroma, distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product, other than the taste or odor of tobacco, including, but are not limited to, tastes, odors or aromas relating to any fruit, vanilla, chocolate, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, spice, or a cooling sensation distinguishable by an ordinary consumer during the consumption of a tobacco product.

CIGARETTE means a product that is a tobacco product and includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

CONSTITUENT means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacture to a tobacco product during the processing, manufacture, or packing of the tobacco product.

ELECTRONIC SMOKING DEVICE means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances in aerosolized or vaporized form to a person, including, but not limited to, any other device manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vapes, vaporizers, vape pens, or any other product name or descriptor that can be used to deliver nicotine in aerosolized or vaporized form to a person, including any component, part, or accessory of the device that is intended or reasonably expected to be used during its operation, whether or not sold separately.

ELECTRONIC SMOKING DEVICE PARAPHERNALIA means any item designed, marketed, or reasonably expected to be used for the consumption, use, or preparation of an electronic cigarette, which includes, but is not limited to, cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic cigarette batteries, electronic cigarette chargers, and any other item designed for the preparation, storing, charging, or use of electronic cigarettes.

FLAVORED SHISHA TOBACCO PRODUCT means any shisha tobacco product that contains a constituent that imparts a characterizing flavor.

FLAVORED TOBACCO PRODUCT means any tobacco product that contains a constituent that imparts a characterizing flavor.

HOOKAH means a type of waterpipe, used to smoke shisha or other tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses.

HOOKAH TOBACCO RETAILER means a tobacco retailer that is engaged in the retail sale of shisha tobacco products, hookah, and hookah smoking accessories.

LOOSE LEAF 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.

NICOTINE means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived, and includes nicotinic alkaloids and nicotine analogs.

PREMIUM CIGAR means any cigar that is handmade, is not mass produced by 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. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

SELF-SERVICE DISPLAY means the open display or storage of tobacco products, tobacco paraphernalia, electronic cigarettes or electronic cigarette paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of a retailer or employee of a retailer and a direct person-to-person transfer between a retailer or employee of a retailer and any other person. A vending machine is a form of self-service display.

SHISHA TOBACCO PRODUCT means a tobacco product smoked or intended to be smoked in a hookah. Shisha tobacco products include, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. Shisha tobacco products does not include any electronic devices, such as electronic hookah, electronic cigarette or electronic tobacco product.

SMOKE CONSTITUENT means any ingredient, substance, chemical, or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by combustion or heating of tobacco, additives, or other component of the tobacco product.

SMOKELESS TOBACCO means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

TOBACCO SMOKE SHOP means a retail store that devotes more than 15 percent of its total floor area and is dedicated to the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia or devotes more than a two-foot by four-foot (two feet in depth maximum) section of shelf space for the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia provided, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “tobacco smoke shop”.

TOBACCO PARAPHERNALIA means any item designed or marketed for the consumption, use or preparation of tobacco products. Includes but is not limited to cigarette papers or wrappers, pipes, whether made of glass, wood or other materials, waterpipes, hookahs, holders of smoking materials of all type, cigarette rolling machines, and any other thing or item designed for the smoking or ingestion of tobacco, or the smoking of any tobacco product.

TOBACCO PRODUCT means a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and any electronic smoking device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, an electronic cigarette, cigar, pipe or hookah; and any component, part, or accessory of a tobacco product, whether or not sold separately. Notwithstanding the forgoing, tobacco product does not include a nicotine replacement product approved by the United States Food and Drug Administration. Cannabis or a cannabis product that includes an ingredient substance, chemical, or compound that contains or is made or derived from tobacco or nicotine is a “tobacco product”.

TOBACCO PRODUCT FLAVOR ENHANCER means a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.

SECTION 2. SECTION 15.30.030.1 Permitted uses in the O-P Zoning District; Subsection B will be amended in its entirety to read as follows:

15.30.030.1 Permitted uses in the O-P Zoning District.

B. The following uses are permitted in the O-P zoning district subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:

1. Car rental agency
2. Childcare center
3. Fitness facility
4. Health facility (24-hour care)
5. Heliport
6. Human service agency
7. Large group home subject to FMC 15.55.030.G
8. Mortuary
9. Parking lot (exclusive use) or Parking structure
10. Pharmacy
11. Religious institution subject to FMC 15.55.030.D
12. Residential care facility for the elderly subject to FMC 15.55.030.G
13. Restaurant, with or without on-site alcohol sales or Entertainment
14. Retirement Complex Types III, IV, V and VI subject to FMC 15.55.030.H
15. School, private subject to FMC 15.55.030.D
16. Social service facility subject to FMC 15.55.030.B.
17. Tobacco smoke shop subject to FMC Chapter 15.33

SECTION 3. SECTION 15.30.030.2 Permitted uses in the G-C Zoning District; Subsection A will be amended in its entirety to read as follows:

15.30.030.2 Permitted uses in the G-C Zoning District.

A. The following uses are permitted in the G-C zoning district:

1. Retail and service uses (subject to further conditions for those listed below)
2. Automotive wholesaler or broker with no car display
3. Club or lodge, without living quarters
4. Communication facility, non-commercial subject to FMC 15.55.020.C
5. Copy shop, retail
6. Financial institution
7. Fitness facility, small
8. Furniture upholstery shop
9. Home improvement center; hardware store
10. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
11. Nursery
12. Office, general
13. Office, medical
14. Personal service facilities (includes barbershops, beauty shops, etc.)
15. Pharmacy
16. Poolroom subject to FMC 3.54
17. Public amusement room subject to FMC 3.54
18. Recycling facility: Reverse vending subject to FMC 15.30.090.A
19. Restaurant, without on-site alcohol sales or entertainment
20. Satellite dish antennae subject to 15.55.020.C
21. Special event subject to FMC 15.58
22. Studio
23. Tattoo parlor subject to FMC 15.55.020.E
24. Temporary commercial use subject to FMC 15.55.020.D
25. Theater, live and movie, excluding drive-in theaters and adult uses.

26. Tobacco smoke shop subject to FMC Chapter 15.33

27. Tutoring center

SECTION 4. SECTION 15.30.030.3 Permitted uses in the C-3 Zoning District, Subsection A will be amended in its entirety to read as follows:

15.30.030.3 Permitted uses in the C-3 Zoning District.

A. The following uses are permitted in the C-3 zoning district:

1. Retail and service uses (subject to further conditions for those listed below)
2. Automotive wholesaler or broker with no car display
3. Car rental agency with less than 10 vehicles
4. Club or lodge without living quarters
5. Communication facility, noncommercial subject to FMC 15.55.020.C
6. Copy shop, retail
7. Dwelling units, as part of a mixed-use development subject to FMC 15.30.040.E
8. Financial institution
9. Fitness facility, small
10. Furniture upholstery shop
11. Home improvement center, hardware store
12. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
13. Massage establishment subject to FMC 3.24
14. Office, general
15. Office, medical
16. Personal service facilities (includes barbershops, beauty shops, etc.)
17. Pharmacy
18. Poolroom subject to FMC 3.54
19. Public amusement room subject to FMC 3.54
20. Public parking area

21. Recycling facility: Reverse vending subject to FMC 15.30.090.A
22. Restaurant, without on-site alcohol sales or entertainment
23. Satellite dish antennae subject to FMC 15.55.020.C
24. Special event subject to FMC 15.55.020.D
25. Studio
26. Tattoo parlor subject to FMC 15.55.020.E
27. Temporary commercial use subject to FMC 15.55.020.D
28. Theater, live and movie, excluding drive-in theaters and adult uses
29. Tobacco smoke shop not within the Restaurant Overlay District subject to FMC Chapter 15.33
30. Tutoring center

SECTION 5. SECTION 15.30.030.3 Permitted uses in the C-3 Zoning District, Subsection B will be amended in its entirety to read as follows:

15.30.030.3 Permitted uses in the C-3 Zoning District.

- B. The following uses are permitted subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:
 1. Agriculture
 2. Animal hospital
 3. Automobile service station subject to FMC 15.30.040.D
 4. Automotive parts, including installation
 5. Automotive (including automobile "single or multiple car display" dealer, boat, motorcycle, trailer and equipment) sales subject to FMC 5.30.040.F
 6. Bar including Tavern and Cocktail Lounge subject to FMC 15.31
 7. Bed and breakfast inn subject to FMC 15.55.030.A
 8. Car rental agency with more than 10 vehicles
 9. Fitness facility
 10. Fortuneteller
 11. Hotel subject to FMC 15.55.030.F

12. Karaoke bar or Nightclub subject to FMC 15.31
13. Mortuary
14. Motel subject to FMC 15.55.030.F
15. Parking lot (exclusive use) or Parking structure
16. Pawnshop
17. Reception hall, banquet facility, dance hall or related use subject to FMC 15.31
18. Recreation, commercial
19. Religious institution subject to FMC 15.55.030.D
20. Residential care facility for the elderly subject to FMC 15.55.030.G
21. Restaurant with Entertainment and on-site alcohol sales subject to FMC 15.31
22. School, private subject to FMC 15.55.030.D
23. Single room occupancy (SRO) residential hotel subject to FMC 15.30.080
24. Social service facility subject to FMC 15.55.030.D
25. Tobacco smoke shop within the Restaurant Overlay District subject to FMC Chapter 15.33

SECTION 6. SECTION 15.30.030.4 Permitted uses in the C-M Zoning District; Subsection A will be amended in its entirety to read as follows:

15.30.030.4 Permitted uses in the C-M Zoning District.

- A. The following uses are permitted in the C-M zoning district:
 1. Automotive parts, including installation
 2. Automotive wholesaler or broker with no car display
 3. Car rental agency with 10 or less vehicles
 4. Communication facility, non-commercial subject to FMC 15.55.020.C
 5. Copy shop, retail
 6. Copy shop, industrial
 7. Emergency shelter for homeless subject to FMC 15.42
 8. Furniture refinishing shop

9. Furniture upholstery shop
10. Fitness facility, small
11. Home improvement center; hardware store
12. Interior designer office including showroom and sales
13. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H
14. Manufacturing, processing, assembling of materials and products along with offices and storage incidental thereto as well as sales and repairs of products manufactured and materials directly related thereto
15. Massage establishment subject to FMC 3.24
16. Micro-brewery, with tasting room(s), or tap room(s) not to exceed a total of 1,000 square feet of indoor area subject to the approval of an Administrative Restaurant Use Permit
17. Multi-service center for homeless subject to FMC 15.42
18. Personal service facilities (includes barbershops, beauty shops, etc.)
19. (Reserved)
20. Poolroom subject to FMC 3.54
21. Public amusement room subject to FMC 3.54
22. Recording studio
23. Recycling facility: Reverse vending subject to FMC 15.30.090.A
24. Restaurant, with on-site alcohol sales subject to FMC 15.31 and FMC 15.71
25. Satellite dish antennae subject to FMC 15.55.020.C
26. Special event subject to FMC 15.58
27. Studio
28. Tattoo parlor subject to FMC 15.55.020.E
29. Temporary commercial use subject to FMC 15.55.020.D
30. Tobacco smoke shop subject to FMC Chapter 15.33
31. Tutoring center

SECTION 7. SECTION 15.40.020 Permitted uses, table 15.40.020.A will be amended to include:

Table 15.40.020.A Permitted uses		
Classified Uses	NAICS**	M-P or M-G Zone
Tobacco smoke shop - subject to Chapter 15.33	459991	CUP
Notes: * If proposed within 1,000 feet of property with a residential zone classification and the gross floor area exceeds 10,000 square feet, the use is subject to the approval of a Conditional Use Permit. ** Where three-digit and four-digit codes are listed, all NAICS uses beginning with the same digits shall be included, unless specifically excluded. NP: denotes that the use is not permitted. CUP denotes that the use is permitted with the approval of a Conditional Use Permit in accordance with Chapter 15.70 of this title.		

SECTION 8. CHAPTER 15.33 Regulations for Tobacco Smoke Shops shall be added to read as follows:

Chapter 15.33

REGULATIONS FOR TOBACCO SMOKE SHOPS

Sections:

- 15.33.010. Intent and purpose.
- 15.33.020. Applicability.
- 15.33.030. Separation requirements.
- 15.33.040. Applicable provisions and prohibitions.
- 15.33.050. Business license required.
- 15.33.060. Compliance monitoring.

15.33.010. Intent and purpose.

The regulation of tobacco smoke shops and tobacco retailers is necessary for the responsible sale of tobacco products and to discourage violations of tobacco related laws, including those which prohibit the sale and distribution of flavored tobacco products.

15.33.020. Applicability.

The provisions of this chapter shall apply to all tobacco retailers. The provisions of Section 15.33.030 and the requirement for a conditional use permit shall be applicable to all tobacco

smoke shops that are proposed to be established after the effective date of this chapter. These provisions shall not apply to any tobacco smoke shop legally existing on February 1, 2025.

15.33.030. Separation requirements.

- A. A tobacco smoke shop shall not be located within 500 feet, measured property line to property line from a public or private K-12 grade school, public park, child-care center or tutoring center.
- B. A tobacco smoke shop shall not be located within 250 feet, measured property line to property line from another tobacco smoke shop.

15.33.040. Applicable provisions and prohibitions.

- A. Retail sales to persons younger than the minimum age under state law prohibited. No person engaged in tobacco retailing shall sell, give, or furnish, or cause to be sold, given or furnished, a tobacco product or tobacco paraphernalia to a person who is under 21 years of age, to purchase and possess tobacco products or tobacco paraphernalia.
- B. Positive identification required. No person engaged in tobacco retailing shall sell, give or furnish a tobacco product or tobacco paraphernalia to a person who appears to be under the age of thirty (30) years without first examining a valid, legal photo identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco products or tobacco paraphernalia. The tobacco retailer shall refuse sale of any tobacco products or tobacco paraphernalia to any persons who appears to be under the age of thirty (30) years of age, who fails to present valid, legal photo identification prior to the sale or transfer.
- C. Self-service displays prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times.
- D. Sale of flavored tobacco products prohibited. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell, offer for sale, display for sale or possess with intent to sell or offer for sale, any flavored tobacco product or tobacco product flavor enhancer including menthol cigarettes, chewing tobacco, snuff, little cigars and e-cigarettes/vapes. There is a rebuttable presumption that a tobacco 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 characterizing flavor.

1. Section 15.33.040.D does not apply to the following:

- a. Retail sale of flavored shisha tobacco products by a permitted hookah tobacco retailer that does not permit any person under 21 years of age to be present or enter the premises at any time.
- b. Retail sale of premium cigars or looseleaf tobacco.

15.33.050. Business license required.

All tobacco retailers must obtain a valid city business license as required by Title 4 of this code which shall only be granted to a fixed location that meets all applicable zoning requirements.

15.33.060. Compliance monitoring.

The community development department may inspect the premises of tobacco retailers for compliance with this chapter and may make periodic inspections of the location during normal business hours to assure compliance with this chapter and other applicable state and federal laws relating to tobacco retailers or tobacco products. If any violations of this chapter are found, the department shall notify the licensee of the violation in writing and may take such other or additional action as permitted by this code or by law based on the nature and severity of the violation to remedy, correct, and cure it.

SECTION 9. The Planning Commission does hereby recommend that the City Council find the changes to Title 15 to be exempt from CEQA under the common sense exemption of CEQA Guidelines 15061(b)(3).

ADOPTED BY THE FULLERTON PLANNING COMMISSION ON APRIL 9, 2025.

Arnel Dino, Chairman

Attachment No. 2

Summary of Proposed Amendments

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

15.04.040. Definitions.

CHARACTERIZING FLAVOR means a taste, odor or aroma, distinguishable by an ordinary consumer either prior to or during the consumption of a tobacco product, other than the taste or odor of tobacco, including, but are not limited to, tastes, odors or aromas relating to any fruit, vanilla, chocolate, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, spice, or a cooling sensation distinguishable by an ordinary consumer during the consumption of a tobacco product.

CIGARETTE means a product that is a tobacco product and includes tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filter, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette or as roll-your-own tobacco.

CONSTITUENT means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacture to a tobacco product during the processing, manufacture, or packing of the tobacco product.

ELECTRONIC SMOKING DEVICE means an electronic and/or battery-operated device, the use of which may resemble smoking, which can be used to deliver an inhaled dose of nicotine or other substances in aerosolized or vaporized form to a person, including, but not limited to, any other device manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vapes, vaporizers, vape pens, or any other product name or descriptor that can be used to deliver nicotine in aerosolized or vaporized form to a person, including any component, part, or accessory of the device that is intended or reasonably expected to be used during its operation, whether or not sold separately.

ELECTRONIC SMOKING DEVICE PARAPHERNALIA means any item designed, marketed, or reasonably expected to be used for the consumption, use, or preparation of an electronic cigarette, which includes, but is not limited to, cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic cigarette batteries, electronic cigarette chargers, and any other item designed for the preparation, storing, charging, or use of electronic cigarettes.

FLAVORED SHISHA TOBACCO PRODUCT means any shisha tobacco product that contains a constituent that imparts a characterizing flavor.

FLAVORED TOBACCO PRODUCT means any tobacco product that contains a constituent that imparts a characterizing flavor.

HOKAH means a type of waterpipe, used to smoke shisha or other tobacco products, with a long flexible tube for drawing aerosol through water. Components of a hookah may include heads, stems, bowls, and hoses.

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HOOKAH TOBACCO RETAILER means a tobacco retailer that is engaged in the retail sale of shisha tobacco products, hookah, and hookah smoking accessories.

LOOSE LEAF 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.

NICOTINE means any form of the chemical nicotine, including any salt or complex, regardless of whether the chemical is naturally or synthetically derived, and includes nicotinic alkaloids and nicotine analogs.

PREMIUM CIGAR means any cigar that is handmade, is not mass produced by 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. A premium cigar does not have a filter, tip, or nontobacco mouthpiece and is capped by hand.

SELF-SERVICE DISPLAY means the open display or storage of tobacco products, tobacco paraphernalia, electronic cigarettes or electronic cigarette paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of a retailer or employee of a retailer and a direct person-to-person transfer between a retailer or employee of a retailer and any other person. A vending machine is a form of self-service display.

SHISHA TOBACCO PRODUCT means a tobacco product smoked or intended to be smoked in a hookah. Shisha tobacco product includes, and may be referred to as, hookah tobacco, waterpipe tobacco, maassel, narghile, and argileh. Shisha tobacco product does not include any electronic devices, such as electronic hookah, electronic cigarette or electronic tobacco product.

SMOKE CONSTITUENT means any ingredient, substance, chemical, or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the cigarette to the smoke or that is formed by combustion or heating of tobacco, additives, or other component of the tobacco product.

SMOKELESS TOBACCO means any tobacco product that consists of cut, ground, powdered, or leaf tobacco and that is intended to be placed in the oral or nasal cavity.

TOBACCO SMOKE SHOP means a retail store that devotes more than 15 percent of its total floor area and is dedicated to the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia or devotes more than a two-foot by four-foot (two feet in depth maximum) section of shelf space for the display, sale, distribution, offering, furnishing, or marketing of tobacco, tobacco

Original text in *italics*, new text in blue, and , deleted text in ~~red strike through~~.

products, electronic cigarettes, electronic cigarette paraphernalia or tobacco paraphernalia provided, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “tobacco smoke shop”.

TOBACCO PARAPHERNALIA means any item designed or marketed for the consumption, use or preparation of tobacco products. Includes but is not limited to cigarette papers or wrappers, pipes, whether made of glass, wood or other materials, waterpipes, hookahs, holders of smoking materials of all type, cigarette rolling machines, and any other thing or item designed for the smoking or ingestion of tobacco, or the smoking of any tobacco product.

TOBACCO PRODUCT means a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and any electronic smoking device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, an electronic cigarette, cigar, pipe or hookah; and any component, part, or accessory of a tobacco product, whether or not sold separately. Notwithstanding the forgoing, tobacco product does not include a nicotine replacement product approved by the United States Food and Drug Administration. Cannabis or a cannabis product that includes an ingredient substance, chemical, or compound that contains or is made or derived from tobacco or nicotine is a “tobacco product”.

TOBACCO PRODUCT FLAVOR ENHANCER means a product designed, manufactured, produced, marketed, or sold to produce a characterizing flavor when added to a tobacco product.

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.1 Permitted uses in the O-P Zoning District.

B. *The following uses are permitted in the O-P zoning district subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:*

1. *Car rental agency*
2. *Childcare center*
3. *Fitness facility*
4. *Health facility (24-hour care)*
5. *Heliport*
6. *Human service agency*
7. *Large group home subject to FMC 15.55.030.G*
8. *Mortuary*
9. *Parking lot (exclusive use) or Parking structure*
10. *Pharmacy*
11. *Religious institution subject to FMC 15.55.030.D*
12. *Residential care facility for the elderly subject to FMC 15.55.030.G*
13. *Restaurant, with or without on-site alcohol sales or Entertainment*
14. *Retirement Complex Types III, IV, V and VI subject to FMC 15.55.030.H*
15. *School, private subject to FMC 15.55.030.D*
16. *Social service facility subject to FMC 15.55.030.B.*
17. **Tobacco smoke shop subject to FMC Chapter 15.33**

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.2 Permitted uses in the G-C Zoning District.

A. The following uses are permitted in the G-C zoning district:

- 1. Retail and service uses (subject to further conditions for those listed below)*
- 2. Automotive wholesaler or broker with no car display*
- 3. Club or lodge, without living quarters*
- 4. Communication facility, non-commercial subject to FMC 15.55.020.C*
- 5. Copy shop, retail*
- 6. Financial institution*
- 7. Fitness facility, small*
- 8. Furniture upholstery shop*
- 9. Home improvement center; hardware store*
- 10. Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
- 11. Nursery*
- 12. Office, general*
- 13. Office, medical*
- 14. Personal service facilities (includes barbershops, beauty shops, etc.)*
- 15. Pharmacy*
- 16. Poolroom subject to FMC 3.54*
- 17. Public amusement room subject to FMC 3.54*
- 18. Recycling facility: Reverse vending subject to FMC 15.30.090.A*
- 19. Restaurant, without on-site alcohol sales or entertainment*
- 20. Satellite dish antennae subject to 15.55.020.C*
- 21. Special event subject to FMC 15.58*

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in red strike through.

22. *Studio*

23. *Tattoo parlor subject to FMC 15.55.020.E*

24. *Temporary commercial use subject to FMC 15.55.020.D*

25. *Theater, live and movie, excluding drive-in theaters and adult uses.*

~~26. *Tutoring center*~~

26. Tobacco smoke shop subject to FMC Chapter 15.33

27. Tutoring center.

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.3 Permitted uses in the C-3 Zoning District.

- A. *The following uses are permitted in the C-3 zoning district:*
1. *Retail and service uses (subject to further conditions for those listed below)*
 2. *Automotive wholesaler or broker with no car display*
 3. *Car rental agency with less than 10 vehicles*
 4. *Club or lodge without living quarters*
 5. *Communication facility, noncommercial subject to FMC 15.55.020.C*
 6. *Copy shop, retail*
 7. *Dwelling units, as part of a mixed-use development subject to FMC 15.30.040.E*
 8. *Financial institution*
 9. *Fitness facility, small*
 10. *Furniture upholstery shop*
 11. *Home improvement center, hardware store*
 12. *Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
 13. *Massage establishment subject to FMC 3.24*
 14. *Office, general*
 15. *Office, medical*
 16. *Personal service facilities (includes barbershops, beauty shops, etc.)*
 17. *Pharmacy*
 18. *Poolroom subject to FMC 3.54*
 19. *Public amusement room subject to FMC 3.54*
 20. *Public parking area*
 21. *Recycling facility: Reverse vending subject to FMC 15.30.090.A*

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

22. *Restaurant, without on-site alcohol sales or entertainment*

23. *Satellite dish antennae subject to FMC 15.55.020.C*

24. *Special event subject to FMC 15.55.020.D*

25. *Studio*

26. *Tattoo parlor subject to FMC 15.55.020.E*

27. *Temporary commercial use subject to FMC 15.55.020.D*

28. *Theater, live and movie, excluding drive-in theaters and adult uses*

~~29. *Tutoring center*~~

29. Tobacco smoke shop not within ROD subject to FMC Chapter 15.33

30. Tutoring center

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.30.030.3 Permitted uses in the C-3 Zoning District.

B. The following uses are permitted subject to the approval of a conditional use permit (CUP) pursuant to FMC 15.70:

- 1. Agriculture*
- 2. Animal hospital*
- 3. Automobile service station subject to FMC 15.30.040.D*
- 4. Automotive parts, including installation*
- 5. Automotive (including automobile "single or multiple car display" dealer, boat, motorcycle, trailer and equipment) sales subject to FMC 5.30.040.F*
- 6. Bar including Tavern and Cocktail Lounge subject to FMC 15.31*
- 7. Bed and breakfast inn subject to FMC 15.55.030.A*
- 8. Car rental agency with more than 10 vehicles*
- 9. Fitness facility*
- 10. Fortuneteller*
- 11. Hotel subject to FMC 15.55.030.F*
- 12. Karaoke bar or Nightclub subject to FMC 15.31*
- 13. Mortuary*
- 14. Motel subject to FMC 15.55.030.F*
- 15. Parking lot (exclusive use) or Parking structure*
- 16. Pawnshop*
- 17. Reception hall, banquet facility, dance hall or related use subject to FMC 15.31*
- 18. Recreation, commercial*
- 19. Religious institution subject to FMC 15.55.030.D*
- 20. Residential care facility for the elderly subject to FMC 15.55.030.G*

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

21. *Restaurant with Entertainment and on-site alcohol sales subject to FMC 15.31*

22. *School, private subject to FMC 15.55.030.D*

23. *Single room occupancy (SRO) residential hotel subject to FMC 15.30.080*

24. *Social service facility subject to FMC 15.55.030.D*

25. Tobacco smoke shop within ROD subject to FMC Chapter 15.33

Original text in *italics*, new text in **blue**, **bold** and underlined, deleted text in ~~red strike through~~.

15.30.030.4 Permitted uses in the C-M Zoning District.

- A. *The following uses are permitted in the C-M zoning district:*
1. *Automotive parts, including installation*
 2. *Automotive wholesaler or broker with no car display*
 3. *Car rental agency with 10 or less vehicles*
 4. *Communication facility, non-commercial subject to FMC 15.55.020.C*
 5. *Copy shop, retail*
 6. *Copy shop, industrial*
 7. *Emergency shelter for homeless subject to FMC 15.42*
 8. *Furniture refinishing shop*
 9. *Furniture upholstery shop*
 10. *Fitness facility, small*
 11. *Home improvement center; hardware store*
 12. *Interior designer office including showroom and sales*
 13. *Internet or cybercafé, including computer lounge or internet arcade subject to FMC 15.30.040.H*
 14. *Manufacturing, processing, assembling of materials and products along with offices and storage incidental thereto as well as sales and repairs of products manufactured and materials directly related thereto*
 15. *Massage establishment subject to FMC 3.24*
 16. *Micro-brewery, with tasting room(s), or tap room(s) not to exceed a total of 1,000 square feet of indoor area subject to the approval of an Administrative Restaurant Use Permit*
 17. *Multi-service center for homeless subject to FMC 15.42*
 18. *Personal service facilities (includes barbershops, beauty shops, etc.)*
 19. *(Reserved)*
 20. *Poolroom subject to FMC 3.54*
 21. *Public amusement room subject to FMC 3.54*
 22. *Recording studio*

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

23. *Recycling facility: Reverse vending subject to FMC 15.30.090.A*
24. *Restaurant, with on-site alcohol sales subject to FMC 15.31 and FMC 15.71*
25. *Satellite dish antennae subject to FMC 15.55.020.C*
26. *Special event subject to FMC 15.58*
27. *Studio*
28. *Tattoo parlor subject to FMC 15.55.020.E*
29. *Temporary commercial use subject to FMC 15.55.020.D*
- ~~30. *Tutoring center*~~
- 30. Tobacco smoke shop subject to FMC Chapter 15.33**
- 31. Tutoring center**

Original text in *italics*, new text in **blue**, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.40.020 Permitted uses.

Table 15.40.020.A Permitted uses		
<i>Classified Uses</i>	NAICS**	<i>M-P or M-G Zone</i>
<u>Tobacco smoke shop - subject to Chapter 15.33</u>	<u>459991</u>	<u>CUP</u>
<p>Notes:</p> <p>* <i>If proposed within 1,000 feet of property with a residential zone classification and the gross floor area exceeds 10,000 square feet, the use is subject to the approval of a Conditional Use Permit.</i></p> <p>** <i>Where three-digit and four-digit codes are listed, all NAICS uses beginning with the same digits shall be included, unless specifically excluded.</i></p> <p><i>NP: denotes that the use is not permitted.</i></p> <p><u>CUP denotes that the use is permitted with the approval of a Conditional Use Permit in accordance with Chapter 15.70 of this title.</u></p>		

Original text in *italics*, new text in blue, and , deleted text in ~~red strike through~~.

Chapter 15.33

REGULATIONS FOR TOBACCO SMOKE SHOPS

Sections:

15.33.010. Intent and purpose.

15.33.020. Applicability.

15.33.030. Separation requirements.

15.33.040. Applicable provisions and prohibitions.

15.33.050. Business license required.

15.33.060. Compliance monitoring.

15.33.010. Intent and purpose.

The regulation of tobacco smoke shops and tobacco retailers is necessary for the responsible sale of tobacco products and to discourage violations of tobacco related laws, including those which prohibit the sale and distribution of flavored tobacco products.

15.33.020. Applicability.

The provisions of this chapter shall apply to all tobacco retailers. The provisions of Section 15.33.030 and the requirement for a conditional use permit shall be applicable to all tobacco smoke shops that are proposed to be established after the effective date of this chapter. These provisions shall not apply to any tobacco smoke shop legally existing on February 1, 2025.

15.33.030. Separation requirements.

A. A tobacco smoke shop shall not be located within 500 feet, measured property line to property line from a public or private K-12 grade school, public park, child-care center or tutoring center.

B. A tobacco smoke shop shall not be located within 250 feet, measured property line to property line from another tobacco smoke shop.

15.33.040. Applicable provisions and prohibitions.

Original text in *italics*, new text in blue, **bold** and underlined, deleted text in ~~red strike through~~.

- A. Retail sales to persons younger than the minimum age under state law prohibited. No person engaged in tobacco retailing shall sell, give, or furnish, or cause to be sold, given or furnished, a tobacco product or tobacco paraphernalia to a person who is under 21 years of age, to purchase and possess tobacco products or tobacco paraphernalia.
- B. Positive identification required. No person engaged in tobacco retailing shall sell, give or furnish a tobacco product or tobacco paraphernalia to a person who appears to be under the age of thirty (30) years without first examining a valid, legal photo identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco products or tobacco paraphernalia. The tobacco retailer shall refuse sale of any tobacco products or tobacco paraphernalia to any persons who appears to be under the age of thirty (30) years of age, who fails to present valid, legal photo identification prior to the sale or transfer.
- C. Self-service displays prohibited. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display. A tobacco retailer who chooses to display tobacco products or tobacco paraphernalia in a locked cabinet, case or similar structure must post a clear and conspicuous sign on or within five feet of the display stating that the cabinet, case or structure is locked at all times.
- D. Sale of flavored tobacco products prohibited. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell, offer for sale, display for sale or possess with intent to sell or offer for sale, any flavored tobacco product or tobacco product flavor enhancer including menthol cigarettes, chewing tobacco, snuff, little cigars and e-cigarettes/vapes. There is a rebuttable presumption that a tobacco 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 characterizing flavor.
 - 1. Section 15.33.040.D does not apply to the following:
 - a. Retail sale of flavored shisha tobacco products by a permitted hookah tobacco retailer that does not permit any person under 21 years of age to be present or enter the premises at any time.
 - b. Retail sale of premium cigars or looseleaf tobacco.

Original text in *italics*, new text in blue, **bold** and **underlined**, deleted text in ~~red strike through~~.

15.33.050. Business license required.

All tobacco retailers must obtain a valid city business license as required by Title 4 of this code which shall only be granted to a fixed location that meets all applicable zoning requirements.

15.33.060. Compliance monitoring.

The community development department may inspect the premises of tobacco retailers for compliance with this chapter and may make periodic inspections of the location during normal business hours to assure compliance with this chapter and other applicable state and federal laws relating to tobacco retailers or tobacco products. If any violations of this chapter are found, the department shall notify the licensee of the violation in writing and may take such other or additional action as permitted by this code or by law based on the nature and severity of the violation to remedy, correct, and cure it.

Attachment No. 3

Revised Map Exhibits

Title 5. Business Licenses and Regulations

Chapter 5.67. TOBACCO RETAILER REGISTRATION

§ 5.67.010. Title.

This chapter shall be known as the "tobacco retailer registration ordinance" of the city of Stanton. (Ord. 1095 § 4, 2019)

§ 5.67.020. Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"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 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 the violations of this chapter is not an arm's length transaction.

"Characterizing flavor" means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during consumption of, a tobacco product, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb or spice. A tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or flavorings or the provision of ingredient information. Rather, it is the presence of a distinguishable taste or aroma, or both, as described in the first sentence of this definition, that constitutes characterizing flavor.

"Department" means the public safety services department, and any other agency or person tasked by the city manager with administration and enforcement of this chapter.

"Director" and "public safety director" mean the public safety director of the city and any other person tasked by the city manager with enforcement of this chapter.

"Electronic cigarette paraphernalia" means cartridges, cartomizers, e-liquid, smoke juice, tips, atomizers, electronic cigarette batteries, electronic cigarette chargers, and any other item designed for the preparation, storing, charging, or use of electronic cigarettes.

"Electronic smoking device" means an electronic and/or battery-operated device that can be used to deliver an inhaled dose of nicotine, or any other substance, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

"Flavored tobacco product" means any tobacco product that imparts a characterizing flavor. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a tobacco retailer, manufacturer, or any employee or agent of a tobacco retailer or manufacturer has: (i) made a public statement or claim that the tobacco product imparts a characterizing flavor; (ii) used text and/or images on the tobacco product's labeling or packaging to explicitly or implicitly indicate that the tobacco product imparts a characterizing flavor; or (iii) taken action directed to consumers that would be reasonably expected to cause consumers to believe the tobacco product imparts a characterizing flavor.

"Pharmacy" has the same meaning as **Business and Professions Code** Section 4037 and is any retail establishment in which the profession of pharmacy is practiced by a pharmacist licensed by the state of California in accordance with the **Business and Professions Code** Section 4036, and is where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

"Proprietor" means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10% or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or shares ultimate control over the day-to-day operations of a business.

"School" means any public, private, or charter school providing instruction in pre-school, transitional kindergarten, kindergarten, or grades 1 through 12, inclusive, but does not include any private school in which education is primarily conducted in private homes.

"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 retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

"Smoking" means the release of gases, particles, or vapors into the air as the result of combustion electrical ignition, or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product, including, but not limited to, tobacco and marijuana, intended for human inhalation.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

"Tobacco product" means any product or substance containing, made of, or derived from tobacco or nicotine that is intended for human consumption whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. "Tobacco product" includes any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia, as displayed for sale or exchange, in the retail establishment. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia actually sold or exchanged.
(Ord. 1095 § 4, 2019; Ord. 1153, 11/26/2024)

§ 5.67.030. Requirements and prohibitions.

- A. Tobacco Retailer Registration Required. It is unlawful for any person to act as a tobacco retailer in the city without first obtaining and maintaining a valid tobacco retailer's registration pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer's registration is a public nuisance as a matter of law. All permitting requirements and any other regulatory provisions of this chapter relating to tobacco retailing shall apply the same to the retailing of electronic cigarettes and electronic cigarette paraphernalia.
- B. Lawful Business Operation. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a registration issued, it shall be a violation of this chapter for a registered tobacco retailer, or any of the registered tobacco retailer's agents or employees, to violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, electronic smoking devices, electronic cigarette paraphernalia or tobacco retailing.
- C. Display of Registration. Each tobacco retailer registration shall be prominently displayed in a publicly visible location at the registered location.
- D. Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer a tobacco product, tobacco paraphernalia, electronic smoking device, or electronic cigarette paraphernalia to another person who appears to be under the age of twenty-seven years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product, tobacco paraphernalia, electronic smoking device, or electronic cigarette paraphernalia.
- E. Minimum Age for Persons Selling Tobacco. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.
- F. Self-Service Displays Prohibited. Tobacco retailing by means of a self-service display is prohibited.
- G. False and Misleading Advertising Prohibited. A tobacco retailer or proprietor without a valid tobacco retailer registration, including, for example, a person whose registration has been revoked:
 - 1. Shall keep all tobacco products, tobacco paraphernalia, electronic smoking devices, and electronic cigarette paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a registration under Section **5.67.130**; and
 - 2. Shall not display any advertisement relating to tobacco products, tobacco paraphernalia, electronic smoking devices, or electronic cigarette paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
- H. Flavored Tobacco Products. Flavored Tobacco Products Prohibited. No tobacco retailer, nor any of the retailer's agents or employees, shall sell or offer for sale, or possess with intent to sell or offer for sale, any flavored tobacco product.
- I. Minimum Pack Size for Cigars. Notwithstanding any other provision of this section, it shall be a violation of this chapter for any licensee or any of the licensee's agents or employees to sell, offer for sale, or exchange for any form of consideration:
 - a. Any single cigar, whether or not packaged for individual sale;
 - b. Any number of cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer; or
 - c. Any package of cigars containing fewer than five cigars.
- J. No tobacco retailer shall sell any tobacco product to any consumer unless such product: (1) is sold in the original manufacturer's packaging intended for sale to consumers; and (2) conforms to all applicable federal labeling requirements.

- K. Signage. In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a registration issued, it shall be a violation of this chapter for a registered tobacco retailer, or any of the registered tobacco retailer's agents or employees, to cover more than fifteen percent of the area of each window and clear door of the location with signs of any sort, excluding signage mandated by local, state, or federal law. For the purposes of this subsection, the area covered shall be computed to include: (1) all clear areas within signs; and (2) signs that are not attached to windows or clear doors but are visible from exterior public rights of way in the same manner as if they were attached to windows or clear doors. All signs shall be placed and maintained to ensure law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from exterior public rights of way or from the entrance. However, this subsection shall not apply to premises where there are no windows, or where the design or location of windows or landscaping precludes a view of the interior of the premises from exterior public rights of way or from the entrance.
- L. Requirements Are Conditions of Registration. The operating requirements of this section shall be deemed conditions of any tobacco retailer registration issued pursuant to the provisions of this chapter. Sufficient evidence of failure to comply with any such requirement may be grounds for suspension, revocation, and/or the imposition of administrative fines in accordance with Section **5.67.120** of this chapter. The provisions of this chapter are intended to provide a minimum level of public health, safety and welfare protection at businesses engaging in tobacco retailing. Nothing in this chapter is intended nor shall prevent the city from imposing more stringent, site-specific operating requirements and conditions through other applicable permitting and approval processes, including, without limitation, environmental or land use approvals or permits. In the event of a conflict between an operating regulation set forth in this chapter and a requirement or condition contained in any other applicable permit or approval, the more stringent or restrictive requirement or condition shall apply.

(Ord. 1095 § 4, 2019)

§ 5.67.040. Limits on eligibility and location for a tobacco retailer registration.

- A. No registration may be issued under this chapter to authorize tobacco retailing at other than a fixed location. Tobacco retailing by persons on foot or from vehicles is prohibited.
 - B. No registration may be issued under this chapter to authorize any portion of a building that includes a tobacco retailer within five hundred feet of a building or outdoor play area related to a school or a day care center, as defined in **Health and Safety Code** Section 1596.76, that is in existence at the time of date of the application for a tobacco retailer's registration. For purposes of this section, all distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the tobacco retailer is or will be located to the nearest building or outdoor play area related to a school or day care center.
 - C. No registration may be issued under this chapter to authorize tobacco retailing at a temporary or recurring temporary event, such as farmers' markets, special events, or mobile carts.
 - D. No registration may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the city zoning ordinance.
 - E. Pharmacies. No license may be issued to authorize tobacco retailing in a pharmacy.
- (Ord. 1095 § 4, 2019)

§ 5.67.050. Application procedure.

- A. Application for a tobacco retailer's registration shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each proprietor or an authorized agent thereof.

- B. It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retailer's registration. No person may rely on the issuance of a registration as a determination by the city that the proprietor has complied with all laws applicable to tobacco retailing. A registration issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor may be revoked pursuant to Section **5.67.120(D)** of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's registration any status or right to act as a tobacco retailer in contravention of any provision of law.
- C. All applications shall be submitted on a form supplied by the department and shall contain the following information:
1. The name, address, and telephone number of each applicant seeking a registration;
 2. The business name, address, and telephone number of the single, fixed location for which a registration is sought;
 3. A single name and mailing address authorized by the proprietor to receive all communications and notices (the "authorized address") required by, authorized by or convenient to the enforcement of this chapter. If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in paragraph 2 above;
 4. Proof that the location for which a tobacco retailer's registration is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization;
 5. A map showing that any portion of the building that includes the proposed tobacco retailer is located at least five hundred feet away from any building or outdoor play area related to a school or a day care center, as defined in **Health and Safety Code Section 1596.76**, that is in existence at the time of date of the application. For purposes of this section, all distances shall be measured in a straight line, without regard to intervening structures, from the nearest point of the building or structure in which the tobacco retailer is or will be located to the nearest building or outdoor play area related to a school or day care center;
 6. Whether or not any proprietor has admitted violating, or has been found to have violated, this chapter and, if so, the dates and locations of all such violations within the previous five years;
 7. Whether or not any proprietor has been convicted in a court of competent jurisdiction of any crime or misdemeanor or felony offense which directly relates to the operation or conduct of a tobacco retail business or substantially the same type of business in the five years immediately preceding the date of the application, and whether any proprietor has been convicted in a court of competent jurisdiction of any crime or misdemeanor or felony offense related to the unlawful sale, distribution, possession, or manufacture of a controlled substance within the past five years immediately preceding the date of the application, unless that conviction has been dismissed, withdrawn, expunged, or set aside pursuant to **Penal Code Section 1203.4, 1000 or 1385**;
 8. Whether any proprietor has had revoked any business license, permit or similar approval for a tobacco retail business or a business of the same or substantially same type within the past three years preceding the date of the application;
 9. That the proprietor has read the requirements of this chapter, and if issued a tobacco retailer's registration, will comply with all of the chapter's requirements;
 10. A signed statement that if a tobacco retailer's registration is issued to the applicant, then the applicant agrees to indemnify the city for the issuance of the registration and any acts or omissions related to the registration and business operations; and
 11. Such other information as the department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this section.

- D. A registered tobacco retailer shall inform the department in writing of any change in the information submitted on an application for a tobacco retailer's registration within ten business days of a change.
 - E. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California **Government Code** Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions.
 - F. The city council shall establish by resolution the amount of an application fee for the tobacco retailer's registration in an amount not to exceed the city's reasonable cost of providing the services required by this chapter, in which case no application shall be accepted by the city unless accompanied by payment of such fee.
- (Ord. 1095 § 4, 2019; Ord. 1153, 11/26/2024)

§ 5.67.060. Issuance of registration.

Upon the receipt of a complete application for a tobacco retailer's registration, the department shall issue a registration unless substantial evidence demonstrates that one or more of the following bases for denial exists:

- A. The information presented in the application is inaccurate or false or a material fact has been omitted. Supplying inaccurate or false information or omitting a material fact shall be a violation of this chapter.
- B. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.
- C. The location for which a tobacco retailer's registration is sought lacks a valid state tobacco retailer's license by the California Board of Equalization.
- D. Any portion of the building that includes the proposed tobacco retailer is located less than five hundred feet away from any building or outdoor play area related to a school or a day care center, as defined in **Health and Safety Code** Section 1596.76, that is in existence at the time of date of the application.
- E. Any proprietor has been convicted in a court of competent jurisdiction of any crime or misdemeanor or felony offense which directly relates to the operation or conduct of a tobacco retail business or substantially the same type of business in the five years immediately preceding the date of the application, or any proprietor has been convicted in a court of competent jurisdiction of any crime or misdemeanor or felony offense related to the unlawful sale, distribution, possession, or manufacture of a controlled substance within the past five years immediately preceding the date of the application, unless that conviction has been dismissed, withdrawn, expunged, or set aside pursuant to **Penal Code** Section 1203.4, 1000 or 1385.
- F. Any proprietor has had revoked any business license, permit or similar approval for a tobacco retail business or a business of the same or substantially same type within the past three years preceding the date of the application.

(Ord. 1095 § 4, 2019)

§ 5.67.070. Registration renewal and expiration.

- A. **Renewal of Registration.** A tobacco retailer's registration is invalid if its term has expired. The term of a tobacco retailer registration is one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer's registration no later than thirty days prior to expiration of the term.
- B. Registration renewal applications shall contain all the information required for new applications, and shall be subject to the same approvals required for new applications.

- C. Notwithstanding an approval for a tobacco retailer registration the director may add, delete or modify registration conditions if it is determined to be necessary to ensure compliance with state or local laws and regulations or to preserve the public health, safety or welfare.

(Ord. 1095 § 4, 2019)

§ 5.67.080. Appeals for denial or non-renewal of tobacco retailer registration.

- A. A proprietor may appeal the denial of a tobacco retailer registration or renewal thereof to a hearing officer by filing with the city clerk a notice of appeal within fifteen days from the date the notice of denial was issued. The appeal shall set forth the reasons why the notice of denial should be overturned and shall also be filed with any applicable appeal fee, as adopted via council resolution. Upon receiving the appeal request, a hearing officer shall be selected using the criteria in Chapter **1.12**. The hearing officer shall set a time and place for hearing the appeal and notify each proprietor and the city. At the de novo appeal hearing, the city and each proprietor or agent thereof may each provide testimony and evidence relating to why the appeal should be affirmed or denied. Within seven days of the conclusion of the hearing or any continued hearing, the hearing officer shall render a decision affirming or denying the business license denial, based on whether substantial evidence demonstrates that the grounds set forth in Section **5.67.060** have been met. The proprietor or representative thereof, shall be given written notice of the hearing officer's decision by registered mail, and the notice shall state with specificity the reasons for the hearing officer's decision.

- B. The action of the hearing officer shall be final and appealable to the Superior Court of the state of California pursuant to Code of Civil Procedure Section 1094.5.

(Ord. 1095 § 4, 2019)

§ 5.67.090. Registrations nontransferable.

- A. A tobacco retailer's registration may not be transferred from one person to another or from one location to another. A new tobacco retailer's registration is required to accomplish either change.
- B. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and registration ineligibility periods shall continue to apply to a location unless:
1. The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and
 2. The new proprietor(s) provide the city with clear and convincing evidence that the new proprietor(s) have acquired or is acquiring the location in an arm's length transaction.

(Ord. 1095 § 4, 2019)

§ 5.67.100. Registration conveys a limited, conditional privilege.

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's registration any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the city identified on the face of the registration. For example, nothing in this chapter shall be construed to render inapplicable, supersede or apply in lieu of, any other provision of applicable law, including, but not limited to, any provision of this code, and any condition or limitation on smoking in an enclosed place of employment pursuant to California **Labor Code** Section 6404.5 (e.g., obtaining a tobacco retailer registration does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California **Labor Code** Section 6404.5).

(Ord. 1095 § 4, 2019)

§ 5.67.110. Compliance monitoring.

- A. Compliance with this chapter shall be monitored by the department. In addition, any peace officer may enforce the penal provisions of this chapter. The city may designate any number of additional persons to monitor compliance with this chapter.
- B. Compliance checks shall be conducted at a minimum of two times within every calendar year so as to allow the department to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco, gambling, and cannabis sales or transactions. When the department deems appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.
- C. The city shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "youth decoy") if the potential violation occurs when:
 - 1. The youth decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the city;
 - 2. The youth decoy is acting as an agent of a person designated by the city to monitor compliance with this chapter; or
 - 3. The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the city or the California Department of Health Services.
- D. During business hours, the department or other person designated to enforce the provisions of this chapter shall have the right to enter any place of business for which a registration is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes. Inspections may be conducted at any portion of the business premises, including, without limitation, back rooms, storage areas, drawers, cabinets, and storage containers. Failure to grant full and unobstructed access to any portion of the business shall constitute a violation of this chapter subject to the penalties and other remedies set forth in Sections **5.67.120** and **5.67.140**.

(Ord. 1095 § 4, 2019; Ord. 1153, 11/26/2024)

§ 5.67.120. Revocation of registration.

- A. **Revocation or Suspension of Registration for Violation.** In addition to any other penalty authorized by law, a tobacco retailer's registration shall be revoked or, where circumstances warrant, suspended if any court of competent jurisdiction determines, or the department finds based on a preponderance of the evidence, after the registered tobacco retailer is afforded notice and an opportunity to be heard, that the registered tobacco retailer, or any of the registered tobacco retailer's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or has pleaded guilty, "no contest" or its equivalent, or admitted to, a violation of any law designated in Section **5.67.030**.
- B. **Administrative Penalties.** The remedies provided by these provisions are cumulative and in addition to any other remedies available at law or in equity. Upon a determination by the department that a tobacco retailer has engaged in any conduct that violates the provisions of this chapter, the department may impose the following administrative penalties:
 - 1. Upon a finding by the department of a first registration violation within any thirty-six-month period, the department shall impose a fine of five hundred dollars.
 - 2. Upon a finding by the department of a second violation of this chapter at a location within any sixty-month period, the tobacco retailer registration shall be revoked or suspended up to thirty days.

3. Upon a finding by the department of a third violation of this chapter at a location within any sixty-month period, the tobacco retailer registration shall be revoked or suspended for up to sixty days.
 4. Upon a finding by the department of four or more violations of this chapter at a location within any sixty-month period, the tobacco retailer registration shall be revoked or suspended for up to one hundred eighty days.
- C. Appeal of Revocation or Suspension. A decision of the department to revoke a registration is appealable pursuant to the procedures provided in Section **5.67.080**. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the director is not available for a revocation made pursuant to subsection **D**.
- D. Revocation of Registration Wrongly Issued. A tobacco retailer's registration shall be revoked if the department finds, after the registered tobacco retailer is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a registration under Section **5.67.060** existed at the time application was made or at any time before the registration issued. The decision by the department shall be the final decision of the city not subject to administrative appeal.
- E. If a proprietor has had a tobacco retailer registration revoked, such proprietor shall be prohibited from applying for a new tobacco retailer registration within the city for two years following the revocation.

(Ord. 1095 § 4, 2019)

§ 5.67.130. Tobacco retailing without a registration.

- A. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the department finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's registration, either directly or through the person's agents or employees, the person shall be ineligible to apply for, or to be issued, a tobacco retailing registration as follows:
1. After a first violation of this section at a location within any sixty-month period, no new registration may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until thirty days have passed from the date of the violation.
 2. After a second violation of this section at a location within any sixty-month period, no new registration may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until ninety days have passed from the date of the violation.
 3. After of a third or subsequent violation of this section at a location within any sixty-month period, no new registration may be issued for the person or the location (unless ownership of the business at the location has been transferred in an arm's length transaction) until five years have passed from the date of the violation.
- B. Tobacco products, tobacco paraphernalia, electronic smoking devices, or electronic cigarette paraphernalia offered for sale or exchange in violation of this section are subject to seizure by the department or any peace officer and shall be forfeited after the tobacco retailer and any other owner of the tobacco products, tobacco paraphernalia, electronic smoking devices, or electronic cigarette paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the tobacco products, tobacco paraphernalia, electronic smoking devices, or electronic cigarette paraphernalia were not offered for sale or exchange in violation of this chapter. The decision by the department may be appealed pursuant to the procedures set forth in Section **5.67.080**. Forfeited tobacco products and tobacco paraphernalia shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California **Code of Civil**

Procedure Section 1094.6 or other applicable law has expired without the filing of a lawsuit or, if such a suit is filed, after judgment in that suit becomes final.

- C. For the purposes of the civil remedies provided in this chapter:
1. Each day on which a tobacco product, tobacco paraphernalia, electronic smoking device, or electronic cigarette paraphernalia is offered for sale in violation of this chapter; or
 2. Each individual retail tobacco product, tobacco paraphernalia, electronic smoking device, or electronic cigarette paraphernalia that is distributed, sold, or offered for sale in violation of this chapter; shall constitute a separate violation of this chapter.

(Ord. 1095 § 4, 2019)

§ 5.67.140. Enforcement.

- A. The remedies provided by this chapter are cumulative and in addition to any other remedies available by this code or otherwise at law or in equity.
- B. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.
- C. Violations of this chapter are subject to a civil action brought by the district attorney or the city attorney, punishable by a civil fine of one thousand dollars per violation.
- D. Violations of this chapter may, in the discretion of the city attorney, be prosecuted as infractions or misdemeanors when the interests of justice so require.
- E. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- F. Violations of this chapter are hereby declared to be public nuisances.
- G. Violations of this chapter shall be grounds for denial for renewal of registration as set forth in Section **5.67.070**.
- H. In addition to other remedies provided by this chapter, by another provision of this code, or by other law, any violation of this chapter may be remedied by a civil action brought by the city attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

(Ord. 1095 § 4, 2019)

§ 5.67.150. Implementing rules and regulations.

The city manager is hereby authorized to make and promulgate any rules and regulations necessary to implement the requirements of this chapter. The rules and regulations shall be in addition to the requirements set forth in this chapter.

(Ord. 1095 § 4, 2019)