

ORDINANCE NO. 662

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARPINTERIA, CALIFORNIA AMENDING CHAPTER 8.52: SMOKING REGULATIONS, CHAPTER 14.08: DEFINITIONS, CHAPTER 14.20: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT AND CHAPTER 14.22: CB CENTRAL BUSINESS DISTRICT OF THE CARPINTERIA MUNICIPAL CODE

The City Council of the City of Carpinteria does ordain as follows:

SECTION 1. FINDINGS

The City Council of the City of Carpinteria hereby finds and declares as follows:

WHEREAS, based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City of Carpinteria; and

WHEREAS, approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death;¹ and

WHEREAS, the World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide;² and

WHEREAS, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

- The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
- State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
- State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);

- State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962);
- State law prohibits the sale of “bidis” (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1); and
- State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3); and

WHEREAS, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of the cities to regulate business activity in order to discourage violations of law; and

WHEREAS, despite the state’s efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that:

- Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily;³
- More than 75% of all current smokers in 2001 began smoking before the age of 18;⁴
- Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age;⁵
- In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue;⁶ and

WHEREAS, research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

- A review of thirteen California communities with strong tobacco retailer licensing ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate;⁷
- A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998;⁸
- A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco;⁹ and

WHEREAS, the implementation of tobacco retailer licensing requirements is supported by most Californians, as evidenced by the following:

- Statewide, over 80% of California adults think tobacco retailers should be licensed;¹⁰
- Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes;¹¹
- 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements;¹²
- Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco;¹³ and

WHEREAS, California retailers continue to sell tobacco to underage consumers, evidenced by the following:

- 5.6% of all tobacco retailers unlawfully sold to minors in 2011;¹⁴
- Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2011 at a higher rate than the statewide average, as high as 11.6%;¹⁵
- Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined);¹⁶

- The results of the 2009 California Youth Tobacco Purchase Survey, shows that 8.6%¹⁷ of retailers surveyed sold tobacco product to minors; though the most recent local youth purchase survey (2010) showed youth buy rates of 17%;¹⁸ and

WHEREAS, the density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates;¹⁹ and

WHEREAS, a recent study found that 33% of tobacco underage sales took place within 1,000 feet of schools;²⁰

WHEREAS, a recent study has found that while there has been a clear downward trend in the illegal sales to minors in California during the last 17 years, the number has risen from in 5.6 percent in 2011 to 8.7 percent in 2012. Among the traditional retailer store types, tobacco stores (i.e. 80% of merchandise consists of tobacco products) sold illegally to youth at the highest rate of 20.5 percent, up from 6.5 percent in 2011.²¹

WHEREAS, ninety-six cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop minors from smoking;²² and

WHEREAS, the City Council finds that a local licensing system for tobacco retailers and other restrictions on tobacco retailing is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City of Carpinteria and to protect the health, safety, and welfare of the City's visitors and residents; and

WHEREAS, the City Council finds that a Significant Tobacco Retailer can serve to undermine the healthy, safe, family-friendly environment that the city promotes and relies upon in support of both the important visitor/hospitality segment of the local economy and local residential real estate values; and

WHEREAS, a requirement for tobacco retailer licensing and the establishment of other restrictions on tobacco retailing will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults, but will, however, allow the City of Carpinteria to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws; and

WHEREAS, the City of Carpinteria has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity.

NOW, THEREFORE, THE CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 2. INCORPORATION OF FINDINGS

The above findings are incorporated herein and are each relied upon independently by the City Council for its adoption of this Ordinance. It is the intent of the City Council, in enacting this Ordinance, to ensure compliance with the business standards and practices of the city and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

SECTION 3. AMENDMENT OF CHAPTER 8.52

Chapter 8.52 of the Carpinteria Municipal Code shall hereby be amended and shall read as follows.

Chapter 8.52 SMOKING REGULATIONS

8.52.010 Title.

The regulations contained in this chapter may be known and referred to as the "smoking regulation code."

8.52.020 Purpose.

This chapter is enacted with the specific intent to:

- A. Prohibit smoking in certain public places not preempted by California Labor Code Section 6404.5, which provides further smoking regulations;
- B. Protect the public health, safety and general welfare by prohibiting smoking in certain public places under circumstances where other persons will be exposed to secondhand smoke;
- C. Ensure a cleaner and more hygienic environment for the city, its residents, and its natural resources, including its creeks and streams;
- D. Strike a reasonable balance between the needs of persons who smoke and the needs of nonsmokers, including residents and visitors, particularly children, to breathe smoke-free air, recognizing the threat to public health and the environment which smoking causes;
- E. Regulate the manner in which tobacco products are sold;
- F. Discourage violations of laws which prohibit or discourage sale or distribution of tobacco products and tobacco paraphernalia to minors, but not to expand or reduce

the degree to which the acts regulated by state or federal law are criminally proscribed; and

G. Designate the enforcing agency for this chapter and for Labor Code Section 6404.5.

8.52.030 Definitions

The following definitions shall govern construction of this chapter 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 a violation of this chapter, is not an "arm's length transaction."

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other entity formed for profit-making purposes or that has an employee.

"Code compliance officer" means the city code compliance officer or duly authorized designee of the city code compliance officer.

"Dining area" means any area available to or customarily used by the general public that is designed, established or regularly used for consuming food or drink.

"Employee" means any person who is employed or retained as an independent contractor by any employer as defined in this section; or any person who volunteers his or her services for an employer, association, nonprofit or volunteer entity.

"Employer" means any person, partnership, corporation, association, nonprofit or other entity that employs or retains the service of one or more persons, or supervises volunteers.

"Enclosed" means:

1. Any covered or partially covered space having more than fifty percent (50%) of its perimeter area walled in or otherwise closed to the outside such as, for example, a covered porch with more than two walls; or
2. Any space open to the sky (hereinafter "uncovered") having more than seventy-five (75) percent of its perimeter area walled in or otherwise closed to the outside, such as, for example, a courtyard.

"Health officer" means the county health officer or the duly authorized designee of the county health officer.

"Licensing Agent" means the Carpinteria City Community Development Director.

"Nonprofit entity" means any entity that meets the requirements of California Corporations Code Section 5003 as well as any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, political, social or similar purposes, the net proceeds of which are committed to the promotion of the objectives of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

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

"Place of employment" means any area under the legal or de facto control of an employer, business or nonprofit entity that an employee or the general public may have cause to enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses and private residences that are used as childcare or healthcare facilities subject to licensing requirements.

"Playground" means any park or recreational area designed in part to be used by children that has play or sports equipment installed or has been designated or landscaped for play or sports activities, or any similar facility located on public or private school grounds, or on city property.

"Premises" means a lot or contiguous lots and any improvements thereon such as is usually described in a deed, deed of trust or mortgage, and includes legally separate but contiguous pieces of land that are owned by the same person or are under common control.

"Present" means within a reasonable distance.

"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 ten percent (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 share ultimate control over the day-to-day operations of a business.

"Public place" means any public or private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, parking lots, parking garages, plazas, bars, restaurants, clubs, stores, stadiums, parks, playgrounds, taxis and buses. For the purposes of the provisions of this chapter, a "public place" does not mean a private residence except for (a) residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code or (b) the common areas of multi-family dwellings, such as apartment buildings and condominiums.

“Reasonable distance” means the greatest distance practicable that ensures that occupants of an area in which smoking is prohibited are not exposed to secondhand smoke created by smokers outside the area. This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet.

“Recreational area” means any public or private area open to the public for recreational purposes whether or not any fee for admission is charged, including without limitation, parks, trails, gardens, sporting facilities, stadiums and playgrounds.

“Restaurant” means any coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain, private and public school cafeteria, eating establishment, boardinghouse or guest house or similar establishment which gives or offers for sale food to the public.

“School” means any public or private, elementary, middle, junior high or high school. Child day care, preschool and kindergarten are not included for the purposes of this chapter.

“Secondhand smoke” means smoke that is generated from the burning end of a lighted tobacco, weed or plant product, or smoke that is exhaled by a smoker after inhaling or ingesting a lit tobacco, weed or plant product.

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

“Service area” means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place or make a transaction whether or not such service includes the exchange of money including, for example, ATMs, bank teller windows, telephones, ticket lines, bus stops, taxi stands and takeout counters.

“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: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

“Smoking” or to “smoke” means possessing or to possess a lighted tobacco product, lighted tobacco paraphernalia, or any other lighted weed or plant (including but not limited to, a lighted pipe, lighted hookah pipe, lighted cigar, or lighted cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including but not limited to, a pipe, a hookah pipe, cigar, or cigarette of any kind).

"Sports arena" means an outdoor or nonenclosed sports pavilion, stadium, swimming pool, roller rink, or other similar place where members of the general public assemble either to engage in physical exercise, participate in athletic competition or witness sports events, including the concession stand areas thereof.

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

"Tobacco product" means any substance containing tobacco leaf, and any 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 cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

"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. "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 license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

"Tobacco vending machine" means any machine or device designated for or used for the vending of cigarettes, cigars, tobacco or tobacco products upon the insertion of coins, bills, trade checks, slugs or other form of legal tender or consideration.

"Unenclosed area" means any area which is not enclosed.

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

8.52.040 Secondhand Smoke Generally

For all purposes within the jurisdiction of the city, the nonconsensual exposure to secondhand smoke and the uninvited presence of secondhand smoke on property in violation of this chapter shall constitute a nuisance, as is further described by Chapter 9.70 of the Carpinteria Municipal Code.

8.52.050 Public and Other Places Where Smoking Shall Be Prohibited

Except as otherwise provided by this chapter or by state or federal law, smoking shall be prohibited everywhere in the city, including but not limited to:

- A. Public places;

- B. Residences used as a child care, health care, board and care, or community foster care facility as such terms are defined by the state Health and Safety Code;
- C. Common areas of multi-family dwellings, such as apartment buildings and condominiums;
- D. Places of employment;
- E. Enclosed and unenclosed places of hotels, businesses, restaurants, bars and other public accommodations; and
- F. Buses or other means of public transit, and ticket, boarding and waiting areas of public transit depots and bus stops, enclosed or not.

8.52.060 Places Where Smoking May Be Permitted

Except where prohibited by state or federal law, or by Chapter 12.24.21A of the Municipal Code for public parks and beaches, smoking may be permitted in the following locations within the city notwithstanding Section 8.52.050:

- A. Private residential properties. This chapter does not preclude private regulation of smoking on private residential properties;
- B. In up to twenty-five (25) percent of guest rooms in any hotel or motel, if the hotel or motel permanently designates at least seventy five (75) percent of its guest rooms as nonsmoking rooms, appropriately signs nonsmoking rooms and permanently removes ashtrays and matches from them. Smoking rooms shall be segregated from nonsmoking rooms on separate floors, wings or portions of either; smoking and nonsmoking rooms shall not be interspersed. Nothing in this chapter shall require a hotel or motel to provide smoking rooms and the owner or operator of a hotel or motel may choose to prohibit smoking throughout the property;
- C. Designated Smoking Areas on private property provided that all of the following conditions are met:
 1. The area is located the greatest distance practicable from:
 - a. any doorway or opening into an enclosed area; and
 - b. any access way to a public place;
 This distance shall generally be twenty (20) feet, with a minimum distance of five (5) feet;
 2. The area has a clearly marked perimeter;
 3. The area is posted with one or more conspicuously displayed sign(s) identifying the area as a designated outdoor smoking area pursuant to Section 8.52.090 of this code;

4. Smoke is not permitted to enter adjacent areas in which smoking is prohibited by this chapter, other law or by the owner, lessee or licensee of the adjacent property;
 5. Appropriate ash can(s) are placed in the smoking area and are maintained regularly by the owner, operator or manager of the smoking area;
 6. No consistent complaints of secondhand smoke are filed with the city; and
 7. The area is well lit.
- D. Designated Smoking Areas (DSAs) on public property approved by the City Council and developed and maintained as such by the city. Prior to creating a DSA, the City Council shall make a finding that the DSA is consistent with the purposes of this chapter;
- E. Smoking areas at public events which have been approved as part of the Special Event Permit or Temporary Use Permit issued by the city;
- F. Inside a private automobile when no minor child is present; and
- G. Any unenclosed area in which no nonsmoker is present and, due to the time of day or other factors, it is not reasonable to expect another person to arrive.

8.52.070 Modifications of Designated Smoking Area (DSA)

The city reserves the right to prohibit or require modifications to a DSA at a certain location if it undermines the purposes of this chapter.

8.52.080 Allowing, Aiding or Abetting Smoking

- A. No person, employer, business or nonprofit entity shall knowingly permit smoking in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law.
- B. Except as provided in Section 8.52.100 of this code, no person, employer, business or nonprofit entity shall allow the placement or maintenance of a receptacle for smoking waste in an area under his, her or its legal or de facto control in which smoking is prohibited by this chapter or other law, provided however, that a receptacle may be placed at the entry to a nonsmoking area, along with a "No Smoking" sign, in order to encourage any smokers in violation of this chapter to immediately extinguish and properly dispose of smoking materials."
- C. No person shall intimidate, threaten, effect a reprisal or retaliate against another person who seeks to attain compliance with one or more of this chapter's provisions.

8.52.090 Signs

Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

- A. "No Smoking" or "Smoke Free" signs, with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) or any alternative signage approved by the Community Development Director may be conspicuously posted by the person, employer, business or nonprofit entity who or which has legal or de facto control of such place at each entrance to a public place in which smoking is prohibited by this chapter or any other place where the City Manager reasonably determines that smoking in violation of this chapter has occurred, or is likely to occur.
- B. Within designated smoking areas, one or more conspicuously displayed sign(s) shall be posted identifying the area as a smokers' outpost pursuant to Section 8.52.060.B of this code as follows: signs with arrows directing the public to the smoking area may be allowed; signs shall be no smaller than three (3) inches high and eight (8) inches long with a pictorial representation of a burning cigarette; signs shall contain "Designated Smoking Area" and shall be posted prominently between five (5) feet and seven (7) feet above the floor or ground; and all signs are subject to approval by the Community Development Director.
- C. Every hotel and motel shall have signs posted conspicuously in the registration and lobby areas which state that nonsmoking rooms are maintained and may be available; rooms designated as being nonsmoking shall have signs announcing such restriction conspicuously placed inside the room.
- D. No person shall alter, deface, obscure, remove or destroy a sign or placard that this chapter authorizes.

8.52.100 Smoking Waste

Except for disposal of smoking waste in a smoking waste receptacle, no person shall dispose of smoking waste: (1) in or upon a public street or sidewalk; (2) in an area in which smoking is prohibited by this chapter or other law; or (3) in any area a reasonable distance therefrom.

8.52.110 Requirement for Tobacco Retailer License

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailer licenses are valid for one year. An application to renew a tobacco retailer license shall be submitted prior to the expiration of the license.

8.52.120 Tobacco Retailers must operate at a Fixed Location

No tobacco retailer license 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.

8.52.130 Prohibition of Tobacco Retailing within Certain Areas of the City

No tobacco retailer license may be issued to authorize a tobacco retailer in the areas of the city described in Sections 14.20.075 and 14.22.070 of this Code.

8.52.140 Application Procedure

- A. An application for a tobacco retailer license, plus one copy shall be submitted to the licensing agent in the name of the person proposing to conduct tobacco retailing and shall be signed by such person or an authorized agent thereof.

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 license. No proprietor may rely on the issuance of a license as a determination by the City of Carpinteria or County of Santa Barbara that the proprietor has complied with all laws applicable to tobacco retailing. A license issued contrary to this chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 8.52.240 of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the city and shall contain the following information:

1. The name, address, and telephone number of each proprietor of the business seeking a license.
2. The business name, address, and telephone number of the single fixed location for which a license is sought.
3. A single name, mailing address and email address authorized by each 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 subparagraph (2) above.
4. Proof that the location for which a tobacco retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
5. Whether or not any proprietor or any agent of the 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.

- B. 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.

8.52.150 Issuance of Tobacco Retailer License

- A. Within thirty days of the licensing agent's receipt of an application for a tobacco retailer license, the licensing agent shall issue a license, unless it has been determined by the Public Health Department that the issuance of the license should be denied, based on the following criteria:
 - 1. The information presented in the application is incomplete, inaccurate or false; or
 - 2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 8.52.240 of this chapter; or
 - 3. The application seeks authorization for tobacco retailing in an area that is in violation of Sections 14.20.075 and 14.22.070 of this Code.
 - 4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter (e.g., mobile vending), that is unlawful pursuant to this code, or that is unlawful pursuant to any other law.
- B. A denial of a tobacco retailer license may be appealed pursuant to Section 8.52.240 of this chapter.
- C. A licensed tobacco retailer shall inform the licensing agent in writing of any change in the information submitted on an application for a tobacco retailer's license within ten (10) business days of a change.
- D. The licensing agent shall keep a permanent record of all tobacco retailer licenses issued, but may destroy such records as provided by law with the approval of the City Council.

8.52.160 Display of Tobacco Retailer License

Each licensee shall prominently display the tobacco retailer license at each location where tobacco retailing occurs.

8.52.170 Fees for Tobacco Retailer License

- A. The initial or renewal fee for a tobacco retailer license shall be \$379 per year pursuant to Resolution 12-288 adopting the Tobacco Retailer License Fee Schedule for Incorporated Areas of Santa Barbara County passed and approved by the County of Santa Barbara Board of Supervisors on December 11, 2012, subject to subsequent amendments by the County Board of Supervisors. The fee shall be paid to the licensing agent when a tobacco retailer license application is submitted.

- B. **Renewal.** Renewal fees, paid to the licensing agent, are due the first business day after the date of expiration of a tobacco retailer license. A tobacco retailer will be allowed a thirty day grace period to pay the renewal fee. If the renewal fee has not been paid by the end of the grace period, a penalty of fifty percent of the renewal fee shall be added to the renewal fee. If the renewal fee and any applicable late penalty are not paid within ninety days after the date of expiration of a tobacco retailer license, then the licensing agent shall automatically revoke the license. Thereafter, if the licensee desires to resume tobacco retailing, a new license application must be submitted to the licensing agent in accordance with Section 8.52.140, along with the license fee and late penalty.

8.52.180 Tobacco Retailer Licenses Are Nontransferable

- A. A tobacco retailer license is nontransferable. If a person to whom a tobacco retailer license has been issued, changes the business location or sells the business, then that person must obtain a new license prior to acting as a tobacco retailer at the new location, or the buyer of the business must obtain a license in the buyer's name before acting as a tobacco retailer.
- B. Prior violations at a location shall continue to be counted against a location and license suspension periods shall continue to apply to a location unless:
 - 1. The location is being or has been fully transferred to a new owner; and
 - 2. The new owner(s) provide the licensing agent with clear and convincing evidence that the new owner(s) is acquiring or has acquired the location in an arm's length transaction.

8.52.190 License Conveys a Limited Conditional Privilege

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer's license any status or right other than the limited conditional privilege to act as a tobacco retailer at the location in the City of Carpinteria identified on the face of the license. 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, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. Obtaining a tobacco retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

8.52.200 Positive Identification Requirements for Sale of Tobacco Products and Tobacco Paraphernalia

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, 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 tobacco products or tobacco paraphernalia.

8.52.210 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.

8.52.220 False and Misleading Advertising Prohibited

A tobacco retailer without a valid tobacco retailer license, including for example, a tobacco retailer license that has been suspended or revoked, shall not display any advertisement promoting the sale or distribution of tobacco products or tobacco paraphernalia at the tobacco retailer's location and shall keep all such products out of public view.

8.52.230 Compliance Monitoring

- A. Compliance with the tobacco retailer license provisions of this chapter shall be primarily enforced by the Santa Barbara County Sheriff, in conjunction with the Public Health Department. However, any peace officer may enforce the penal provisions of this chapter.
- B. The Sheriff will check the compliance of each tobacco retailer one to three times per twelve month period. However, the Sheriff may check the compliance of a tobacco retailer more or less often, depending on a tobacco retailer's compliance history. Nothing in this paragraph shall create a right of action for any tobacco retailer or other person, against the city, county or its agents.

8.52.240 Revocation or Suspension of Tobacco Retailer License and Appeals

- A. Grounds for Revocation or Suspension.
 - 1. A tobacco retailer license shall be revoked if the Public Health Department finds that one or more of the basis for denial of a license under Section 8.52.150 of this chapter exists. The revocation shall be without prejudice to the filing of a new application for a license following correction of the conditions that required revocation of the license.
 - 2. A tobacco retailer license shall be suspended under this section if the Public Health Department finds that the licensee or his or her agent or employee has violated any federal, state or local law governing the sale, distribution, advertisement or display of tobacco, tobacco products or tobacco paraphernalia, including, but not limited to: Penal Code Section 308a, Business and Professions Code Sections 22950 et seq. (Stop Tobacco Access to Kids Enforcement Act "STAKE Act") or Sections 8.52.260, 8.52.270 and 8.52.280 of this code, or Business and Professions Code Section 25612.5(c)(7).

3. The Public Health Department shall give notice of revocation or suspension to a licensee by personal service or by certified mail return receipt requested, addressed to where the license was issued. The notice of revocation or suspension shall be effective when notice is personally served, or when the certified mail return receipt is returned to the Public Health Department. If the licensee fails to file a timely appeal of the suspension or revocation pursuant to this section, the notice of suspension or revocation shall be final, subject only to judicial review.

B. Suspension of Tobacco Retailer License. If the Public Health Department finds that there are grounds for suspension of a tobacco retailer license, the following sanctions shall be imposed:

1. Upon a first finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for thirty days.
2. Upon the second finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for ninety days.
3. Upon the third or subsequent finding by the Public Health Department of a violation of this chapter by a licensee or by any agent or employee of a licensee within any five-year period, the license shall be suspended for twelve months. However, if the licensee is operating within one thousand feet of a school pursuant to Section 8.52.130 of this chapter, upon the third finding by the Public Health Department of a violation by a licensee or by any agent or employee of a licensee within any five-year period the tobacco retailer license may be permanently revoked by the City Council at a public hearing.

C. Appeal of Denial, Revocation and/or Suspension. The decision of the licensing agent to deny the issuance of a tobacco retailer license or the decision of the Public Health Department to revoke or suspend a license can be appealed to the health officer or his/her designee. All appeals must be in writing and filed with the health officer, Santa Barbara County Public Health Department, 300 North San Antonio Road, Santa Barbara, CA 93110-1316 within ten days of receipt of notice of denial, or within ten days of the effective date of the notice of revocation or suspension of a tobacco retailer license. The health officer shall set an appeal hearing at the earliest practicable time and shall give written notice of the hearing to the parties at least ten days before the date of the hearing. At the hearing any relevant evidence shall be admitted. Within a reasonable time after the conclusion of the hearing, the health officer shall make a written decision. An appeal shall stay all proceedings until the appeal is resolved. Any decision rendered by the health officer shall be a final administrative decision.

D. Settlement in Lieu of Appeal Hearing. For a first or second alleged violation of this chapter within any five-year period, the health officer or his designee may engage in settlement negotiations and may enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter, provided that a timely appeal has been filed. Settlements shall not be confidential.

1. After a first alleged violation, any settlement must contain the following minimum terms:
 - a. Suspension of the tobacco retailer license for at least fifteen days;
 - b. A settlement payment to the public health department of at least one thousand dollars; and
 - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
2. After a second alleged violation, any settlement must contain the following minimum terms:
 - a. Suspension of the tobacco retailer license for at least forty-five days;
 - b. A settlement payment to the public health department of at least five thousand dollars; and
 - c. An admission by the licensee that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.

8.52.250 Minors--Posting of signs

Any person, business, tobacco retailer, or owner, manager or operator of any establishment that sells tobacco products shall post plainly visible signs at the point of purchase of tobacco products which state:

"SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO I.D. REQUIRED."

The letters of said signs must be at least one-half inch high.

8.52.260 Sale and distribution of tobacco products

It is unlawful for any person, business or tobacco retailer to sell, permit to be sold, offer for sale or display for purposes of sale by means of self-service displays or by any means other than vendor-assisted sales, any tobacco products other than cartons of cigarettes, multi-container packages of smokeless tobacco and cigars and pipe tobacco. Cartons of cigarettes, multi-container packages of smokeless tobacco, and cigars and pipe tobacco may be sold by means of self-service merchandising only when these products are under direct

surveillance of a store employee. Tobacco products shall be deemed to be under direct surveillance of an employee only if the tobacco products themselves (and not just the racks, shelves, kiosks, etc., where the products are displayed) are in plain view of the store employee.

8.52.270 Vending machines

No person, business, tobacco retailer or other establishment located within the city shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance, or use of, on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of the ordinance codified in this chapter shall be removed within thirty days after the effective date of the ordinance codified in this chapter. This provision shall not apply to vending machines which are located in bars, provided that such vending machines in bars must be located at least twenty-five (25) feet from any entry into the bar.

8.52.280 Out-of-package sales

No person, business, tobacco retailer or other establishment shall sell or offer for sale cigarettes or other tobacco or smoking products not in the original packaging provided by the manufacturer and with all required health warnings.

8.52.290 Enforcement

The Code Compliance Officer, in cooperation with the Health Officer of the County of Santa Barbara, shall enforce and implement the provisions of this chapter, the provisions of CMC 12.24.020.21A and the provisions of Labor Code Section 6404.5.

8.52.300 Citizen complaints

Any citizen who desires to register a complaint under the provisions of this chapter may request the Code Compliance Officer to initiate enforcement.

8.52.310 Violation--Premises

It shall be unlawful for any person who owns, manages or operates any premises subject to regulations under the provisions of this chapter to fail to comply with its provisions. No person shall cause, permit, aid, abet or conceal a violation of any provision of this chapter.

8.52.320 Violation--Individuals

It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this chapter or to violate any federal, state or local statutes governing the sale and distribution of tobacco products and paraphernalia.

8.52.330 Violation--Penalty

In addition to any other remedy available at law, violation of any provision of this chapter shall be subject to Chapter 1.06 (Administrative Remedies) and Chapter 1.08 (Penalties) of the Carpinteria Municipal Code. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

8.52.340 Separate offense

A separate offense is committed for each and every day, or part of a day, during which any violation is caused, committed, continued or permitted. Each offense is punishable separately from every other offense.

8.52.350 Public education--Purposes of chapter

The Code Compliance Officer, in conjunction and coordination with the County Health Officer of the County of Santa Barbara and, where feasible, appropriate health or safety oriented community-based organizations and coalitions, shall engage in a continuing program to explain and clarify the purposes of the provisions of the chapter to citizens affected by it, and to guide business owners, operators and managers in their compliance with it.

8.52.360 Governmental cooperation

The City Manager shall request all governmental and educational agencies which maintain an office within the city to establish local operating procedures to cooperate and comply with this chapter.

8.52.370 Other laws

The provisions of this chapter shall not be interpreted or construed to permit smoking or the sale and distribution of tobacco products and paraphernalia where it is otherwise restricted by other applicable laws. Further, it is not the intent of the provisions of this chapter to regulate smoking or the sale and distribution of tobacco products and paraphernalia where such regulation has been preempted by the state.

SECTION 4. AMENDMENT OF CHAPTER 14.08

Chapter 14.08 of the Carpinteria Municipal Code: DEFINITIONS shall hereby be amended and shall include new sections as follows.

14.08.560 Significant tobacco retailer

"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: twenty percent (20%) or more of floor area or display area is devoted to tobacco products, tobacco paraphernalia, or both; sixty-seven percent (67%) or more of gross sales receipts are derived from tobacco products, tobacco paraphernalia, or both or fifty percent (50%) or more of completed sales transactions include tobacco products or tobacco paraphernalia.

14.08.616 Tobacco paraphernalia

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

14.08.617 Tobacco product

"Tobacco product" means any substance containing tobacco leaf, and any 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 cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

14.08.618 Tobacco retailer

"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. "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.

14.08.619 Tobacco retailer license

"Tobacco retailer license" or "license" shall mean a business license that permits the retail sale of tobacco products and/or tobacco paraphernalia.

SECTION 5. AMENDMENT OF CHAPTER 14.20

Chapter 14.20 of the Carpinteria Municipal Code: CPD COMMERCIAL PLANNED DEVELOPMENT DISTRICT shall hereby be amended and shall include a new section as follows.

14.20.075 – Tobacco Retailing

- A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the City of Carpinteria. However, a significant tobacco retailer in the city operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the city no longer qualifies to continue tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC.

- B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

- C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 6. AMENDMENT OF CHAPTER 14.22

Chapter 14.22 of the Carpinteria Municipal Code: CB CENTRAL BUSINESS DISTRICT shall hereby be amended and shall include a new section as follows.

14.22.070 – Tobacco Retailing

- A. No tobacco retailer license may be issued to authorize a significant tobacco retailer in the City of Carpinteria. However, a significant tobacco retailer in the city operating legally on the date that the ordinance enacting this chapter was first introduced and that otherwise would be entitled to receive a license may receive a license and may continue to operate so long as (1) the license is renewed continually without lapse or revocation; (2) the significant tobacco retailer is not closed for business and does not otherwise suspend tobacco retailing for more than sixty (60) consecutive days; (3) the significant tobacco retailer does not substantially change the business premises or business operation; and (4) the significant tobacco retailer maintains the right to operate under the terms of other applicable laws. If the Department determines that a significant tobacco retailer in the city no longer qualifies to continue tobacco retailing under the standards of this section, it shall revoke the license for the significant tobacco retailer in the manner, and subject to the appeal rights specified in Section 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC.
- B. No tobacco retailer license may be issued to authorize tobacco retailing within one-thousand feet of a public or private, elementary, middle, junior high or high school, as measured in a straight line from the nearest point on the parcel boundary of an existing or proposed tobacco retailer to the nearest point on the parcel boundary of the nearest school; and

- C. A tobacco retailer operating with a valid tobacco retailer license at a location within one-thousand feet of a public or private, elementary, middle, junior high or high school, on the operative date of this Ordinance may continue to operate under their existing tobacco retailer license and under any tobacco retailer license that is timely renewed for that location unless revoked pursuant to Sections 8.52.170.B and 8.52.240 of Chapter 8.52 Smoking Regulations of the CMC. If a tobacco retailer owns a parcel of real property on the operative date of this ordinance, which is also located within one-thousand feet of the same school as their existing tobacco retailer's business, then the tobacco retailer may transfer his or her tobacco retailer license to that property owned by the tobacco retailer, provided that the tobacco retailer does not substantially enlarge the size of the business.

SECTION 7. EFFECTIVE DATE

This Ordinance shall be in full force and effect 60 days following its enactment in accordance with California law; and before the expiration of 15 days following passage, this Ordinance shall be published once with the names of the members of the City Council voting for and against the same in the Coastal View News, a newspaper of general circulation, published in the City of Carpinteria.

SECTION 8. SEVERABILITY

If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decisions shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

SECTION 9. CEQA EXEMPTION

The City Council finds that this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly) and 15061(b)(3) (it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment).

PASSED, APPROVED AND ADOPTED this 13th day of May 2013, by the following called vote:

AYES: COUNCILMEMBERS: CARTY, CLARK, NOMURA, SHAW, STEIN

NOES: COUNCILMEMBER(S): NONE

ABSENT: COUNCILMEMBER(S): NONE



Mayor of the City of Carpinteria

ATTEST:



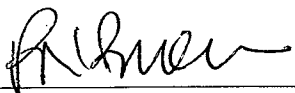
City Clerk, City of Carpinteria

I hereby certify that the foregoing Ordinance was duly and regularly introduced and adopted at a regular meeting of the City Council of the City of Carpinteria held the 13th day of May 2013.



City Clerk, City of Carpinteria

APPROVED AS TO FORM:



Peter N. Brown, City Attorney
City of Carpinteria

- ¹ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Annual Smoking - Attributable Mortality, Years of Potential Life Lost, and Productivity Losses - United States 1997-2001*. 2005, 54(25): p. 625-628. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5425a1.htm.
- ² World Health Organization. *World Health Statistics 2007, Part 1: Ten Statistical Highlights in Global Public Health*. 2007, p. 12. Available at: www.who.int/whosis/whostat2007_10highlights.pdf.
- ³ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005. Available at: <http://oas.samhsa.gov/NSDUH/2k4nsduh/2k4Results/2k4Results.pdf>.
- ⁴ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *2003 National Survey on Drug Use and Health: Results*. 2003. Available at: www.oas.samhsa.gov/nhsda/2k3nsduh/2k3Results.htm#ch5.
- ⁵ US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5412a1.htm.
- ⁶ Healton C, Farrelly MC, Weitzenkamp D, et al. "Youth Smoking Prevention and Tobacco Industry Revenue." *Tobacco Control*, 15: 103-106, 2006. Available at: <http://tobaccocontrol.bmj.com/cgi/content/full/15/2/103>.
- ⁷ American Lung Association of California, Center for Tobacco Policy and Organizing. *Tobacco Retail Licensing is Effective*. 2007. Available at: [www.center4tobaccopolicy.org/files/files/5377 Tobacco%20Retailer%20Licensing%20is%20Effective%20October%202007.pdf](http://www.center4tobaccopolicy.org/files/files/5377%20Tobacco%20Retailer%20Licensing%20is%20Effective%20October%202007.pdf).
- ⁸ Ma GX, Shive S and Tracy M. "The Effects of Licensing and Inspection Enforcement to Reduce Tobacco Sales to Minors in Greater Philadelphia, 1994-1998." *Addictive Behaviors*, 26(5): 677-87, 2001. Abstract available at: www.ncbi.nlm.nih.gov/entrez/query.fcgi?cmd=Retrieve&db=PubMed&list_uids=11676378&dopt=Abstract.
- ⁹ Forster JL et al. "The Effects of Community Policies to Reduce Youth Access to Tobacco." *American Journal of Public Health*, 88(8): 1193-1197, 1998. Available at: www.ajph.org/cgi/reprint/88/8/1193.
- ¹⁰ California Department of Health Services, Tobacco Control Section. *California Tobacco Control Update*. 2004. Available at: <http://dhs.ca.gov/tobacco/documents/pubs/2004TCSupdate.pdf>.
- ¹¹ American Lung Association of California, Center for Tobacco Policy and Organizing. *Survey of California Rural and Small Town Voters About Local Tobacco Retail Licensing Ordinances*. 2008. Available at: [www.center4tobaccopolicy.org/files/files/Rural Poll Summary of Findings Final 5-21-08.pdf](http://www.center4tobaccopolicy.org/files/files/Rural%20Poll%20Summary%20of%20Findings%20Final%205-21-08.pdf).
- ¹² California Department of Health Services, Tobacco Control Section. *Final Report, Independent Evaluation of the California Tobacco Control Prevention & Education Program: Waves 1, 2, and 3 (1996-2000)*. 2003. Available at: www.dhs.ca.gov/tobacco/documents/pubs/WavesComplete.pdf.
- ¹³ *Id.*
- ¹⁴ California Department of Health Services, Tobacco Control Section. *Youth*

Purchase Survey, 2011: Percent of Retailers Selling Tobacco to Youth by Store Type. 2011 (graph on file with TALC).

¹⁵ *Id.*

¹⁶ California Department of Health Services, Tobacco Control Section. *Final Report, Tobacco Control Successes in California: A Focus on Young People, Results from the California Tobacco Surveys, 1990-2002.* 2003, p. 11-12. Available at: www.dhs.ca.gov/tobacco/documents/eval/2003CTSReport.pdf.

¹⁷ California Department of Public Health, California Tobacco Control Program. *Youth Tobacco Purchase Survey, 1995-2009*, July 2009. Available at: <http://www.cdph.ca.gov/Documents/PH09-85-Tobacco-Sales-to-Minors-2009-Chart.pdf>

¹⁸ Dunn, D. & Long, T. *Santa Barbara County Tobacco Retail Licensing Policies: Looking to the Future, Tobacco Retail Licensing, Final Evaluation Report, 2007-2010 Santa Barbara County*, June 2010.

¹⁹ Henriksen L., Feighery E.C., et al. "Is adolescent smoking related to the density and proximity of tobacco outlets and retail cigarette advertising near schools?" *Preventive Medicine*, 47(2): 210-214, 2008.

²⁰ Lipton, Robert, et.al., *The Spatial Distribution of Underage Tobacco Sales in Los Angeles. Substance Use and Misuse*, 2008. Available at: <http://www.informaworld.com/smpp/content~db=all~content=a901982166>

²¹ State Health Officer's Report on Tobacco Use and Promotion in California. Revised January 2, 2013 Available at: <http://www.cdph.ca.gov/Documents/EMBARGOED%20State%20Health%20Officers%20Report%20on%20Tobacco.pdf>

²² Americans for Non-Smokers' Rights. *List of Communities with Licensing and Self-Service Ordinance Services*, July 2010. Available at: [http://www.phlpnet.org/sites/phlpnet.org/files/ANRF List of Communities with Licensing and Self-Service Display Ordinances DOC Updated 12-10 .doc](http://www.phlpnet.org/sites/phlpnet.org/files/ANRF%20List%20of%20Communities%20with%20Licensing%20and%20Self-Service%20Display%20Ordinances%20DOC%20Updated%2012-10.doc)