

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE COUNTY OF YOLO
AMENDING CHAPTER 15 OF TITLE 6 OF THE YOLO COUNTY CODE REGARDING
TOBACCO RETAILER PERMITTING**

The Board of Supervisors of the County of Yolo hereby ordains as follows:

SECTION 1. Background and Findings.

The purpose of these amendments is to promote public health and provide regulatory protection for the County's youth from harmful tobacco and nicotine products. These changes establish regulations regarding package size and the price of tobacco products and have been shown to decrease the accessibility of these products by young individuals. The amendments also encourage responsible tobacco retailing and hold businesses accountable for selling and distributing harmful and addictive tobacco and nicotine products to underage individuals. It is intended to supplement relevant provisions of Federal, State, and local law.

SECTION 2. Chapter 15 of Title 6 is hereby amended and renumbered as follows.

Sections:

- 6-15.01 Purpose.
- 6-15.02 Definitions.
- 6-15.03 Tobacco Retailer Permit Required.
- 6-15.04 Limits on Tobacco Retailer Permits.
- 6-15.05 Application Procedure.
- 6-15.06 Fees.
- 6-15.07 Issuance; Denial; Effect.
- 6-15.08 Permit Nontransferable.
- 6-15.09 Permit Term, Renewal and Expiration.
- 6-15.10 Tobacco Product Pricing and Packaging.**
- 6-15.11~~0~~ Other Tobacco Retailing Requirements and Prohibitions.
- 6-15.12~~4~~ Compliance Monitoring.
- 6-15.13~~2~~ Revocation of Permit.
- 6-15.14~~3~~ Appeal; Judicial Review.
- 6-15.15~~4~~ Enforcement: Tobacco Retailing Without a Permit; Tobacco Retailing in Violation of Chapter.
- 6-15.16~~5~~ Additional Enforcement.
- 6-15.17~~6~~ Severability

SECTION 3. Paragraph (e) of 6-15.02 is amended to read as follows:

(e) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act. ~~“Electronic smoking device” means an electronic device which can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. “Electronic smoking device” includes any such electronic smoking 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.~~

SECTION 4. Paragraph (f) of 6-15.02 is amended to read as follows:

(f) "Flavored Tobacco Product" means any Tobacco Product that contains a constituent that imparts a characterizing flavor to the tobacco product or smoke produced by the tobacco product, either by the addition of artificial or natural flavors or an herb or spice, including, **but not limited to**, menthol, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee.

SECTION 5. Paragraph (k) of 6-15.02 is amended to read as follows:

(k) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for inhalation. “Smoking” includes using an electronic smoking device. ~~“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), or 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).~~

SECTION 6. Section 6-15.10 is added to read as follows:

Sec. 6-15.10. Tobacco Product Pricing and Packaging.

(a) **PACKAGING AND LABELING.** No tobacco retailer shall sell any tobacco product to any consumer unless the tobacco product:

- (1) is sold in the manufacturer’s packaging intended for sale to consumers;
- (2) conforms to all applicable federal labeling requirements; and
- (3) conforms to all applicable child-resistant packaging requirements.

(b) **DISPLAY OF PRICE.** The price of each tobacco product offered for sale shall be clearly and conspicuously displayed on the tobacco product or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale.

(c) **DISTRIBUTION OF TOBACCO SAMPLES OR PROMOTIONAL ITEMS.** It is unlawful for any person to distribute free or nominally priced tobacco products.

(d) **PROHIBITION OF TOBACCO COUPONS AND DISCOUNTS.** No tobacco retailer shall:

- (1) Honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price;
- (2) Sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or
- (3) Provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.

(e) **MINIMUM PACKAGE SIZE FOR LITTLE CIGARS AND CIGARS.** No tobacco retailer shall sell:

- (1) Any little cigar unless it is sold in a package of at least 5 little cigars; or
- (2) Any cigar unless it is sold in a package of at least 5 cigars; provided, however, that this subsection shall not apply to a cigar that has a price of at least \$7.00 per cigar, including all applicable taxes and fees.

(f) **MINIMUM PRICES FOR CIGARETTES, LITTLE CIGARS, AND CIGARS.** No tobacco retailer shall sell:

- (1) Cigarettes at a price that is less than \$9.00 per package of 20 cigarettes, including all applicable taxes and fees;
- (2) Little cigars at a price that is less than \$9.00 per package of little cigars, including all applicable taxes and fees; or
- (3) Cigars at a price that is less than \$7.00 per cigar, including all applicable taxes and fees.

The minimum price established in this Section shall be adjusted annually by the Department in proportion with Consumer Price Index, using a system established by the Department.

SECTION 7. Paragraph (a) of 6-15.12 is amended to read as follows:

- (a) Compliance with this Chapter shall be monitored by the Yolo County District Attorney and HHSA Tobacco Prevention Staff.

SECTION 8. Paragraph (a) of 6-15.13 is amended to read as follows:

- (a) In addition to any other penalty authorized by law, a Tobacco Retailer's Permit shall be revoked if any court of competent jurisdiction determines, or if the Director finds after the Tobacco Retailer or Permittee is afforded notice and an opportunity to be heard, that the Tobacco Retailer or Permittee, or any of the Tobacco Retailer's or Permittee's officers, agents or employees, has violated any of the requirements, conditions, or prohibitions of this Chapter or, in a different legal proceeding, has pleaded guilty, "no contest" or its equivalent, or admitted to, a violation of any law designated in Sections 6-15.10 and 6-15.11.

Section 9. Severability.

If any section, sub-section, sentence, clause, or phrase of this ordinance is held by a court of competent jurisdiction to be invalid, such decision shall not affect the remaining portions this Ordinance. The Board of Supervisors hereby declares that it would have passed this Ordinance, and each section, sub-section, sentence, clause, and phrase hereof, irrespective of the fact that one or more sections, sub-sections, sentences, clauses, and phrases be declared invalid.

SECTION 10. Effective Date.

This ordinance shall take effect and be in force thirty (30) days after its passage, and prior to expiration of fifteen (15) days after its passage thereof, shall be published by title and summary only in the Davis Enterprise together with the names of members of the Board of Supervisors voting for and against the same.

Introduced at a regular meeting of the Board of Supervisors held on the ____ day of _____, 2022, and passed and adopted by the Board of Supervisors of the County of Yolo, State of California, on the ____ day of _____, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTENTION:

Angel Barajas, Chair
Yolo County Board of Supervisors

Attest: Julie Dachtler, Deputy Clerk
Yolo County Board of Supervisors

Approved as to Form:
Philip J. Pogledich, County Counsel

By: _____
Deputy (Seal)

By: _____
Hope P. Welton, Senior Deputy