



**CITY OF SOUTH PASADENA**  
PUBLIC SAFETY COMMISSION REGULAR MEETING AGENDA

AMEDEE O. "DICK" RICHARDS, JR. COUNCIL CHAMBER  
1424 MISSION STREET, SOUTH PASADENA, CA 91030  
TEL: (626) 403-7210 • FAX: (626) 403-7211  
WWW.SOUTHPASADENACA.GOV

Monday, January 10, 2022 at 8:30 a.m.

**South Pasadena Public Safety Commission Statement of Civility**

As your appointed governing board we will treat each other, members of the public, and city employees with patience, civility and courtesy as a model of the same behavior we wish to reflect in South Pasadena for the conduct of all city business and community participation. The decisions made today will be for the benefit of the South Pasadena community and not for personal gain.

**PUBLIC ADVISORY: THE CITY COUNCIL CHAMBERS WILL NOT BE OPEN TO THE PUBLIC**

Pursuant to Section 3 of Executive Order N-08-21, issued by Governor Newsom the Regular Meeting of the Public Safety Commission for January 10, 2022 will be conducted remotely and held by Zoom Webinar video conference, beginning at 8:30 a.m.

Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, the Council Chambers will not be open for the meeting. Commissioners will be participating remotely and will not be physically present in the Council Chambers.

To maximize public safety while still maintaining transparency and public access, members of the public can observe the meeting via Zoom Webinar in one of the methods below.

**Public Safety Commission  
Zoom Webinar Information  
Meeting ID: 841 6044 2836**

1. Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Webinar information accordingly; or

Click the following link to join the webinar: <https://us06web.zoom.us/j/84160442836>

2. You may listen to the meeting by calling: **+16699006833** and entering the Zoom Webinar ID when prompted to do so.

For additional Zoom assistance with telephone audio, you may find your local number at: <https://zoom.us/j/9201111111>

**IMPORTANT NOTE:** Members of the public may access the meeting to observe the meeting's proceedings; however, at this time, there is no live, real-time participation by members of the public.

**PUBLIC COMMENTS:** If you would like to comment on an agenda item or make a general public comment, members of the public may submit their comments in writing, for Commission consideration, by emailing them to: [psscpubliccomment@southpasadenaca.gov](mailto:psscpubliccomment@southpasadenaca.gov)

Public Comments must be received by **6 p.m., January 9, 2022** to ensure adequate time to compile. Public Comment portion of the email is limited to 250 words. Please make sure to indicate: 1) your name; 2) what agenda item you are submitting public comment on or if it is a general public comment; and 3) clearly state if you wish for your comment to be read.

**CALL TO ORDER** Chair Amin Alsarraf

**ROLL CALL** Commission members Grace Liu Kung, Jeremy Ding, Ed Donnelly, Lisa Watson, Lindsey Angelats; Vice-Chair Stephanie Cao; and Chair Amin Alsarraf

**COUNCIL LIAISON:** Jon Primuth

**PUBLIC COMMENTS AND SUGGESTIONS**

The Public Safety Commission welcomes public input. Members of the public may address the Public Safety Commission by emailing: [psscpubliccomment@southpasadenaca.gov](mailto:psscpubliccomment@southpasadenaca.gov)  
Public Comments must be received by **6 p.m., January 9, 2022** to ensure adequate time to compile. Public Comment portion of the email is limited to 250 words. Please make sure to indicate: 1) your name; 2) what agenda item you are submitting public comment on or if it is a general public comment; and 3) clearly state if you wish for your comment to be read.

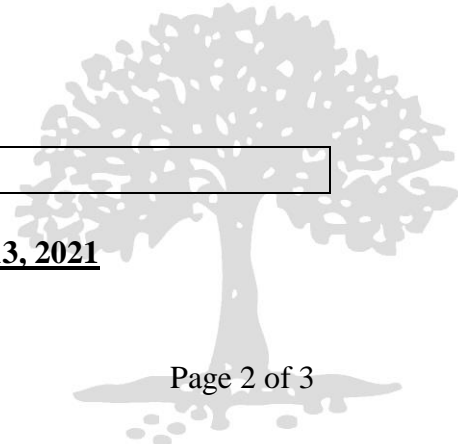
Pursuant to state law, the Public Safety Commission may not discuss or take action on issues not on the meeting agenda, except that members of the Public Safety Commission or staff may briefly respond to statements made or questions posed by persons exercising public testimony rights (Government Code Section 54954.2). Staff may be asked to follow up on such items.

**1. Public Comment – General**

**ACTION/DISCUSSION**

**2. Minutes of the Public Safety Commission Meeting of December 13, 2021**

Recommendation



It is recommended that the Commission review and approve the December 13, 2021 Meeting Minutes.

**3. Updates on Potential New Ordinance for the South Pasadena Municipal Code Regarding Prohibiting the Sale of All Tobacco Products**

Recommendation

It is recommended that the Commission discuss the Potential New Ordinance for the South Pasadena Municipal Code Regarding Prohibiting the Sale of All Tobacco Products.

**COMMUNICATIONS**

**4. City Council Liaison Communications**

**5. Staff Liaison Communications**

**6. Commissioner Communications**

**ADJOURNMENT**

**PUBLIC ACCESS TO AGENDA DOCUMENTS**

The complete agenda packet may be viewed on the City's website at:  
<https://www.southpasadenaca.gov/government/boards-commissions>

Meeting recordings will be available for public viewing after the meeting. Recordings will be uploaded to the City's YouTube Channel no later than the next business day after the meeting. The City's YouTube Channel may be accessed at:

[https://www.youtube.com/channel/UCnR169ohzi1AJewD\\_6sfwDA/featured](https://www.youtube.com/channel/UCnR169ohzi1AJewD_6sfwDA/featured)

**ACCOMMODATIONS**

The City of South Pasadena wishes to make all of its public meetings accessible to the public. If special assistance is needed to participate in this meeting, please contact the City Clerk's Division via e-mail at [CityClerk@southpasadenaca.gov](mailto:CityClerk@southpasadenaca.gov) or by calling (626) 403- 7230. Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities. Notification at least 48 hours prior to the meeting will assist staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting (28 CFR 35.102-35.104 ADA Title II).

*I declare under penalty of perjury that I posted this notice of agenda on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA, and the City's website at [www.southpasadenaca.gov](http://www.southpasadenaca.gov) on **January 6, 2022** as required by law.*

\_\_\_\_\_  
1/6/2022  
Date

\_\_\_\_\_  
/s/  
Brian Solinsky, Police Chief



**MONDAY, DECEMBER 13, 2021  
MINUTES OF THE REGULAR MEETING OF THE  
PUBLIC SAFETY COMMISSION  
OF THE CITY OF SOUTH PASADENA**

**CALL TO ORDER**

A Regular Meeting of the Public Safety Commission was called to order by Chair Alsarraf on Monday, December 13, 2021, at 8:35 a.m., in the Amedee O. “Dick” Richards, Jr., Council Chamber, located at 1424 Mission Street, South Pasadena, California.

**ROLL CALL**

**Present:** Commissioners: Grace Liu Kung, Ed Donnelly, Lisa Watson, Lindsay Angelats, and Chair Amin Alsarraf.

**Absent:** Commissioner Jeremy Ding, Vice-Chair Stephanie Cao

**Officials** Fire Chief Paul Riddle, Police Chief Brian Solinsky

**Present:** City Council Liaison Jon Primuth, Police Lieutenant Shannon Robledo/Staff Liaison, Fire Operations Division Chief Chris Szenczi/Staff Liaison, and Police Department Clerk/Recording Secretary Laura Mendez / Interim City Clerk Christina Munoz.

**Absent:** None

**PUBLIC COMMENTS AND SUGGESTIONS**

1. No Public Comments

**ACTION/DISCUSSION**

2. Minutes of the Public Safety Commission Meeting of October 18, 2021

MOTION BY COMMISSIONER LIU KUNG, AND SECOND BY COMMISSIONER ANGELATS, CARRIED 5-0, to approve the Minutes of the October 18, 2021 Public Safety Commission Regular Meeting.

Absent: Commissioner Ding, Vice-Chair Cao

### **3. Police Department Electric Vehicle Purchase**

SGT Tony Abdalla gave a detailed presentation on seeking the Commission's recommendation to the City Council to convert our entire vehicle fleet to Battery Electric Vehicles along with the Fire Department converting their Administrative fleet.

Background: The Department started about 10-12 years ago researching a better way of doing business, currently the average age of our fleet is 9 years old, 26 percent of the fleet is 16 years old or greater and 9 percent of the vehicles are at their maximum age of 20 years old. We also have a few vehicles that have an access of 100 thousand miles.

We researched a couple products that would meet or exceed our needs, it really intensified about 18 months ago when Tesla released deliveries for their Model Y. Model Y is a across over SUV that is very comparable in size to the current Ford Interceptors that we use. We researched that thoroughly, we researched other legacy Auto Manufactures that were manufacturing EV products and what we found out was that legacy manufactures are really struggling with producing EV's that are both reliable and perform well. Look no further with Chevy's Bolts recall due to batteries may catch fire. Also, the Ford Mach-E has concerning performance issues along with another significant recall for roofs detaching. It became clear from our research that Tesla was the gold standard and the clear market leader in the EV space.

More information can be found on the agenda packet for this item.

MOTION BY CHAIR ALSARRAF, AND SECOND BY COMMISSIONER DONNELLY, CARRIED 5-0, to recommend to the City Council the Police Department Transition their entire vehicle fleet and the Fire Department transition their Administrative vehicle fleet to Battery Electric Vehicles.

## **COMMUNICATIONS**

### **1. City Counsel Liaison Communications**

City Council Liaison Primuth had no communications.

### **Staff Liaison Communications**

**Police Lieutenant Shannon Robledo** informed the Commission that he wanted to give a quick brief on our Traffic Ballers that was recommended we do research. I wanted to inform that Public Works is still doing research on them and we should have an answer shortly for the Farmers Market. Another thing, I wanted to inform you is that Alison Wehrle is going to brief you on the RFQ for our Department. Alison gave a quick update on the Public Safety Assessment RFQ that we are going to be releasing this week. So the RFQ is going to be release this week, it was approved for release by the City Manager and we're looking to get it released officially by the end of this week through the process we are looking to increase efficiencies in workload, improve processes, and procedures of the Police Department we expect to have RFQ open until about mid-January. We will review the applicants that we receive and then a formal RFP will be issued and a consultant will be selected at that point.

**Fire Operation Division Chief Chris Szenczi** has no communications.

## 2. Commissioner Communications

**Commissioner Donnelly** stated it is good to see everyone in person.

**Commissioner Angelats** wanted to add a note of appreciation to the staff who have bouncing hybrid and in-person and operation of virtual meeting are tremendous lift so thank you.

**Commissioner Liu Kung** informed that school is going well in person, no inter transmission of Covid-19 within the school, it been a very safe and positive and great experience.

**Commissioner Watson** appreciation but no additional updates.

**Chair Alsarraf** likewise it's good to see you all and thank you to the Commissioners and the Staff for being here and for all the work that you guys put into these reports and to making these meetings go smoothly. In the early part of next year we are going to have elections for Chair and Vice Chair so keep that in mind and also I believe in March we will see some transition in terms of the Commission make up depending on what our New Mayor decides to in terms of. We are not quite out of the Covid Pandemic, we did a lot during that period as a Commission virtually and looking forward to doing more as we continue forward in person. Thank you to everybody.

<b>ADJOURNMENT</b>
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Chair Alsarraf adjourned the meeting at 9:20 a.m.

Respectfully Submitted:

Approved By:

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Laura Mendez /  
Recording Secretary

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Amin Alsarraf /  
Chair



# Public Safety Commission Agenda Report

ITEM NO. 3

**DATE:** January 10, 2022

**FROM:** Brian Solinsky, Chief of Police  
Alison Wehrle, Management Analyst

**SUBJECT:** **Continued Discussion on Potential New Ordinance for the South Pasadena Municipal Code Regarding Prohibiting the Sale of All Tobacco Products**

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## **Recommendation**

It is recommended that the Public Safety Commission:

1. Continue a discussion on a potential new ordinance for the South Pasadena Municipal Code regarding prohibiting the sale of all tobacco products; and
2. Provide a recommendation to the City Council regarding endorsement of the attached draft ordinance as written.

## **Discussion/Analysis**

At the October 18, 2021 Public Safety Commission Special Meeting, Staff introduced a framework for discussion on exploring and developing a policy to ban the sale of tobacco products within the City of South Pasadena. The Commission reviewed a number of documents, took public comment, and held a discussion on the subject matter, putting together a set of recommendations for an initial draft ordinance to be presented to the City Council at a later date. Initial recommendations from the Commission included seeking a ban on all tobacco products and not just flavored tobacco, potentially allowing hardship exemptions only for small businesses, prevention of new businesses or tobacco permit issuance, and whether or not to determine hardship exemption eligibility on a measureable quantitative factor, such as percentage of overall sales.

## Legal Review

Since the October 18, 2021 meeting, the City Attorney has provided guidance and made updates to the draft ordinance which incorporates many of the Public Safety Commission's recommendations for a potential ban of the sale of all tobacco products, including adding structure to the hardship exemption process. The attached updated draft ordinance (Attachment A) includes changes to the appropriate sections of the City's current municipal code that would need to be altered, including sections outlining the tobacco retailer permit application, issuance, requirements, renewal, compliance, and monitoring processes. Also included in the updated draft ordinance are new sections regarding ban enforcement, requirements for a single hardship exemption application, and the hearing procedure for a requested hardship exemption. The City Attorney has opined that the suggestion to only allow small businesses to apply for a hardship exemption be omitted, and is not included in the attached updated draft ordinance. As mentioned

## **Continued Discussion on Prohibiting the Sale Of All Tobacco Products**

January 10, 2022

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in the October 18, 2021 PSC Special Meeting staff report (Attachment B), it is important to note that there is still a possibility that the City may face legal challenges, and the City should be willing to appropriately address these challenges, including litigation expenses from both the tobacco industry and local businesses. It is possible that anti-smoking advocacy organizations may be willing to assist with legal challenges, but this remains solely a possibility at this time.

### Business Impact Mitigation Update

A representative from the Small Business Development Center (“SBDC”) at Pasadena City College provided a presentation at the December 7, 2021 Chamber of Commerce ShopTalk meeting. The representative gave a talk about the organization and the variety of services and consulting that is available to all types of businesses, including business planning, legal & accounting, loan advice, sales & marketing, product diversification, and more. Additional information about the offerings of the SBDC can be found in Attachment C. Video of the presentation will be available on the Chamber of Commerce’s website, and Staff is able to put any interested business in contact with the SBDC and/or the Chamber of Commerce for any business advising needs.

### Summary of Additional Public Outreach and Engagement

Since the October 18, 2021 Special Meeting, staff has conducted additional outreach to businesses that may be affected by a potential tobacco ban via in-person visits, mail, email, and telephone to ensure awareness of the January 10, 2022 Public Safety Commission review. The following additional outreach has taken place since October 18, 2021:

- December 30, 2021 – Police Department staff conducted in-person outreach, mailed noticing to all retail establishments that sell tobacco products within the City, and emailed noticing to businesses with email addresses on file regarding the continued discussion to be held on January 10, 2022.
- January 5, 2022 - Police Department staff conducted in-person outreach to all retail establishments that sell tobacco products within the City and emailed noticing to businesses with email addresses on file to advise that the January 10, 2022 Regular Meeting would be held remotely via Zoom.

### Key Provisions of the Proposed Ordinance and Updated Timeline

The proposed ordinance includes two primary modifications to Article VI of Chapter 18 of the South Pasadena Municipal Code. The proposed ordinance:

1. States that it shall be unlawful for any Retailer to sell or offer for sale any Tobacco Product; and
2. Establishes an effective date of September 15, 2022 for the tobacco ban for any retailer operating at the effective date of the Ordinance. This delay allows expiration of all known current tobacco retailer permits, and provides all existing tobacco retailers with several months to sell their remaining inventory of tobacco products, notwithstanding any granted hardship exemption. This provision is recommended to avoid any takings challenge, as previously mentioned in the October 18, 2021 staff report (Attachment B). Allowing tobacco retailers a reasonable time to amortize the value of any investment in property, i.e.,



## **Continued Discussion on Prohibiting the Sale Of All Tobacco Products**

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selling any remaining tobacco products that cannot be used after the prohibition takes effect.

Ordinances go into effect 31 days after adoption by City Council. The ordinance includes an implementation period after the effective date of the ordinance. This allows the City to notify tobacco retailers in South Pasadena and time for tobacco retailers to sell their existing inventory of tobacco products and comply with the ban or apply for a one-time hardship exemption. Tobacco retailers have indicated that they could face a financial strain if an ordinance were to go into effect immediately. If the City Council were to adopt the ordinance as presented, the implementation timeline would be as follows:

- February 16, 2022: First Reading of Ordinance
- March 2, 2021: Second Reading
- April 2, 2022: Ordinance Takes Effect
- September 15, 2022: Enforcement Takes Effect

### **Fiscal Impact**

Estimated potential fiscal impacts remain unchanged since the October 18, 2021 PSC Special Meeting. Should City Council choose to adopt a ban on the sales of all tobacco products, the most direct fiscal impact to the City would be the elimination of revenue from issuing the Tobacco Retailer Permits. The 2021/22 fee for these permits is \$120, paid annually by each retailer. Since there are currently eleven retailers in the City, staff estimates the loss of permit revenue to be approximately \$1,320 using FY 2021/22 fee amounts. The permit revenue is a cost-recovery fee; therefore, staff time involved in the administration and enforcement of the permits could be reallocated to other activities.

### **Environmental Considerations**

The action considered is exempt from the California Environmental Quality Act (CEQA), as it is not considered a "project" pursuant to Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this evening by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.

### **Attachments:**

- A. Updated Draft Ordinance with PSC and City Attorney Edits
- B. October 18, 2021 Public Safety Commission Staff Report (no attachments)
- C. Small Business Development Center ("SBDC") Flyer
- D. January 5, 2022 Updated Outreach Flyer (remote meeting notification)

**ATTACHMENT A**  
Updated Draft Ordinance Regarding "Prohibition of  
Tobacco Sales" with PSC and City Attorney Edits

**ORDINANCE NO. [ \_\_\_\_\_ ]**

**AN ORDINANCE OF THE CITY OF SOUTH PASADENA  
AMENDING CHAPTER 18, ARTICLE VI OF THE SOUTH  
PASADENA CITY CODE TO PROHIBIT THE SALE OF ALL  
TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES**

**WHEREAS**, tobacco use causes disease and death and constitutes an urgent public health threat as it remains the leading cause of preventable death and disability in the United States, with 480,000 people dying prematurely in the United States from smoking-related diseases every year. In the United States, smoking is responsible for about one in every five deaths, more deaths each year than human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, microbial agents, and toxic agents combined.

**WHEREAS**, cigarette smoking kills 40,000 Californians annually, and is the cause of more than one in four cancer deaths in California.

**WHEREAS**, tobacco use can affect nearly all organ systems and is responsible for 87 percent of lung cancer deaths, 79 percent of all chronic obstructive pulmonary disease deaths, and 32 percent of coronary heart disease deaths. According to the World Health Organization, tobacco use accounts for the greatest cause of death worldwide, responsible for nearly 6 million deaths per year. Over 16 million Americans have at least one disease caused by smoking.

**WHEREAS**, secondhand smoke, according to the Centers for Disease Control and Prevention, causes stroke, lung cancer, and coronary heart disease in adults. In addition, it increases risks for sudden infant death syndrome, respiratory symptoms, middle-ear disease, and slows lung growth in children.

**WHEREAS**, smoking costs California \$13.29 billion in annual health care expenses, \$3.58 billion in Medicaid costs caused by smoking, and \$10.35 billion in smoking-caused productivity losses.

**WHEREAS**, unless smoking rates decline, 441,000 of California youth alive today will die prematurely. California youth tobacco usage is increasing. The U.S. Surgeon General declared youth e-cigarette use an “epidemic,” and 1 in 10 Los Angeles County high school students say they are current e-cigarette users.

**WHEREAS**, the City of South Pasadena recognizes that the use of tobacco products has devastating health and economic consequences.

**WHEREAS**, cigarette butts are the most-littered object in the world and the item most often found in beach cleanups globally. Cigarette butts contribute nonbiodegradable plastic, nicotine, heavy metals, pesticides, and other toxic substances to land and marine environments, down to the bottom of the oceans. California’s Trash Amendments, a standard under the federal Clean Water Act, requires prevention or capture of trash such as cigarette butts and other tobacco product waste before it enters state waterways.

**WHEREAS**, it is the intent of the Council of the City of South Pasadena to provide for the public's health, welfare, and safety by protecting its residents, especially young people, from the inherent dangers of tobacco use.

**WHEREAS**, it is the intent of the Council of the City of South Pasadena to provide for sufficient time to businesses currently selling tobacco products to phase out stocks on hand and cease operations in an orderly manner.

**NOW THEREFORE, THE COUNCIL OF THE CITY OF SOUTH PASADENA DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby amends the South Pasadena Municipal Code Chapter 18, Article VI, section 18.103 to read as follows, with additions denoted in underline and deletions denoted in ~~striketrough~~, **to become effective [30 days from date of passage]:**

18.103. LIMITS ON ELIGIBILITY FOR A TOBACCO PERMIT.

- (a) No permit may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.
- (b) No tobacco retailer may be located within five hundred feet of any public school as measured from the closest point on the property line of the parcels containing the retailer's establishment and the school. Such measurement shall be in a straight line without regard to intervening structures. No existing business within five hundred feet of a public school may begin operation as a tobacco retailer after the effective date of the ordinance codified in this section.
- (c) No permit shall be issued after March 1, 2022.

**SECTION 2.** The City Council hereby amends the South Pasadena Municipal Code Chapter 18, Article VI, section 18.106 to read as follows, with additions denoted in underline and deletions denoted in ~~striketrough~~, **to become effective [30 days from date of passage]:**

18.106. PERMIT RENEWAL AND EXPIRATION.

- (a) Renewal of Permit. A tobacco retailer permit is invalid if the appropriate fee has not been timely paid in full or if the term of the permit has expired. ~~The term of a tobacco retailer permit is one year.~~ Each tobacco retailer shall apply for the renewal of his or her tobacco retailer permit and submit the permit fee no later than thirty days prior to expiration of the term. All new tobacco retailer permits and renewal of existing permits issued after March 1, 2022 shall be renewed only through September 15, 2022.
- (b) Expiration of Permit. A tobacco retailer permit that is not timely renewed shall expire at the end of its term. To renew a permit not timely renewed pursuant to subsection (a), the proprietor must:
  - (1) Submit the permit fee and application renewal form; and

- (2) Submit a signed affidavit affirming that the proprietor:
- (A) Has not sold and will not sell any tobacco product or tobacco paraphernalia after the permit expiration date and before the permit is renewed, or
  - (B) Has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in Section 18.112(a) of this article, before seeking renewal of the permit.

**SECTION 3.** The City Council hereby amends the South Pasadena Municipal Code Chapter 18, Article VI to read as follows, with additions denoted in underline and deletions denoted in ~~strikethrough~~, to become effective [September 15, 2022]:

**ARTICLE VI – TOBACCO RETAILER PERMIT PROHIBITION OF THE RETAIL SALE OF TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES**

18.101 – DEFINITIONS.

The following words and phrases, whenever used in this article, 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 article is not an arm’s length transaction.~~

“Cigar” means any roll of tobacco other than a cigarette wrapped entirely in tobacco or any substance containing tobacco and weighing more than 4.5 pounds per thousand.

“Cigar lounge” means a tobacco retailer that (1) contains an enclosed area in or attached to the tobacco retailer that is dedicated to the use of cigars, (2) does not sell any tobacco products other than cigars, and (3) only permits patrons who are the state minimum age to purchase (currently 21 years of age or older) to enter the premises.

~~(b) “Department” means the finance department and any agency or person designated by the department to enforce or administer the provisions of this article.~~

“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 and whether or not sold separately. 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.

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

~~(d) “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 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.~~

~~(e) “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 and a direct person-to-person transfer between the purchaser and the retailer. A vending machine is a form of self-service display.~~

“Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

~~(f) “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), and means 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).~~

~~(g) “Tobacco product” means: any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; 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.~~

1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; 2) any electronic smoking device as defined in this section and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine and whether or not sold separately; or 3) any component, part, or accessory of 1) or 2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, and pipes. “Tobacco product” does not mean 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.

~~(h) “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” means 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. A tobacco retailer can be a primary or accessory land use (as defined in SPMC 36.700.020 or its successor) means any person who sells, exchanges, or offers to sell or exchange, for any form of consideration, tobacco products or electronic smoking devices. This definition is without regard to the quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange. A tobacco retailer can be a primary or accessory use (as defined in SPMC 36.700.020 or its successor)

“Tobacco retailing” means engaging in the activities of a tobacco retailer.

#### 18.102 – ~~REQUIREMENTS AND PROHIBITIONS.~~

~~(a) Tobacco Retailer Permit 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 permit (“permit”) pursuant to this article for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer permit is a nuisance as a matter of law. It shall be unlawful for any person to sell or offer for sale a tobacco product in the city unless authorized by this chapter.~~

~~(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 permit issued, it shall be a violation of this article for a permittee, or any of the permittee’s agents or employees, to violate any local, state, or federal law applicable to tobacco products or tobacco retailing.~~

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

~~(d) Positive Identification Required. No person engaged in tobacco retailing shall sell or transfer a tobacco product 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.~~

~~(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 permit, including, for example, a person whose permit has been suspended or revoked:~~

~~(1) Shall keep all tobacco products 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 under Section 18.112; and~~

~~(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. (Ord. No. 2184, § 2, 2009.)~~

(b) This section shall not apply to a cigar lounge that:

- (1) held a valid tobacco retailer permit in the city and is operating as a cigar lounge as of March 1, 2022;
- (2) does not allow the use of any tobacco products, except cigars, on the premises;
- (3) all cigar sales are conducted only in-person at the location licensed as of March 1, 2022;
- (4) is in compliance with State law;
- (5) has not changed ownership after March 1, 2022;
- (6) has not expanded in size or changed its location after March 1, 2022; and
- (7) has not closed for more than 60 consecutive days after March 1, 2022.

#### ~~18.103. LIMITS ON ELIGIBILITY FOR A TOBACCO PERMIT.~~

~~(a) — No permit may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited.~~

~~(b) — No tobacco retailer may be located within five hundred feet of any public school as measured from the closest point on the property line of the parcels containing the retailer's establishment and the school. Such measurement shall be in a straight line without regard to intervening structures. No existing business within five hundred feet of a public school may begin operation as a tobacco retailer after the effective date of the ordinance codified in this section. (Ord. No. 2258, § 23, 2013.)~~

#### ~~18.104. APPLICATION PROCEDURE~~

~~(a) — Application for a tobacco retailer permit shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales 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 permit. No proprietor may rely on the issuance of a permit as a determination by the city that the proprietor has complied with all state and federal laws applicable to tobacco retailing. A permit issued contrary to this article, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 18.111(d) of this article. Nothing in this article shall be construed to vest in any person obtaining and maintaining a tobacco retailer permit 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 proprietor of the business seeking a permit;~~

~~—— (2) The business name, address, and telephone number of the single fixed location for which a permit is sought;~~

~~—— (3) A single name and mailing 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 article. 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 subsection (e)(2);~~

~~—— (4) Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer permit 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 article and, if so, the dates and locations of all such violations within the previous five years;~~

~~—— (6) A nonrefundable application fee, as set and as may be amended from time to time by city council resolution;~~

~~—— (7) Such other information as the department deems necessary for the administration or enforcement of this article as specified on the application form required by this section.~~

~~(d) — A permitted tobacco retailer shall inform the department in writing of any change in the information submitted on an application for a tobacco retailer permit 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. (Ord. No. 2258, § 24, 2013.)~~

#### ~~18.105. ISSUANCE OF PERMIT.~~

~~Upon the receipt of a complete application for a tobacco retailer permit and the permit fee required by this article, the department shall issue a permit 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. Intentionally supplying inaccurate or false information shall be a violation of this article;~~

~~(b) — The application seeks authorization for tobacco retailing at a location for which this article prohibits issuance of tobacco retailer permits. However, this subsection shall not constitute a basis for denial of a permit if the applicant provides the city with documentation demonstrating by clear~~

and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction

~~(c) — The application seeks authorization for tobacco retailing for a proprietor to whom this article prohibits a permit to be issued;~~

~~(d) — The application seeks authorization for tobacco retailing that is prohibited pursuant to this article (e.g., mobile vending), that is unlawful pursuant to this Code including, without limitation the zoning code, building code, and business license tax code, or that is unlawful pursuant to any other law. (Ord. No. 2184, § 2, 2009.)~~

#### ~~18.106. PERMIT RENEWAL AND EXPIRATION.~~

~~(a) — Renewal of Permit. A tobacco retailer permit is invalid if the appropriate fee has not been timely paid in full or if the term of the permit has expired. The term of a tobacco retailer permit is one year. Each tobacco retailer shall apply for the renewal of his or her tobacco retailer permit and submit the permit fee no later than thirty days prior to expiration of the term.~~

~~(b) — Expiration of Permit. A tobacco retailer permit that is not timely renewed shall expire at the end of its term. To renew a permit not timely renewed pursuant to subsection (a), the proprietor must:~~

~~—— (1) — Submit the permit fee and application renewal form; and~~

~~—— (2) — Submit a signed affidavit affirming that the proprietor:~~

~~—— (A) — Has not sold and will not sell any tobacco product or tobacco paraphernalia after the permit expiration date and before the permit is renewed, or~~

~~—— (B) — Has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in Section 18.112(a) of this article, before seeking renewal of the permit. (Ord. No. 2258, § 24, 2013.)~~

#### ~~18.107. — PERMITS NONTRANSFERRABLE.~~

~~(a) — A tobacco retailer permit may not be transferred from one person to another or from one location to another. A new tobacco retailer permit is required whenever a tobacco retailing location has a change in proprietorship.~~

~~(b) — Notwithstanding any other provision of this article, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:~~

~~—— (1) — The location has been or is being fully transferred to a new proprietor in an arm's length transaction; and~~

~~—— (2) — The new proprietor provides the city with clear and convincing evidence that the new proprietor has acquired or is acquiring the location in an arm's length transaction. (Ord. No. 2258, § 24, 2013.)~~

#### ~~18.108. PERMITS CONVEYS A LIMITED, CONDITIONAL PRIVILEGE~~

~~Nothing in this article shall be construed to grant any person obtaining and maintaining a tobacco retailer permit any status or right other than the limited conditional privilege to act as a tobacco retailer at the location identified on the face of the permit. For example, nothing in this article 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 code, building codes, and business license tax code, 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. (Ord. No. 2258, § 24, 2013.)~~

#### ~~18.109. FEE FOR PERMIT.~~

~~The initial fee to issue or to renew a tobacco retailer permit is hereby established at one hundred twenty dollars or as set and amended from time to time by city council resolution. The fee shall be calculated so as to recover the cost of administration and enforcement of this article, including, for example, issuing a permit, administering the permit program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this article. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law. (Ord. No. 2258, § 24, 2013.)~~

#### ~~18.110. COMPLIANCE MONITORING~~

~~(a) — Compliance with this article shall be monitored by the finance department. In addition, any peace officer may enforce the penal provisions of this article. The city may designate any number of additional persons to monitor compliance with this article.~~

~~(b) — The department or other person designated to enforce the provisions of this article shall check the compliance of each tobacco retailer at least one time per twelve month period. The department may check the compliance of new permit and tobacco retailers previously found in violation of the licensing law more frequently. Nothing in this subsection shall create a right of action in any permittee or other person against the city or its agents.~~

~~(c) — Compliance checks shall be conducted so as to allow the department to determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with laws regulating youth access to tobacco. When the department deems appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.~~

~~(d) — 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 of South Pasadena;~~

~~—— (2) The youth decoy is acting as an agent of a person designated by the city to monitor compliance with this article;~~

~~—— (3) The youth decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Los Angeles County department of health and/or Pasadena health department; or~~

~~—— (4) The youth decoy has an immunity letter from the district attorney's office. (Ord. No. 2258, § 25, 2013.)~~

#### 18.111 SUSPENSION/REVOCAION OF PERMIT

~~(a) — Suspension of Permit for Violation. In addition to any other penalty authorized by law, a tobacco retailer permit shall be suspended or revoked if any court of competent jurisdiction determines, or the department finds based on a preponderance of the evidence, after the permittee is afforded notice and an opportunity to be heard, that the permit, or any of the permittee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this article or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 18.102 of this article. A tobacco retailer or proprietor whose permit has been suspended is deemed not to have a valid tobacco retailer permit during the suspension period for purposes of this article.~~

~~(b) — Tobacco Retailer Permit Suspension/Revocation.~~

~~—— (1) After suspension for a first violation of this article at a location within any twelve-month period, no person may engage in tobacco retailing at the location until fifteen days have passed from the date of suspension.~~

~~—— (2) After suspension for a second violation of this article at a location within any twenty-four month period, no person may engage in tobacco retailing at the location until thirty days have passed from the date of suspension.~~

~~—— (3) After suspension for a third violation of this article at a location within any thirty six-month period, no person may engage in tobacco retailing at the location until ninety days have passed from the date of suspension.~~

~~—— (4) After revocation for four or more violations of this article at a location within any forty eight month period, no new permit may issue for the location until one year has passed from the date of revocation.~~

~~(c) — Appeal of Suspension/Revocation. A decision of the department to suspend or revoke a permit is appealable to the city manager and must be filed with the city clerk within ten days of mailing of the department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An appeal to the city manager is not available for a suspension or revocation made pursuant to subsection (d) of this section.~~

~~(d) — Revocation of Permit Wrongly Issued. A tobacco retailer permit shall be revoked if the department finds, after the permittee is afforded notice and an opportunity to be heard, that one or~~

~~more of the bases for denial of a permit under Section 18.105 existed at the time application was made or at any time before the permit issued. The decision by the department shall be the final decision of the city. Such a revocation shall be without prejudice to the filing of a new permit application.~~

~~(e) — Notice of City Manager Decision. The decision of the city manager (or of the department in the event of revocation pursuant to Section 18.111(d)) shall be mailed to the permittee within five working days of the hearing and shall be final. The decision shall make reference to the time limitation to file a writ to challenge the decision in Sections 1094.5 and 1094.6 of the Code of Civil Procedure. (Ord. No. 2258, § 25, 2013.)~~

#### ~~18.112 TOBACCO RETAILING WITHOUT A PERMIT~~

~~(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 permit, 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 permit as follows:~~

~~(1) — After a first violation of this section at a location within any sixty month period, no new permit may issue 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 permit may issue 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 a third or subsequent violation of this section at a location within any sixty month period, no new permit may issue 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 and tobacco 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 permittee and any other owner of the tobacco products and tobacco paraphernalia seized are given reasonable notice and an opportunity to demonstrate that the tobacco products and tobacco paraphernalia were not offered for sale or exchange in violation of this article. The decision by the department may be appealed pursuant to the procedures set forth in Section 18.111(c). 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 writ or, if such a writ is filed, after judgment in that writ becomes final.~~

~~(c) — For the purposes of the civil remedies provided in this article, the following shall constitute a separate violation of this article:~~

~~— (1) Each day on which any tobacco product or tobacco paraphernalia is offered for sale in violation of this article; or~~

~~— (2) Each individual retail tobacco product and each individual retail item of tobacco paraphernalia that is distributed, sold, or offered for sale in violation of this article. (Ord. No. 2258, § 25, 2013.)~~

#### 18.113. ENFORCEMENT

~~(a) — Violations of this article are subject to a civil action brought by the city prosecutor or the city attorney, punishable by a civil fine not less than two hundred fifty dollars and not exceeding one thousand dollars per violation.~~

~~(b) — Violations of this article may, in the discretion of the city prosecutor, be prosecuted as infractions or misdemeanors when the interests of justice so require.~~

~~(c) — Causing, permitting, aiding, abetting, or concealing a violation of any provision of this article shall also constitute a violation of this article.~~

~~(d) — Any violation of this article is hereby declared to be public nuisances.~~

~~(e) — The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity. In addition to other remedies provided by this article or by other law, any violation of this article 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. No. 2258, § 25, 2013.)~~

#### 18.103. ENFORCEMENT.

(a) Compliance with this article shall be monitored by the Department of Planning and Community Development Department. The city may designate any number of additional persons to monitor compliance with this article.

(b) Violations of this article are subject to a code enforcement action brought by the city, punishable by a civil fine pursuant by the Chapter 1A.

(c) Violations of this article may be prosecuted as infractions or misdemeanors when the interests of justice so require.

(d) Any violation of this article is hereby declared to be a public nuisance.

(e) The remedies provided by this article are cumulative and in addition to any other remedies available at law or in equity. In addition to other remedies provided by this article or by other law, any violation of this article may be remedied by a civil action brought by the city attorney, including administrative or judicial nuisance abatement proceedings and suits for injunctive relief. (Ord. No. 2258, § 25, 2013.)

(f) For the purposes of the civil remedies permitted under this article and state law, each day on which a tobacco product or electronic smoking device is offered for sale in violation of this

article, and each individual tobacco product or electronic smoking device that is sold, or offered for sale in violation of this article, shall constitute a separate violation of this article.

#### 18.104. HARDSHIP EXEMPTION.

(a) An application for a hardship exemption to extend the time to comply with this article may be filed pursuant to this section.

(b) The term of any hardship exemption granted under this article shall be no longer than 12 months beyond September 15, 2022, based on the circumstances presented by such applicant.

(c) Any tobacco retailer that holds a valid tobacco retailer permit in the city and is operating as of March 1, 2022, that finds it necessary to sell tobacco products on or after September 15, 2022, may apply for one hardship exemption. A tobacco retailer must submit a complete application for a hardship exemption at any time between March 1, 2022 and June 1, 2022. Such application shall be made in writing on a form prescribed by the department and shall be accompanied by the filing fee established by resolution of the City Council. The tobacco retailer shall bear the burden of proof in establishing, by a preponderance of the evidence, that the application of Ordinance , amending South Pasadena's Municipal Code Chapter 18, to the tobacco retailer's business is unreasonable, and will cause significant hardship to the tobacco retailer by not allowing the tobacco retailer to recover his or her investment backed expectations. The tobacco retailer applying for the exemption shall furthermore be required, in order to meet its burden of proof, to submit the documents set forth in this section.

(d) A complete application for a hardship exemption shall include the following:

- (1) The tobacco retailer's name and street address of business;
- (2) The address to which notice is to be mailed, at the tobacco retailer's option, a telephone number and email address;
- (3) The tobacco retailer's signature;
- (4) A declaration, under penalty of perjury, that all the information in the application is true and correct;
- (5) The term of the requested extension not to exceed the maximum length of time permissible under subsection (b) of this section;
- (6) Documentation relevant to the information requested in subsection (e) of this section;
- (7) Evidence of valid current tobacco retailer permit; and

(8) The required filing fees.

(e) In determining whether to grant a hardship exemption to the tobacco retailer, and in determining the appropriate length of time that the tobacco retailer will be authorized to continue retailing, the hearing officer, or City Council on appeal by the tobacco retailer, may consider, among other factors:

- (1) The percentage of the retail sales over the last three years that have been derived from tobacco products;
- (2) The amount of investment in the business;
- (3) The present actual and depreciated value of any business improvements dedicated to the retail sale of tobacco products;
- (4) The applicable Internal Revenue Service depreciation schedule or functional non-confidential equivalent;
- (5) The remaining useful life of the business improvements that are dedicated to the sale of tobacco products;
- (6) The remaining lease term of the business, if any;
- (7) The ability of the retailer to sell other products;
- (8) The opportunity for relocation of the business and the cost of relocation;
- (9) A business plan demonstrating how long the business will need to sell tobacco products to recoup any investment backed expectations, and a plan for phasing out the sale of those products; and
- (10) Information submitted by City staff, including but not limited to: information regarding the prevalence of tobacco use; opportunities for business assistance in finding alternatives to selling tobacco products; costs associated with tobacco use including healthcare and lost productivity costs; and the retailer's history of compliance with federal, state and local laws relating to tobacco control and other business regulations.

(f) The hardship exemption hearing shall be conducted by an Administrative Hearing Officer appointed by the City Manager. Written notice of the time and place of the hearing shall be given at least 10 calendar days prior to the date of the hearing to the retailer by the City either by causing a copy of such notice to be delivered to the retailer personally or by mailing a copy thereof, postage prepaid, addressed to the retailer at the address shown on the hardship exemption application.

(g) Within 45 days after a completed application is filed, the hearing officer shall open the hearing on the hardship exemption. The hearing officer shall receive and consider evidence presented by the retailer and City staff and shall determine whether to grant or deny the hardship



exemption, and if granting the hardship exemption, the length of time that the retailer will be permitted to operate. The hearing officer shall make written findings in support of the decision. The decision of the hearing officer shall be final and conclusive, unless a timely and complete appeal is filed by the retailer with the City Clerk pursuant to subsection (h) of this Section.

(h) Any decision of the hearing officer may be appealed to the City Council by the tobacco retailer by filing a complete notice of appeal with the City Clerk within 15 days after notice of the decision was mailed to the applicant. To be deemed complete, the notice of appeal shall be signed by the tobacco retailer, shall state the grounds for disagreement with the decision of the hearing officer, and shall be accompanied by the filing fee established by resolution of the City Council.

(i) Failure of any person to file a timely appeal in accordance with the provisions of this section shall constitute an irrevocable waiver of the right to an administrative hearing and a final adjudication of the hardship exemption.

(j) A tobacco retailer may continue to sell tobacco products while a hardship exemption application is pending before a hearing office or on appeal to the City Manager.

(k) Only those matters or issues specifically raised by the appellant in the appeal notice shall be considered in the hearing of the appeal.

**SECTION 4.** CITY COUNCIL REVIEW. Staff is hereby directed that within three years of the effective date of the ordinance, a study session item shall be scheduled whereby the City Council can assess the impacts that the ordinance has had on local businesses.

**SECTION 5.** SEVERABILITY. If any portion or provision of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the validity of the remaining portions or provisions or their application and, to this end, the provisions of this Ordinance are severable.

**SECTION 6.** CERTIFICATION AND PUBLICATION. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.

**SECTION 7.** EFFECTIVE DATE. Unless expressly stated otherwise as to a specific Section of this Ordinance, this Ordinance shall go into effect and be in full force and effect thirty (30) days after its passage.

**ATTACHMENT B**

October 18, 2021 Public Safety Commission Staff  
Report (no attachments)



# Public Safety Commission Agenda Report

ITEM NO. 3

**DATE:** October 18, 2021

**FROM:** Brian Solinsky, Chief of Police  
Alison Wehrle, Management Analyst

**SUBJECT:** **Discussion on Potential New Ordinance for the South Pasadena Municipal Code Regarding Prohibiting the Sale of All Tobacco Products**

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## **Recommendation**

It is recommended that the Public Safety Commission:

1. Hold a discussion on a potential new ordinance for the South Pasadena Municipal Code regarding prohibiting the sale of all tobacco products; and
2. Provide a recommendation to the City Council regarding a new ordinance for the South Pasadena Municipal Code regarding prohibiting the sale of all tobacco products.

## **Discussion/Analysis**

At the July 21, 2021 regularly scheduled meeting, City Council directed staff to study and recommend key policy provisions for an ordinance that would ban the sale of all tobacco products in South Pasadena.

After researching the issue, staff determined that these goals could be accomplished in an amendment to the existing tobacco regulations, South Pasadena Municipal Code (SPMC) Chapter 18, to ban the sale of tobacco products. The attached ordinance would repeal the existing Tobacco Retailer Permit Ordinance (SPMC 18.101, *et seq*) and replace such with a prohibition of tobacco sales citywide. The proposed ordinance is presented without redline and underscore of the existing code for legibility at this time.

While many cities have prohibited the sale of flavored tobacco products, only two other cities in the United States, Beverly Hills and Manhattan Beach, have passed similar bans on all tobacco products.

According to the Center for Disease Control and Prevention (Fast Facts, 2020), Cigarette smoking causes more than 480,000 deaths each year in the United States. Smoking is associated with more deaths than the following causes combined:

- Human immunodeficiency virus (HIV)
- Illegal drug use
- Alcohol use

## **Discussion on Prohibiting the Sale Of All Tobacco Products**

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- Motor vehicle injuries
- Firearm-related incidents

Tobacco use is linked to several chronic diseases, including cancer, cardiovascular disease, emphysema, chronic obstructive pulmonary disease, pneumonia, diabetes, and arthritis. Exposure to secondhand tobacco smoke also poses a risk for chronic disease, coronary heart disease, stroke, and lung cancer.

According to the California Department of Public Health, California Tobacco Control Program (CTCP), nearly 12,000 young people try their first cigarette every day, with approximately 68% of adult smokers in California starting to smoke before the age of 18. It is estimated that more than 440,600 Californian children living today will die prematurely because they will become smokers.

The University of California at San Francisco conducted a study (Findings from the California Tobacco Program Media Campaign Evaluation Endgame Questions, September 2021) and found that residents in Los Angeles County between the ages of 18-55 years old overwhelmingly supported the phasing out of cigarette sales within the next five years. The survey was conducted between August 2019 and August 2021 with respondents from multiple ethnic and cultural backgrounds.

### **Background**

Restricting the sale of tobacco products differs from restricting smoking activity. The following two paragraphs distinguish these two concepts.

#### Smoking Activity

To promote healthy living, the City has long supported no-smoking policies. In 2018, the City prohibited smoking on public sidewalks, walkways, parkways, curbs, and gutters. One of the primary goals of the City's aggressive approach with these policies is to protect the public from unwanted exposure to secondhand smoke.

#### Sale of Tobacco Products

While the City prohibits smoking in many locations, the City does allow the sale of tobacco products through a regulatory permit process. On February 18, 2009, the City Council formally adopted an ordinance (2184) requiring establishments selling tobacco products to obtain a Tobacco Retailer Permit, renewable every year.

The South Pasadena Municipal Code (SPMC) § 18.102(a) states: Tobacco Retailer Permit 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 permit ("permit") pursuant to this article for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer permit is a nuisance as a matter of law.

SPMC §18.101(g) defines a tobacco product as "Tobacco product" means any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah

## **Discussion on Prohibiting the Sale Of All Tobacco Products**

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tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; 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.

### Legal Context

The City Attorney is evaluating the legal implications of implementing a tobacco sales prohibition ordinance. Initial indications are that cities have the authority to enact such local regulations. Given that only two other cities in Southern California have adopted a comprehensive ban on all tobacco products, there remains a possibility that the City could face legal challenges. The City should be willing to appropriately address these challenges, including litigation expenses with the tobacco industry. There is potential that some anti-smoking advocacy organizations would potentially collaborate with the City and provide assistance to address legal challenges. There is also the potential litigation for litigation by the businesses currently selling tobacco products within the City.

### **Policy Considerations**

The proposed action is consistent with active living and mental well-being in the "Our Healthy Community" section of the 2020 General Plan Update. This action is also supported by promoting improved air quality referenced in the 2020 Climate Action Plan.

### Business Impact Mitigation

Several of the tobacco retailers contacted, including gas stations, convenience stores, and the cigar lounge, have provided various figures as to the extent to which a ban on tobacco sales could impact or affect their businesses. Some have estimated between 15-20% of their revenue is from tobacco sales.

Staff has considered various options to assist small businesses in mitigating the impact of revenue lost from tobacco sales. Staff members met with a representative from the Small Business Development Center ("SBDC") at Pasadena City College and discussed options to support the small businesses within the City, including providing a presentation of local businesses' services at a Chamber of Commerce meeting. SBDC offers free one-on-one advising with small business experts to help them avoid many of the common problems faced by entrepreneurs. Other benefits include locating and applying for small business loans, including financing and educational workshops and events.

The representative also informed staff about the SCORE program, which is the nation's largest volunteer, expert business mentoring program. A resource partner for the Small Business Administration, the SCORE business mentorship program gives entrepreneurs a unique opportunity to receive personalized counseling from someone with more than 20 years of experience in their industry. Mentors retain accessibility with clients via email and schedule in-person appointments to meet with and mentor both existing and future business

## Discussion on Prohibiting the Sale Of All Tobacco Products

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owners. There are also a large variety of hosted webinars, workshops, and interactive online training modules available for businesses to participate in.

Staff will look into scheduling a forum to connect business owners with these resources through its partnership with the Chamber of Commerce. The City already pays a membership fee to provide one-on-one advising services locally in South Pasadena. Consultants may meet business owners as often as necessary at their business or other available locations such as the Chamber of Commerce. Provided that a retailer is showing progress in meeting goals defined by SBDC and the retailer, the number of consultations a business may receive is unlimited.

### Tobacco Retailers in South Pasadena

There are currently six establishments with active City-issued Tobacco Cigarette Retailer Permits. One retailer is a cigar lounge, Fair Oaks Cigar, which sells tobacco and liquor-related products and allows smoking inside. Two are grocery stores, two are gas stations, and one is a convenience and pharmacy store. There are an additional five retailers selling tobacco products that do not have permits. They consist of one grocery store, two convenience stores, and two gas stations.

**Staff Composition of Existing Retailers**

Category	Number of Retailers
Cigar lounges	1
Grocery stores	3
Gas stations	4
Associated with bed and breakfast	0
Convenience stores or pharmacies	3
Total	11

The magnitude to which a business relies on revenue generated from tobacco sales varies upon its category and business model. For a large grocery store selling a higher volume of various goods, tobacco-related products might represent a small or even insignificant portion of overall sales.

For small businesses such as gas stations or convenience stores, tobacco sales might represent a significant portion of revenue.

For a cigar lounge, an ordinance prohibiting tobacco sales would likely force the businesses to close down. A cigar lounge relies on tobacco sales as a primary source of revenue, while other businesses may have existing inventory and/or lease agreements. Therefore, a sufficient time for implementing such an ordinance should be evaluated.

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Staff has discussed options with experts in retail tobacco sales, who have indicated that a phased approach to prohibiting tobacco sales would be appropriate and worked well for both Beverly Hills and Manhattan Beach. Considering these issues, staff recommends adopting a provision to exempt the one existing cigar lounge, Fair Oaks Cigars, from the ban. Other businesses that do not rely solely on tobacco sales revenue would not be issued new or renewal permits (permits must be renewed annually or will expire). Under this approach, tobacco products would still be available for sale at one location in South Pasadena, yet others sell off their inventory and explore other products and business models.

### Summary of Public Outreach and Engagement

Staff has notified retailers multiple times through in-person visits, mail, email, and telephone of upcoming meetings and discussions and have been in contact with several business owners who have participated in public discussions. The City's website has been continually updated with the latest information, and multiple notices were disseminated notifying retailers and interested parties of public meetings and Commission recommendations. Additionally, the following public meetings and outreach have taken place:

- August 3, 2021 – South Pasadena Chamber of Commerce Regular Meeting;
- August 18, 2021 – Outreach to Fair Oaks Cigar
- September 8-9, 2021 – Police Department staff conducted in-person outreach at all retail establishments that sell tobacco products in the City.
- September 27, 2021— Police Department staff mailed noticing to all retail establishments that sell tobacco products in the City, and emailed noticing to businesses with email addresses on file.
- October 7, 2021 – Police Department staff provided additional in-person outreach reminders
- October 18, 2021 – Public Safety Commission Regular Meeting
- Date TBD – Chamber of Commerce Presentation Meeting

### Key Provisions of the Proposed Ordinance

The proposed ordinance includes two modifications to Article VI of Chapter 18 of the South Pasadena Municipal Code. The proposed ordinance:

1. States that it shall be unlawful for any Retailer to sell or offer for sale any Tobacco Product; and
2. Establishes a six-month delay from the tobacco ban for any retailer operating at the effective date of the Ordinance. This delay provides all existing tobacco retailers with six months to sell their remaining inventory of tobacco products. This provision is recommended to avoid any takings challenge (1). Allowing tobacco retailers a reasonable time to amortize the value of any investment in property, i.e., selling any remaining tobacco products that cannot be used after the prohibition takes effect.

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1. *Metromedia, Inc. v. City of San Diego*, 28 Cal.3d 848, 882 (1980), reversed on other grounds, 453 U.S. 490 (1981 ); *Safeway Inc. v. City & Cty. of San Francisco*, 797 F. Supp. 2d 964 (N. D. Cal. 2011 ).

## **Discussion on Prohibiting the Sale Of All Tobacco Products**

October 18, 2021

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Ordinances go into effect 31 days after adoption by City Council. The ordinance includes a six-month implementation period after the effective date of the ordinance. This allows the City to notify tobacco retailers in South Pasadena and time for tobacco retailers to sell their existing inventory of tobacco products and comply with the ban. Tobacco retailers have indicated that they could face a financial strain if an ordinance were to go into effect immediately. If City Council were to adopt the ordinance as presented, the implementation timeline would be as follows:

- December 1, 2021: First Reading of Ordinance
- December 15, 2021: Second Reading
- January 15, 2022: Ordinance Takes Effect
- July 15, 2022: Enforcement Takes Effect

### Enforcement

SPMC 18.113 already sets forth the enforcement provisions of the existing City's Tobacco Retailer Permitting Regulations. The proposed ordinance would be subject to these same enforcement provisions. Additionally, the Municipal Code includes a provision for compliance monitoring that allows a "youth decoy" to participate in compliance checks supervised by a peace officer or code enforcement official of the City. The City intends to continue in this manner with already established enforcement mechanisms.

### **Fiscal Impact**

Should City Council choose to adopt a ban on the sales of all tobacco products, the most direct fiscal impact to the City would be the elimination of revenue from issuing the Tobacco Retailer Permits. The 2021/22 fee for these permits is \$120, paid annually by each retailer. Since there are currently eleven retailers in the City, staff estimates the loss of permit revenue to be approximately \$1,320 using FY 2021/22 fee amounts. The permit revenue is a cost-recovery fee; therefore, staff time involved in the administration and enforcement of the permits could be reallocated to other activities.

### **Environmental Considerations**

The action considered is exempt from the California Environmental Quality Act (CEQA), as it is not considered a "project" pursuant to Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in a direct or indirect physical change in the environment.

### **Public Notification of Agenda Item**

The public was made aware that this item was to be considered this morning by virtue of its inclusion on the legally publicly noticed agenda, posting of the same agenda and reports on the City's website.



## **Discussion on Prohibiting the Sale Of All Tobacco Products**

October 18, 2021

Page 7 of 7

### Attachments:

- A. Draft ordinance regarding "Prohibition of Tobacco Sales."
- B. SPMC Article VI Chapter 18
- C. CDC Fast Facts
- D. Findings from the California Tobacco Program Media Campaign Evaluation Endgame Questions
- E. Ordinance 2184
- F. Not for Sale: The State Authority to End Cigarette Sales
- G. South Pasadena Climate Action Plan
- H. Metromedia, Inc. v. City of San Diego, 28 Cal.3d 848, 882 (1980)
- I. Safeway Inc. v. City & Cty. of San Francisco, 797 F. Supp. 2d 964 (N. D. Cal. 2011 )
- J. Public notice provided to retailers
- K. Public comment received as of October 14, 2021 at 4:00pm

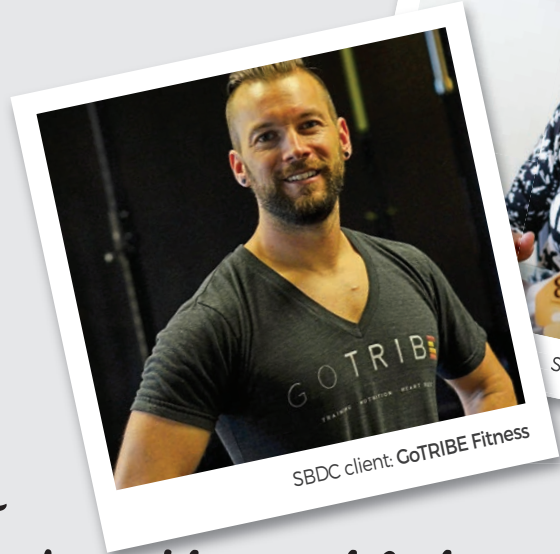
**ATTACHMENT C**  
Small Business Development Center (“SBDC”) Flyer



## Business owners!

- ✓ Are you looking to grow your business by diversifying product offerings?
- ✓ Do you need help getting a business loan?

For **no-cost, one-on-one** business advising in Pasadena, call us at **626-585-3105**



SBDC client: GoTRIBE Fitness



SBDC client: Click & Carry

Your local **Small Business Development Center** offers **no-cost business advising and training**. We help with:

- Business Planning
- Legal & Accounting
- Business Loan Advice
- Sales & Marketing
- Web & Social Media Strategy
- Importing & Exporting

**Contact us today for expert advice on growing your business.**

**626.585.3105 • [sbdc@pasadena.edu](mailto:sbdc@pasadena.edu) • [pccsbdc.org](http://pccsbdc.org)**



The Small Business Development Center at Pasadena City College is part of the Los Angeles Regional Small Business Development Center Network.

Funded in part through a cooperative agreement with the U.S. Small Business Administration.



**ATTACHMENT D**

January 5, 2022 Updated Outreach Flyer (remote meeting notification)



## CITY OF SOUTH PASADENA

POLICE DEPARTMENT

1422 MISSION STREET, SOUTH PASADENA, CA 91030

TEL: (626) 403-7210 • FAX: (626) 403-7211

WWW.SOUTHPASADENACA.GOV

January 5, 2022

RE: UPCOMING PUBLIC SAFETY COMMISSION MEETING DISCUSSION ON PROHIBITING THE SALE OF ALL TOBACCO PRODUCTS IN SOUTH PASADENA

The South Pasadena City Council has requested that staff look into developing an ordinance that could prohibit the sale of all tobacco products in South Pasadena. The Council directed staff to explore the topic and to return to City Council with recommendations.

The Public Safety Commission will hold a regular meeting on **Monday, January 10, 2022 at 8:30 a.m.** to discuss the item. The Commission will take public comment and continue their discussion, in order to make a recommendation to the City Council at a later date.

**Due to the recent spike in covid-19 cases, all City Commission meetings will be conducted through a virtual setting until further notice.**

The January 10, 2022 regular meeting at 8:30 a.m. will be available:

- **Via Zoom – the City Council Chambers will not be open to the public.**

### **Zoom Webinar Information**

**Meeting ID: 841 6044 2836**

- Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Webinar information accordingly; or type the following link into your browser to join the webinar: <https://us06web.zoom.us/j/84160442836>
  - You may listen to the meeting by calling: **+16699006833** and entering the Zoom Webinar ID when prompted to do so.
  - For additional Zoom assistance with telephone audio, you may find your local number at: <https://zoom.us/u/adcrAkAYg2>
- Live broadcast via the website – [http://www.spectrumstream.com/streaming/south\\_pasadena/live.cfm](http://www.spectrumstream.com/streaming/south_pasadena/live.cfm)
  - To submit a letter for the public record, please send it to the following email address: [psepubliccomment@southpasadenaca.gov](mailto:psepubliccomment@southpasadenaca.gov). All letters will be included in the record for the Public Safety Commission meeting.

If you have any additional questions, please contact Alison Wehrle at (626) 403-7273 or [awehrle@southpasadenaca.gov](mailto:awehrle@southpasadenaca.gov).



Hello,

As a small business owner in the City of South Pasadena we OBJECT & OPPOSE the tobacco ban for our city.

Tobacco is not a class A drug or a gun. There is no reason why tobacco should be banned. We are lucky to have some of the greatest and smartest citizens in our city and they are more than capable of making the right decision for themselves if tobacco is right for them or not. That is not the city's job to do for them.

Most importantly, our city is surrounded by many small cities that still have not taken any type of ban. If we ban it in our city, customers and citizens will just travel a few miles and get it. At that point the only loser will be the city and it's citizens. Why should other cities take our tax dollars?

This is a meaningless proposition. Our cities' efforts should be set aside for better productivity.

*Thank you,*

**veer<sup>o</sup>**  
**MANAGEMENT**  
*Veer Management Company Inc*

## PUBLIC COMMENT AGENDA ITEM #3

Hello,

My name is Chad Farah and I'm the owner of Ocean Liquor at 2005 Huntington Dr. I have owned Ocean Liquor since 2008. I wanted to show you this map that I have attached of all the tobacco retailers I found neighboring our city. Assuming a smoker lives in the middle of our 3.4 sq mile city, I have written the miles it would take to travel to each destination from the middle of our city if this ban is in place. Although the majority of South Pasadena residents live near the border, I wanted to show you how close these tobacco retailers are from the furthest point of our borders. With all due respect, these retailers are walking distance. This ban will do nothing to deter anyone from smoking. Most residents work outside the city. They will patronize tobacco retailers in the city where they work or in the cities traveling to and from work. The city will be throwing away all the tobacco tax revenue for nothing. And if your concern is underage smoking, I highly doubt that there are any retailers in the city selling to minors. What are the stats? When was the last time a tobacco retailer in the city got caught selling to a minor? How many minors have been caught smoking by South Pasadena Police Dept? Are there any public complaints from the residents about tobacco retailers selling to minors? If so, how many residents have complained and does it justify to completely ban the sale of tobacco in the city? I urge you to rethink this ban and allocate our resources towards actual preventative measures that will deter young kids from smoking. How about a new program in our schools to educate the youth on vaping/smoking harm? Education is, and always will be, the best tool against underage smoking. Finally I would like to address the idea to exclude retailers from this ban if their business will be dramatically harmed. It was brought up in the first meeting. Any retailer who sells tobacco is going to be hurt by this ban. Most of us tobacco retailers in the city are convenience stores. That's how we compete against the big retailers. We offer the community the convenience of purchasing all their vices in 1 stop. If you take away tobacco sales then we lose way more than that. Customers will not come back and purchase their beer with us knowing they have to stop at another location for their tobacco products. They will simply just go outside the city and purchase all their vices at another 1 stop shop. If you think grandfathering us in will satisfy the current retailers, I can assure you that it won't. This ban will devastate the value of our business. It will make it harder to get loans from the bank to run our businesses. For our aging small business owners who plan to sell their business when they eventually retire, the value will be cut in half. Thank you for your time.

Chad Farah

Ocean Liquor

Dear Representatives of the City of South Pasadena,

We represent the Foremost Liquor Market, located at 301 Monterey Road, South Pasadena. We would like to express that we are **AGAINST** the ordinance proposed to prohibit the sale of all tobacco within the city for the following reasons:

1. If we no longer are able to sell tobacco products, we will lose business and our regular customers will instead go to neighboring cities.
2. By simply prohibiting the sale of tobacco in South Pasadena, we will not stop the root

issue of smoking. People will still buy cigarettes and still smoke because cigarettes would still be accessible just a few blocks away in neighboring cities in all four directions.

3. People who purchase cigarettes also buy other items, such as sodas or chips. Because of this, we would lose significant revenue if tobacco were prohibited and may have to close our business, which has been in South Pasadena for decades.

As we have described, this ordinance would adversely affect our business, inconvenience our customers significantly, and have absolutely no effect on health outcomes. We hope you consider

these points in your decision.

Thank you very much for your time.

Sincerely,

Foremost Liquor Market

South Pasadena, CA

Honorable Mayor and Members of the City Council,

My name is Juliana Fong and I currently serve as the Chair of the South Pasadena Youth Commission. In that position, I've had the opportunity to speak with Councilwoman Zneimer about the problem of teens in our City using tobacco products, including vaping. I share her concern about local businesses selling these products to minors because I've seen my classmates in high school vaping and smoking cigarettes. Even though businesses cannot legally sell tobacco products to persons under the age of 21, we all know that this law is not always enforced. This is why I strongly support the proposed ordinance that would prohibit the sale of all tobacco products in the City of South Pasadena.

Thank you.

Juliana Fong

Judith M. Harris, MA, MSW  
Licensed Clinical Social Worker License

**Statement Re: Negative Effects Upon the City of South Pasadena  
of Having Smoking and Vaping Materials for Sale / Readily Available to Youth and Adults**

My name is Judith M. Harris, LCSW. I have been part of the South Pasadena community for the past 30 years. I raised a child who matriculated through all levels of South Pasadena public schools and have been integrally involved with the both the school and city communities over years. I am a mental health professional with both a private psychotherapy practice servicing children, adolescents and adults, and a private organizational consulting practice focused upon employee and organizational mental health and wellness.



An area in which I have acquired much expertise, and which is key to personal, workplace and community wellness is that of combatting addiction and substance use of all kinds. I have routinely taken many trainings covering the span of addictive and substance use disorders over years and have worked with scores of clients who present with a range of these disorders. Since 2019 I have taken a concentration of substance use trainings sponsored by UCLA School of Public Health, University of San Francisco and the State of CA regarding smoking cessation. The use of combustible as well as vaping smoking materials is posing increased threats to the health and mental health of all populations in our state and country, but especially to youth. Vaping materials have been manufactured to target youth and are many times more toxic and dangerous to all who use them, but especially to youth since many times the amount of nicotine, a neurotoxin, and other toxic chemicals and metals particles, are delivered to the developing brain and body through vaping mechanisms. Youth, whose brains are in the process of developing are placed at high risk for developing mental health and other health issues as a result of vaping and smoking.

During the pandemic I notice many of my clients stagnating and sinking through delivery of my services over telehealth, so I devised a safe way of meeting with them in person in outdoor spaces. I have frequently met with clients in Garfield Park in secluded places including behind the Scout House. As I learned, this area has been a designated area in the park for local youth to use, drink and engage in sexual activities, apparently over the past 30 years. I have certainly found much evidence of all. Almost every time I have worked in the area, I have found evidence of youth having used smoking and vaping tobacco, marijuana, and other drug materials as well as their having used alcohol and marijuana edibles, and having engaged in sexual activities, leaving unsafe, unhealthy discarded materials all over the area. This using/vaping youth population has also engaged in defacing public property including leaving graffiti on walls, the air conditioning unit by the Scout House, and carved into picnic tables! I have had to phone the So Pas police and Parks and Rec divisions on numerous occasions about what I am finding in areas of the park where I meet with clients. Of course, in order that areas in which I meet are not full of blight, I have become the “clean up crew” and “guardian” of the areas! In addition, the homeless population has been growing and many homeless persons are now living in Garfield Park, engaging in the same types of activities and leaving similar refuse in secluded areas of the parks such as behind the Scout House. It would be of great benefit to all in our community were the sale of smoking and vaping materials to be banned in the City of South Pasadena.

Salient Points re: testimony of Judith M. Harris, LCSW:

1. 30 year professional and community member of South Pasadena.
2. Raised a child all through So Pas public schools/ Has been integrally involved in school and city communities for 30 years
3. As mental health professional has both private psychotherapy and organizational practices focused upon mental health and wellness at home, school and work encompassing all areas of addictive and substance use disorders
4. From 2019 has taken concentration of continuing education courses on “smoking cessation” of all materials sponsored by UCLA School of Public Health, U of SF and State of CA.
5. Has firsthand testimony from professional and personal experiences of the danger availability of smoking/vaping materials is causing all and especially So Pas youth and general population.

# California Chapter 2

INCORPORATED IN CALIFORNIA

## American Academy of Pediatrics

DEDICATED TO THE HEALTH OF ALL CHILDREN®



Kern - Los Angeles - Riverside - San Bernardino - San Luis Obispo - Santa Barbara - Ventura

Press Release

### **Pediatricians in Support of South Pasadena Tobacco Sales Ban**

LOS ANGELES, CA (October 16, 2021)

Pediatricians support tobacco bans and urge the city of South Pasadena to pass a new ordinance to prohibit the sale of all tobacco products and applaud both Manhattan Beach and Beverly Hills for already taking this step to protect the health of children.

The evidence is clear that tobacco products are detrimental to the health and wellbeing of children and adolescents. Tobacco smoke exposure harms children from conception onward, either causing or exacerbating the risks of preterm birth, congenital malformations, stillbirth, sudden infant death, childhood obesity, behavior problems, neurocognitive deficits, wheezing, more severe asthma, more severe bronchiolitis, pneumonia, middle ear infection, reduced lung functioning, and cancer (<https://pediatrics.aappublications.org/content/136/5/998>). According to a 2014 US Surgeon General's Report, "If we continue on our current trajectory, 5.6 million children alive today who are younger than 18 years of age will die prematurely as a result of smoking."

Accessibility to tobacco products harms adolescents. A 2012 Surgeon General's report found that nearly 90% of tobacco dependent adults initiated their tobacco use well before their 18<sup>th</sup> birthday. Moreover, nicotine has been documented to be detrimental to the developing brains of children and adolescents.

Tobacco harms children. Smoke free legislation and bans on flavored tobacco are steps towards protecting children and adolescents from the harmful effects of tobacco smoke exposure and consumption. But we need to do more. Bans on the sale of all tobacco products will further limit accessibility, consumption, and the risk for second and third hand smoke exposure.

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*The Southern California Chapter 2 of the American Academy of Pediatrics is an organization of 1,500 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety, and well-being of infants, children, adolescents, and young adults.*

AAP Southern California Chapter 2 (AAP-CA2)

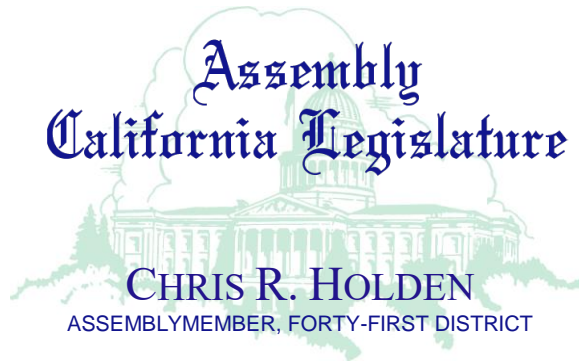
[Chapter2@aapca2.org](mailto:Chapter2@aapca2.org)

(818)422-9877

[www.aapca2.org](http://www.aapca2.org)

**STATE CAPITOL**  
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FAX (916) 319-2141

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600 NORTH ROSEMEAD BLVD, #117  
PASADENA, CA 91107  
(626) 351-1917  
FAX (626) 351-6176



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CHAIR OF THE SELECT COMMITTEE ON  
REGIONAL TRANSPORTATION AND  
INTERCONNECTIVITY SOLUTIONS  
SCIENCE, TECHNOLOGY, ENGINEERING,  
AND MATH EDUCATION  
STATUS OF BOYS AND MEN OF COLOR

**BOARD MEMBER**  
SANTA MONICA MOUNTAINS  
CONSERVANCY BOARD

July 12, 2021

Rosa Soto, Executive Director  
The Wellness Center  
1200 N. State Street  
Los Angeles, Ca 90033

Dear Executive Director Soto,

As the Assemblymember representing the 41<sup>st</sup> Assembly District, I write in support of finding solutions for the youth and residents in the City of South Pasadena to have opportunities to live in a healthy breathing environment. I support the Breathe Free South Pasadena Coalition and their public health efforts to prevent tobacco-related disease and death and the growing epidemic of youth tobacco use initiation driven by flavored tobacco products. These products contain nicotine and can have damaging impacts on the adolescent brain and cause long-term addiction.

Smoking continues to be the leading preventable cause of death in the United States. The dangers of smoking is well documented by the Surgeon General who has concluded that smoking causes cancer, respiratory and heart diseases, and birth defects. My work in Sacramento has allowed the opportunity to pass legislation, Assembly Bill 1696 of 2016, which provided the necessary resources in assisting individuals to secede from addiction to nicotine products. Throughout California, cities have adopted data-driven approaches towards the sales of flavored tobacco products. I fully support movements, which promote healthy behavioral habits.

Thank you for your continued efforts to promoting a healthy breathing environment.

Sincerely,

Assemblymember Chris Holden  
41<sup>st</sup> Assembly District

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**WEBSITE:** [Assembly.ca.gov/holden](http://Assembly.ca.gov/holden)

**EMAIL:** [Assemblymember.Holden@assembly.ca.gov](mailto:Assemblymember.Holden@assembly.ca.gov)

**SATELLITE OFFICE:** 415 WEST FOOTHILL BOULEVARD, SUITE 124 • CLAREMONT, CA 91711 • (909) 624-7876 • (909) 247-7894 • FAX (909) 626-2548



June 14, 2021

The Honorable Diana Mahmud  
City of South Pasadena  
1414 Mission Street  
South Pasadena, CA 91030

**RE: Prohibiting the sale of Flavored Tobacco**

Dear Mayor Mahmud and Members of the Council:

The American Cancer Society Cancer Action Network (ACS CAN) is committed to protecting the health and well-being of the residents of South Pasadena through evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN supports efforts to reduce youth tobacco use and eliminating the sale of flavored tobacco products is an important part of a comprehensive approach to preventing youth from ever beginning a deadly addiction to tobacco. **We support your efforts in eliminating the sale of all flavored tobacco products, including menthol cigarettes and Hookah, within the city of South Pasadena, and without exemptions.**

Smoking remains the leading preventable cause of death in the U.S. The 2014 U.S. Surgeon General's report found that more than 43 million Americans still smoke. It is estimated that tobacco use will cause 480,000 deaths this year in the U.S. Both opponents of smoking and purveyors of cigarettes have long recognized the significance of adolescence as the period during which smoking behaviors are typically developed. National data show that about 95 percent of adult tobacco users begin smoking before the age of 21, and most begin with a flavored product. In 2009, Congress prohibited the sale of cigarettes with flavors other than tobacco or menthol. Tobacco companies responded by expanding the types of non-cigarette tobacco products they offer, and now make most of those products available in a growing array of kid-friendly flavors. Little cigars, smokeless tobacco, hookah, and e-cigarettes are marketed in a wide variety of candy flavors with colorful packaging and deceptive names that appeal to youth.

Adolescents are still going through critical periods of brain growth and development and are especially vulnerable to the toxic effects of nicotine. A study published in the journal, *Pediatrics*, found that the earlier youth are exposed to nicotine, the less likely they will be able to quit smoking. Tobacco companies have a long history of marketing to under-resourced communities, and target youth with imagery and by marketing candy and fruit flavored tobacco. The anesthetizing effects of menthol masks the harshness of tobacco, making it more appealing to people who are beginning to smoke, and people who smoke menthol show greater dependence, and are less likely to quit than people who smoke non-menthol. Postponing youth experimentation and initiation can help reduce the number of youth who will ever begin smoking.

American Cancer Society Cancer Action Network  
99 S. Lake Avenue, Suite 400 ■ Pasadena, CA 91101  
626.243.5614 ■ FAX: 626.568.2888 ■ [Primo.Castro@Cancer.org](mailto:Primo.Castro@Cancer.org)

**Ending the sale of flavored tobacco products, including menthol, is not only a health issue; it is also a social justice issue.** Targeted marketing to communities of color, low income communities and LGBTQ communities adds to the health disparities in populations already impacted by social inequities. In African American communities, the tobacco industry has aggressively marketed menthol flavored tobacco products to youth. Approximately 85% of African Americans who smoke use menthol cigarettes, and consequently, African American men have the highest death rates from lung cancer, when compared to other demographic groups. The anesthetizing effect of menthol masks the harshness of tobacco, making menthol cigarettes more appealing to beginning smokers, and menthol smokers demonstrate greater dependence, and are less likely to quit. Presently, more than 70 jurisdictions in places as diverse as Yolo County, Contra Costa County, and the cities of Beverly Hills and Alhambra have passed strong policies.

While cigarette smoking has declined in recent years, the use of menthol and other flavored products have continued to increase, especially among young people and people who are beginning to smoke. **We strongly encourage this council to move forward in drafting an ordinance, ending the citywide sale of all flavored tobacco products, without exemptions.** Taking this important public health step will help to prevent young people in South Pasadena from ever beginning this deadly addiction, as well as help to support those who are trying to quit.

Sincerely,



Primo J. Castro  
Director, Government Relations  
American Cancer Society Cancer Action Network

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TEL (916) 651-4025  
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SAN DIMAS, CA 91773  
TEL (909) 599-7351  
FAX (909) 599-7692

SENATOR.PORTANTINO@SENATE.CA.GOV

# California State Senate

ANTHONY J. PORTANTINO  
SENATOR

TWENTY-FIFTH SENATE DISTRICT



COMMITTEES  
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CALIFORNIA, ARMENIA & ARTSAKH  
MUTUAL TRADE, ART, AND  
CULTURAL EXCHANGE  
CHAIR

July 12, 2021

South Pasadena City Council  
1414 Mission St  
South Pasadena, CA 91030

**SUBJECT: *Breathe Free South Pasadena Coalition Support Letter***

Dear South Pasadena City Council:

I am writing to express my support of the Breathe Free South Pasadena Coalition in their efforts to protect the health and well-being of the youth residents in South Pasadena. This coalition consists of engaged parents and professionals that seek to prevent tobacco-related disease and death for youth. My office has met with the parent and student coalitions to listen to their advocacy on the damaging impacts of tobacco products on the adolescent brain.

The health of the youth is an utmost priority to our present and future. The science and research on the harms of flavored tobacco products to the youth are alarming. As State Senator, I am committed to efforts and policies that prioritize youth health, physical and mental wellbeing. I voted in favor of the legislature's policies in SB-793 to protect youth from tobacco products. While the State continues efforts to further protect and educate the youth on the damage of tobacco related products, the cooperation and implementation of local governments is essential.

Therefore, I strongly support the coalition's local efforts in raising awareness to this issue. I encourage the Council's support in further evaluating and implementing local measures to protect the youth and promote wellbeing. Should you have any questions, please feel free to contact my staff via phone at (818) 409-0400 or via email at David.Kim@sen.ca.gov.

Thank you for your consideration,

A handwritten signature in black ink that reads "Anthony J. Portantino".

Anthony J. Portantino  
State Senator, District 25