

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: JASON NUTT, ASSISTANT CITY MANAGER,
CITY MANAGER'S OFFICE
SUBJECT: ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA
ADDING CHAPTER 6-20 OF THE SANTA ROSA CITY CODE
TITLED "REGULATION OF RETAIL TOBACCO SALES,"
AUTHORIZE THE CITY MANAGER TO NEGOTIATE AND
EXECUTE AN AGREEMENT WITH THE COUNTY FOR
COMPLIANCE MONITORING AND ENFORCEMENT

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

It is recommended by the City Manager's Office that the Council: 1) hold a public hearing to discuss regulation of retail tobacco sales; 2) introduce an ordinance adding Chapter 6-20 to the Santa Rosa City Code titled "Regulation of Retail Tobacco Sales"; and 3) by motion, authorize the City Manager to negotiate and execute an agreement with the County of Sonoma for license administration and compliance monitoring.

EXECUTIVE SUMMARY

The City Council will consider an ordinance that proposes adding Chapter 6-20 to the Santa Rosa City Code titled "Regulation of Retail Tobacco Sales" requiring all tobacco retailers to obtain a license and comply with enhanced regulations associated with tobacco sales, in particular, those targeting sales to youth. The ordinance incorporates direction from Council provided during their June 4, 2024, meeting revising sections associated with license transfer language and the level of fines and penalties. The revised ordinance does not alter the proposed language to establish a buffer between retail locations and schools and parks, a ban on electronic tobacco smoking devices and flavored tobacco sales, and establishment of minimum package sizes and pricing. If adopted, the ordinance will impose a license fee on retailers selling tobacco products within the City limits. Staff will return to Council with a resolution to impose any such fees.

BACKGROUND

During the FY 2023-24 Council Goal Setting Workshop, staff was asked to add the evaluation and development of a tobacco retail license similar to the City of Petaluma to the work plan. Staff researched the various tobacco retail license policies throughout the

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county and discussed various approaches with Impact Sonoma, the division within the County of Sonoma Department of Health Services focused on reducing the use of tobacco products. A draft ordinance was presented to Council on May 21, 2024, as a first reading on again on June 4, 2024, as a second reading. During the June 4, 2024, meeting Council requested specific changes be made to align sections of the ordinance associated with transferring licenses, penalties and fines with the recently adopted Sonoma County ordinance.

Tobacco retail license policies currently exist in the Town of Windsor, the cities of Petaluma, Healdsburg, Cloverdale, Sebastopol, and Sonoma as well as unincorporated Sonoma County. Using policy and data points from these agencies, staff have developed a revised proposed tobacco retail license policy framework for Santa Rosa, with the policy framework implemented by the City of Petaluma while aligning the license transfer, penalty and fine structure with Sonoma County.

PRIOR CITY COUNCIL REVIEW

November 14, 2023 – Study Session outlining key features of an ordinance. Council provided directive feedback.

May 21, 2024 – Public Hearing introducing the first reading of the Tobacco Retail License Ordinance. Approved by council.

June 4, 2024 – Consent item to adopt the Tobacco Retail License through a second reading of the ordinance. Council requested that staff return with specific modifications to the ordinance aligning sections associated with license transfers, fines and penalties with the ordinance recently adopted by Sonoma County.

ANALYSIS

The draft Ordinance includes key criteria developed with feedback from a variety of sources and Council, including the November 14, 2023, study session; review of other agency tobacco retail policies; feedback from existing tobacco retailers within the City limits; comparison with exiting City ordinances covering similar activities; the May 21, 2024, first reading of the ordinance; and June 4, 2024, second reading of the ordinance where council requested that the ordinance be further revised. The ordinance revision being presented retains the following components:

- Imposes a 600-foot radius between new tobacco retailers and schools providing K-12 instruction, daycare centers, youth centers, sports facilities, and parks; and
- Bans the sale of flavored tobacco products; and
- Bans the sale of electronic devices, including CBD, essential oils and other wellness product; and
- Establishes a minimum package size and pricing for various tobacco products.

Language associated with transfers, fines and penalties has been revised to align with the Sonoma County ordinance. The primary changes in these sections include:

- Revise the retailer density language to cap available licenses at the number of

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state tobacco licenses issued at the time of ordinance adoption and remove the density language.

- Limited transfer restrictions between proprietors – transfer between proprietors will only be restricted if the purchasing proprietor has had significant tobacco sales related violations during the prior five years.
- Penalties for unlicensed retailers has been modified to include fines in addition to suspension language.
- Penalties for licensed retailers has been updated to reflect alignment with Sonoma County through Government Code Section 36900.

Finance, City Attorney, Code Enforcement, and Planning and Economic Development have been consulted regarding the potential staff and financial impacts that could result from this policy and it has been determined to be less than significant at this time.

If adopted, the ordinance would go into effect on January 1, 2025.

FISCAL IMPACT

Approval of this action may have a fiscal impact on the General Fund through increased responsibilities of Code Enforcement; however, specific data on staff involvement is unknown at this time. While license fees will be collected by the County for their efforts to manage the program on behalf of the City, fines and appeal fees will be collected by the City to offset costs to the General Fund.

Should the MOU with the County be terminated or expire and not renewed, implementation of the ordinance will be conducted by Code Enforcement. The License fee will be adjusted appropriately to ensure cost recovery of the services needed to fully implement the ordinance and offset General Fund costs.

Potential sales tax loss is not currently measurable.

ENVIRONMENTAL IMPACT

This Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., “CEQA,” and 14 Cal. Code Reg. §§ 15000 et seq., “CEQA Guidelines”). Pursuant to CEQA Guidelines section 15378 (b), the Ordinance is not a project within the meaning of CEQA because it creates a licensing and government funding mechanism that will not result in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

In the alternative, adoption and implementation of the proposed ordinance is exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that this ordinance may have a significant effect on the environment. Adoption and implementation of the standards, license requirements, and other

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measures contained in the ordinance will not in and of themselves result in any direct physical change to the environment subject to CEQA.

In addition, the adoption and implementation of the proposed ordinance is exempt from CEQA pursuant to Sections 15307 and 15308 of the State CEQA Guidelines as actions taken to assure the maintenance, restoration, enhancement, and protection of natural resources and the environment as authorized by state law where the regulatory process involves procedures for protection of the environment. The basis for this determination is that the proposed ordinance establishes standards, license requirements, and other measures that regulate the licensure of tobacco retailers more stringently than existing codes, and will result in reduced sales of tobacco products to minors. These standards, license requirements, and other measures will protect human health, which is an aspect of the environment under Public Resources Code Section 21083(b)(3), by strengthening existing standards for preventing the sale of tobacco products to youth and establishing new limitations on tobacco retailer licensure. Reduced sale of tobacco products will reduce the harmful environmental effects of disposal of tobacco products.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

To notify and obtain input on the proposed Regulation of Retail Tobacco Sales Ordinance, the City Manager's Office:

- Conducted a study session with Council on November 14, 2023, where Council approved the purpose statement and provided feedback on criteria that was to be evaluated and incorporated into a draft ordinance.
- Conducted both an in-person and virtual information meeting with existing tobacco retailers on May 13 and 14, respectively. Fliers were both hand delivered to all registered businesses and mailed to the owner of record.
- A Notice of Public Hearing was published in the Press Democrat on May 10, 2024.
- Council conducted a public hearing on May 21, 2024, and adopted the first reading of the ordinance as written.
- Council further reviewed the ordinance on June 4, 2024, as part of the second reading requirement, received public comment and requested that staff make revisions and return at a later date with a revised ordinance for consideration.
- A Notice of Public Hearing was published on July 12, 2024 in the Press Democrat announcing the Public Hearing of July 23, 2024.

ATTACHMENTS

- Attachment 1 - Map showing existing tobacco retailers and a 600 foot radius around Youth Oriented Areas by Council district.
- Attachment 2 – Alternative ordinance language by Section

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PRESENTER

Jason Nutt, Assistant City Manager