

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: MARASKESHIA SMITH, CITY MANAGER
SUBJECT: CITY CODE TEXT AMENDMENT – MINOR PROCEDURAL
AMENDMENT TO TOBACCO RETAIL LICENSE ORDINANCE

AGENDA ACTION: ORDINANCE INTRODUCTION

RECOMMENDATION

The City Manager's Office recommends that the Council introduce an ordinance to make minor procedural amendments to Chapter 6-20 of the City Code, previously adopted by Council on August 6, 2024, to clarify the appeal processes for Tobacco Retail Licenses. This item has no impact on current fiscal year budget.

EXECUTIVE SUMMARY

On August 6, 2024, the City Council adopted Ordinance No. ORD-2024-010, which established Chapter 6-20 of the Santa Rosa City Code to regulate retail tobacco sales within city limits. This chapter designates both the "Hearing Officer" and the "City Manager" as the appeal bodies for Tobacco Retail License (TRL) denials, suspensions and revocations, and refers to the appeal process outlined in Chapter 1-30. However, the current definition of "Hearing Officer" in Chapter 1-30 does not vest the Hearing Officer with authority to adjudicate permit denials, revocations, or suspensions. As a result, all appeals of TRL denials, suspensions and revocations must be referred exclusively to the City Manager. The City seeks to amend Chapter 6-20 to remove references to the "Hearing Officer" and assign appeals to the City Manager or their designee.

GOAL

While this item proposes minor procedural amendments to Ordinance 2024-010, the originally adopted ordinance relates to Council Goal #4 - Foster a Safe, Healthy, and Inclusive Community, as it relates to regulation of tobacco retail sales in the City limits.

BACKGROUND/PRIOR COUNCIL REVIEW

On May 21, 2024, a proposed ordinance adding Chapter 6-20 "Regulation of Retail Tobacco Sales" was introduced by Council. On June 4, 2024, Council directed staff to bring forward for introduction a revised ordinance to include revisions

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in the areas of license transfer to allow an out for business owners who are unexpectedly adversely impacted by this ordinance and the fines and revocation structure to align with the County's fine structure to reduce the jurisdictional differences in the County. On July 23, 2024, a revised ordinance was introduced by the City Council. On August 6, 2024, the Council adopted Ordinance No. ORD-2024-010 adding Chapter 6-20 to Santa Rosa City Code, addressing policies and procedures related to the regulation of retail tobacco sales within the City limits.

ANALYSIS

The adoption of Ordinance No. ORD-2024-010 added Chapter 6-20 to Santa Rosa City Code, regulating tobacco retail sales within city limits.

The proposed procedural amendments to the Ordinance include the following three amendments, which are also provided in redline format in Attachment 1 to this staff report.

First Amendment, Section 6-20.020

Amend section 6-20.020, Definitions, to delete the definition of “Hearing Officer.”

Second Amendment, Section 6-20.140(B)

Amend section 6-20.140 (B), Revocation of License wrongly Issued, to delete reference to “Hearing Officer” as the review authority and replace with reference to “City Manager or their designee” as the review authority.

Third Amendment, Section 6-20.260

Repeal section 6-20.260, Appeal Procedure.

Replace section 6-20.260 with the following language to clarify the appeal process for denial, revocation or suspension of tobacco retail licenses and to designate the City Manager or their designee as the review authority for such appeals:

6-20.260 Appeal Procedure. A decision of the department to deny, revoke or suspend a license is appealable to the City Manager or their designee and any appeal must be filed in writing with the City Clerk within 15 calendar days of the mailing of the decision or determination. The City Clerk shall schedule the appeal hearing and give 15 days' written notice to the appellant of the time and place of hearing by serving the notice personally or by depositing in the United States Post Office in the City, postage prepaid, addressed as shown on the appeal papers or, if none, such other address as is known to the City. The City Manager or their designee shall have authority to determine all questions raised on such appeal. The City Manager or their designee shall issue a final written decision on whether to uphold or overturn the denial, revocation or suspension and give written notice to the tobacco retailer within thirty days of the appeal hearing.

Within five days of the mailing of the notice of upheld revocation or suspension, the tobacco retailer shall cease operation of the business for which the license was issued.

FISCAL IMPACT

This motion has no impact on the General Fund.

ENVIRONMENTAL IMPACT

Ordinance ORD-2024-010 and the proposed amendments thereto are 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 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

Not applicable.

ATTACHMENTS

- Attachment 1 – Redline Revisions
- Ordinance

PRESENTER(S)

Lindsey Daugherty, Administrative Supervisor – City Manager's Office.