



**CITY OF SOUTH PASADENA
CITY COUNCIL**

A G E N D A

SPECIAL CLOSED SESSION

**WEDNESDAY, APRIL 6, 2022
5:00 P.M.**

**City Manager's Conference Room, Second Floor, City Hall
1414 Mission Street, South Pasadena, CA 91030**

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

The South Pasadena Special City Council Meeting Closed Session for **April 6, 2022** will be conducted in-person from the City Manager's Conference Room, Second Floor, City Hall, 1414 Mission Street, South Pasadena. Pursuant to, Government Code section 54953, subdivision (e)(3), the City Council may also allow public participation to continue via live public comment conducted over ZOOM.

Please be advised that to ensure the health and safety of the public, staff, and City Council, as the meeting will be open to the public for the meeting and members of the public may attend and/or participate in the in-person meeting, all are kindly reminded to follow Los Angeles County Public Health and CDC regulations and guidelines that are in place and may be posted.

Public comment regarding items on the Closed Session agenda will be taken at the beginning of the meeting. The public will be released from the meeting so that the Council can convene closed session discussion of items allowed under the Government Code. Any reportable action taken in closed session will be reported by the City Attorney during the next open session meeting. A separate Zoom webinar link will be provided for the open session for the public to attend.

The Meeting will be available

- In Person Hybrid – City Hall, City Manager's Conference Room, Second Floor, 1414 Mission St
- Via Zoom:
<https://us06web.zoom.us/j/2264427248?pwd=aEFuSGszQ2I5WjJkemoTms0RTIVUT09>
ID: 226 442 7248

Public Comments participation may be made as follows:

- Written Comment submitted by no later than meeting day, 12:00 PM, deadline via the website.
- In Person Hybrid – City Manager's Conference Room, Second Floor, 1414 Mission Street Via Zoom (see Public Comment Section below for instructions.)

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

1. Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Meeting information; or
2. Click on the following unique Zoom meeting link:
<https://us06web.zoom.us/j/2264427248?pwd=aEFuSGszQ2I5WjJkemoTms0RTIVUT09> or
3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID and Passcode when prompted.

For additional Zoom assistance with telephone audio, you may find your local number at:

<https://zoom.us/u/aiXV0TAW2>

CALL TO ORDER: Mayor Michael Cacciotti

ROLL CALL: Mayor Michael Cacciotti
Mayor Pro Tem Jon Primuth
Councilmember Jack Donovan
Councilmember Diana Mahmud
Councilmember Evelyn G. Zneimer

PUBLIC COMMENT

Public comment regarding items on the Closed Session agenda will be taken at the beginning of the meeting. Public comment will be accepted in person, via Zoom, or written comment.

CLOSED SESSION AGENDA ITEMS

A. CONFERENCE WITH LEGAL COUNSEL: EXISTING LITIGATION

(Government Code Section 54956.9(d)(1))

1. *City of South Pasadena v. California Department of Transportation* (LASC Case No.21STCP01779)
2. *Alison Smith v. City of South Pasadena* (LASC Case No.19BBCV00118)

B. CONFERENCE WITH LEGAL COUNSEL: LIABILITY CLAIMS

(Government Code Section 54956.9(d)(1))

Claimant: Sirin Ozen Hallberg

Agency Claimed Against: City of South Pasadena

C. CONFERENCE WITH LEGAL COUNSEL: POTENTIAL OF LITIGATION Government

Code Section 54956.9(d)(2)

Number of Potential Cases: 2

CERTIFICATION OF POSTING

*I declare under penalty of perjury that I posted this notice of agenda for the meeting to be held on **April 6, 2022**, on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's website as required by law, on the date listed below.*

3/31/2022

/S/

Date

Christina A. Muñoz, Deputy City Clerk



**CITY OF SOUTH PASADENA
CITY COUNCIL**

**A G E N D A
REGULAR MEETING
WEDNESDAY, APRIL 6, 2022, AT 7:00 P.M.**

**CITY COUNCIL CHAMBERS
1424 MISSION STREET, SOUTH PASADENA, CA 91030**

South Pasadena City Council Statement of Civility

As your elected 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 tonight will be for the benefit of the South Pasadena community and not for personal gain.

NOTICE ON PUBLIC PARTICIPATION & ACCESSIBILITY

Pursuant to AB 361 Government Code section 54953, subdivision (e)(3), the City Council may conduct its meetings remotely and may be held via video conference. Pursuant to such Executive Order, the City Council may participate remotely and not be physically present in the City Council Chambers. Until further notice and as such Executive Orders remain in effect, the City Council may also allow public participation to continue via live public comment conducted over ZOOM.

The South Pasadena City Council Meeting for **April 6, 2022** will be conducted in-person from the Council Chambers, Amedee O. "Dick" Richards, Jr., located at 1424 Mission Street, South Pasadena.

Please be advised that pursuant to government code, and to ensure the health and safety of the public, staff, and City Council, as the Council Chambers will be open to the public for the meeting and members of the public may attend and/or participate in the in-person meeting, all are kindly reminded to follow Los Angeles County Public Health and CDC regulations and guidelines that are in place and may be posted. The In-person Hybrid meeting will be conducted live in the City Council Chambers.

The Meeting will be available

- In Person Hybrid – City Council Chambers, 1424 Mission Street
- Live Broadcast via the website – http://www.spectrumstream.com/streaming/south_pasadena/live.cfm
- Via Zoom – **Webinar ID: 825 9999 2830**

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

1. Go to the Zoom website, <https://zoom.us/join> and enter the Zoom Meeting information; or
2. Click on the following unique Zoom meeting link:
<https://us06web.zoom.us/j/82599992830> or
3. You may listen to the meeting by calling: +1-669-900-6833 and entering the Zoom Meeting ID.

CALL TO ORDER:	Mayor	Michael Cacciotti
ROLL CALL:	Mayor	Michael Cacciotti
	Mayor Pro Tem	Jon Primuth
	Councilmember	Jack Donovan
	Councilmember	Diana Mahmud
	Councilmember	Evelyn G. Zneimer
PLEDGE OF ALLEGIANCE:	Mayor Pro Tem	Jon Primuth

PUBLIC COMMENT GUIDELINES

The City Council welcomes public input. Members of the public can comment on a non-agenda subject under the jurisdiction of the City Council or on an agenda item, you may participate **by one of the following options**:

Option 1:

Participate in-person at the City Council Chambers.

Option 2:

Public Comment speakers have three minutes to address the Council, however, the Mayor and City Council can adjust time allotted as needed. Participants will be able to “raise their hand” using the Zoom icon during the meeting, and they will have their microphone un-muted during comment portions of the agenda to speak. for up to three minutes per item.

Option 3:

Email public comment(s) to ccpubliccomment@southpasadenaca.gov.

Public Comments received in writing will not be read aloud at the meeting, but will be part of the meeting record. Written public comments will be uploaded online for public viewing under Additional Documents. There is no word limit on emailed Public Comment(s). Please make sure to indicate:

- 1) Name (optional), and
- 2) Agenda item you are submitting public comment on.
- 3) Submit by no later than 12:00 p.m., on the day of the Council meeting.

PLEASE NOTE: The Mayor may exercise the Chair's discretion, subject to the approval of the majority of the City Council, to adjust public comment(s) to less than three minutes.

Pursuant to State law, the City Council may not discuss or take action on issues not on the meeting agenda, except that members of the City Council 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.

CLOSED SESSION ANNOUNCEMENTS**1. CLOSED SESSION ANNOUNCEMENTS****PUBLIC COMMENT****2. PUBLIC COMMENT – GENERAL (NON-AGENDA ITEMS)**

General Public Comment will be limited to 30 minutes at the beginning of the agenda. If there are speakers remaining in the queue, they will be heard at the end of the meeting. Only Speakers who sign up in the first 30 minutes of public comment will be queued up to speak.

PRESENTATIONS

- 3. PROCLAMATION DECLARING APRIL 7, 2022, AS “LIBRARY VOLUNTEER RECOGNITION DAY” IN THE CITY OF SOUTH PASADENA**
- 4. PROCLAMATION DECLARING APRIL 2022, AS “AUTISM ADVOCACY MONTH” IN THE CITY OF SOUTH PASADENA**
- 5. CERTIFICATES OF RECOGNITION TO REGION 214 GIRLS WESTERN STATE CHAMPIONS**

COMMUNICATIONS**6. COUNCILMEMBER COMMUNICATIONS**

Time allotted per Councilmember is 3 minutes. Additional time will be allotted at the end of the City Council meeting agenda, if necessary.

7. CITY MANAGER COMMUNICATIONS**8. REORDERING OF, ADDITIONS, OR DELETIONS TO THE AGENDA****CONSENT CALENDAR****OPPORTUNITY TO COMMENT ON CONSENT CALENDAR**

Items listed under the consent calendar are considered by the City Manager to be routine in nature and will be enacted by one motion unless a public comment has been received or Councilmember requests otherwise, in which case the item will be removed for separate consideration. Any motion relating to an ordinance or a resolution shall also waive the reading of the ordinance or resolution and include its introduction or adoption as appropriate.

9. APPROVAL OF PREPAID WARRANTS IN THE AMOUNT OF \$376,931.24; GENERAL CITY WARRANTS IN THE AMOUNT OF \$460,681.05; SUPPLEMENTAL AUTOMATED CLEARING HOUSE PAYMENTS IN THE AMOUNT OF \$61,161.44; VOIDS IN THE AMOUNT OF (\$46,609.16); TRANSFERS IN THE AMOUNT OF \$586,005.65; PAYROLL IN THE AMOUNT OF \$707,690.13**Recommendation**

It is recommended that the City Council approve the Warrants as presented.

10. REVIEW AND APPROVAL OF THE 2022 LEGISLATIVE PLATFORM**Recommendation**

It is recommended that the City Council review and approve the 2022 Legislative Platform that will serve as the guiding policy document for the City when determining whether a position should be taken on proposed State and Federal legislation that may impact the City during the 2022 Legislative Session.

11. ADOPTION OF A RESOLUTION TO OPPOSE INITIATIVE TAXPAYER PROTECTION AND GOVERNMENT ACCOUNTABILITY ACT 21-0042A1**RESOLUTION**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA OPPOSING CALIFORNIA STATEWIDE BALLOT INITIATIVE 21-0042A1

Recommendation

It is recommended that the City Council:

1. Adopt a resolution to oppose Initiative Taxpayer Protection and Government Accountability Act 21-00421A; and
2. Approve a letter to the League of California Cities (CalCities) in formal opposition to the Initiative.

12. APPROVAL OF REORGANIZATION OF THE PUBLIC WORKS DEPARTMENT**Recommendation**

It is recommended that the City Council:

1. Approve the implementation of changes recommended by the Public Works organizational assessment to include elimination of one Deputy Director position; updated classification for the Deputy Public Works Director position, and addition of two Management Analyst positions; and
2. Approve a modified organizational chart for the Public Works Department.

13. SECOND READING AND ADOPTION OF AN ORDINANCE DESIGNATING A CITY COUNCIL ELECTION DISTRICT MAP AS REQUIRED BY THE ELECTIONS CODE**ORDINANCE**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, ADOPTING A CITY COUNCIL ELECTION DISTRICT MAP UNDER ELECTIONS CODE SECTIONS 21600–21609

Recommendation

It is recommended that the City Council read by title only for second reading, waving further reading, and adopt an ordinance designating a City Council Election District Map under Elections Code Sections 21600-21609.

14. SECOND READING AND ADOPTION OF AN ORDINANCE ADDING CHAPTER 20F “SAFE STORAGE OF FIREARMS IN RESIDENCES” TO THE SOUTH PASADENA MUNICIPAL CODE**ORDINANCE**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, ADDING CHAPTER 20F “SAFE STORAGE OF FIREARMS IN RESIDENCES” TO THE SOUTH PASADENA MUNICIPAL CODE

Recommendation

It is recommended that the City Council read by title only, waiving further reading, and adopt an ordinance to add Chapter 20F “Safe Storage of Firearms in Residences” to the South Pasadena Municipal Code (SPMC).

15. AUTHORIZE THE PURCHASE OF MOBILE DATA COMPUTERS WITH CODE 3 TECHNOLOGIES FOR A NOT-TO-EXCEED AMOUNT OF \$63,920.20 FROM THE URBAN AREA SECURITY INITIATIVE GRANT**Recommendation**

It is recommended that the City Council:

1. Authorize the purchase of Mobile Data Computers (MDCs) with CODE 3 Technologies Inc., in the amount of \$63,920.20; and
2. Authorize the City Manager or designee to execute all necessary documents.

16. ADOPTION OF A RESOLUTION INITIATING THE PROCEEDINGS AND ORDERING OF THE PREPARATION OF THE ENGINEER'S REPORT FOR FISCAL YEAR 2022-23 LIGHTING AND LANDSCAPING MAINTENANCE DISTRICT

RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, INITIATING PROCEEDINGS FOR THE FISCAL YEAR 2022-23 LEVY AND COLLECTION OF ASSESSMENTS FOR CERTAIN LIGHTING AND LANDSCAPE MAINTENANCE IN AN EXISTING DISTRICT AND ORDERING THE PREPARATION OF A REPORT PURSUANT TO THE PROVISIONS OF DIVISION 15, PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE STATE OF CALIFORNIA

Recommendation

It is recommended that the City Council:

1. Adopt the attached resolution initiating the proceedings for the Fiscal Year (FY) 2022-23 Lighting and Landscaping Maintenance District (LLMD); and
2. Authorize the preparation of the Engineer's Report for the annual levy and collection of assessments.

17. APPROVE A MEMORANDUM OF AGREEMENT WITH THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS FOR THE 626 GOLDEN STREETS MISSION-TO-MISSION 2022 EVENT

Recommendation

It is recommended that the City Council to approve a Memorandum of Agreement between with the San Gabriel Valley Council of Governments (SGVCOG) and the Cities of Alhambra, San Gabriel, and South Pasadena for the 626 Golden Streets Mission-to-Mission 2022 Event.

PUBLIC HEARING

18. FIRST READING AND INTRODUCTION OF AN ORDINANCE AMENDING CHAPTER 18, ARTICLE VI OF THE SOUTH PASADENA MUNICIPAL CODE TO PROHIBIT THE SALE OF ALL TOBACCO PRODUCTS AND ELECTRONIC SMOKING DEVICES

ORDINANCE

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

Recommendation

It is recommended that the City Council:

1. Select the version of the proposed ordinance for introduction; and
2. Read by title only for first reading, waiving further reading, and introduce an ordinance to amend Chapter 18, Article VI of the South Pasadena Municipal Code to Prohibit the Sale of All Tobacco Products and Electronic Smoking Devices.

ACTION / DISCUSSION**19. DIRECTION ON CITYWIDE COMMISSIONS****Recommendation**

It is recommended that the City Council:

1. Dissolve the Animal Commission;
2. Consolidate the Youth, Senior Citizen and Park and Recreation Commissions' scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
3. Direct the City Manager and staff to implement an annual Animal Events Advisory Committee to focus on "Doggy Days" and "Be Kind to Animals Day" and other programming;
4. Change frequency of meetings for the Public Arts Commission to quarterly, or on an as-needed basis;
5. Change frequency of meetings for the Public Safety Commission to quarterly, or on an as-needed basis;
6. Dissolve the Finance Ad Hoc Committee;
7. Dissolve the Economic Development Ad Hoc Committee; and
8. Consider adding an engineering staff position to further support the Mobility and Transportation Infrastructure Commission in the Public Works Department.

INFORMATION REPORTS – NONE**PUBLIC COMMENT – CONTINUED****20. CONTINUED PUBLIC COMMENT – GENERAL**

This time is reserved for speakers in the public comment queue not heard during the first 30 minutes of Item 2. No new speakers will be accepted at this time.

ADJOURNMENT**FOR YOUR INFORMATION****FUTURE CITY COUNCIL MEETINGS**

April 20, 2022	Regular City Council Meeting	7:00 p.m.
April 27, 2022	Special City Council Meeting	6:00 p.m.

PUBLIC ACCESS TO AGENDA DOCUMENTS AND BROADCASTING OF MEETINGS

City Council meeting agenda packets, any agenda related documents, and additional documents are available online for public inspection on the City's website:

www.southpasadenaca.gov/CityCouncilMeetings2022

Regular meetings are live streamed via the internet at:

http://www.spectrumstream.com/streaming/south_pasadena/live.cfm

AGENDA NOTIFICATION SUBSCRIPTION

If you wish to receive an agenda email notification please contact the City Clerk’s Division via email at CityClerk@southpasadenaca.gov or call (626) 403-7230.

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 at (626) 403-7230 or CityClerk@southpasadenaca.gov. 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).

CERTIFICATION OF POSTING

*I declare under penalty of perjury that I posted this notice of agenda for the meeting to be held on **April 6 2022**, on the bulletin board in the courtyard of City Hall at 1414 Mission Street, South Pasadena, CA 91030, and on the City's, website as required by law, on the date listed below.*

3/31/2022

/S/

Date

Christina A. Muñoz, Deputy City Clerk

CITY OF SOUTH PASADENA
PROCLAMATION



Declaring April 7, 2022 as
“Library Volunteer Recognition Day”
in the City of South Pasadena

- WHEREAS, the Library Board of Trustees values the enormous contributions made each year by library volunteers; and
- WHEREAS, many of the programs, services, and materials offered by the library are supported by the all-volunteer Friends of the Library organization, including the Summer Reading Program, Teen Advisory Board, programs for tweens, Eclectic Music Festival performers and other cultural events, new books, e-books, and digital resources including homework help and language learning; and
- WHEREAS, volunteers plan and present the annual series of eight Restoration Concerts, operate the Friends of the Library Bookstore, and support the Summer Reading Program; and
- WHEREAS, more than 158 volunteers donated 21,799 hours in 2019, 2020, and 2021; and
- WHEREAS, the hours that volunteers contribute not only enable the Bookstore to generate significant funds to support library programs and services, they also assist library staff with a variety of events and programs enjoyed by the public.

NOW, THEREFORE, I, Michael A. Cacciotti, Mayor, on behalf of the City Council of the City of South Pasadena, hereby proclaim April 7, 2022 as “Library Volunteer Recognition Day” in the City of South Pasadena and do commend and thank all library volunteers for their many hours of dedicated service and hard work.

Michael A. Cacciotti

April 6, 2022
Date

CITY OF SOUTH PASADENA
PROCLAMATION



Declaring April 2022,
as “Autism Advocacy Month” in the
City of South Pasadena

- WHEREAS, Autism, along with Pervasive Developmental Disorder and Asperger Syndrome, is a group of brain developmental disabilities known as Autism Spectrum Disorders (ASDs); and
- WHEREAS, Autism, along with the other ASDs, can cause significant challenges as a result of symptoms in the realm of social interaction, verbal and nonverbal communication and behavior; and
- WHEREAS, 1 in 44 children have been identified with Autism, and more than 3.5 million Americans live with Autism, is found in all racial, ethnic, and socioeconomic groups, and is four (4) times more common among males than among females according to the Center of Disease Control (CDC).
- WHEREAS, though a cure for Autism is unknown at this time, it is well-documented that if individuals with Autism receive treatment early in their lives, it is often possible for those individuals to lead significantly improved lives; and
- WHEREAS, the Autism Community can benefit from public support and efforts to educate parents, professionals and the general public about Autism and its effects; and
- WHEREAS, the community recognizes that those with Autism continue to achieve their goals and reach their full potential to make positive impacts in the world;
- WHEREAS, throughout the month of April 2022, South Pasadena community members are encouraged to show their support by wearing blue or participating in advocacy outreach efforts.

NOW, THEREFORE, I, Michael Cacciotti, on behalf of the City Council of the City of South Pasadena, hereby declare April 2022, as “Autism Advocacy Month” in the City of South Pasadena and encourage everyone to participate in this very worthwhile initiative.

Michael Cacciotti, Mayor

04/06/2022

Date



City Council Agenda Report

ITEM NO. 9

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Kenneth L. Louie, Interim Finance Director

SUBJECT: Approval of Prepaid Warrants in the Amount of \$376,931.24; General City Warrants in the Amount of \$460,681.05; Supplemental Automated Clearing House Payments in the Amount of \$61,161.44; Voids in the Amount of (\$46,609.16); Transfers in the Amount of \$586,005.65; Payroll in the Amount of \$707,690.13

Recommendation

It is recommended that the City Council approve the Warrants as presented.

Fiscal Impact

Prepaid Warrants:

Warrant # 314142-314147	\$	70,349.30
ACH	\$	131,186.93
Voids	\$	0

General City Warrants:

Warrant # 314148-314238	\$	280,200.60
ACH	\$	180,480.45
Voids	\$	(46,609.16)

Payroll Period Ending: 03/18/2022 \$ 706,257.38

Payroll Period Ending: 03/19/2022 \$ 1,432.75

Wire Transfers Out – To (LAIF) \$ 0

Wire Transfers In – From (LAIF) \$ 0

Wire Transfers (RSA) \$ 0

Wire Transfers Out – To (Acct # 2413) \$ 500,000.00

Wire Transfers Out – To (Acct # 1936) \$ 86,005.65

Supplemental ACH Payment \$ 61,161.44

RSA:

Prepaid Warrants \$ 175,395.01

General City Warrants \$ 0

Total \$ 2,145,860.35

Approval of Warrants
April 6, 2022
Page 2 of 2

Commission Review and Recommendation

This matter was not reviewed by a Commission.

Attachments:

1. Warrant Summary
2. Prepaid Warrant List
3. General City Warrant List
4. Supplemental ACH Payments
5. Voids
6. Payroll

ATTACHMENT 1
Warrant Summary

**City of South Pasadena
Demand/Warrant Register
Recap by fund**

Date 4/6/2022

Recap by fund	Fund No.	Amounts	
		Prepaid	Written
General Fund	101	41,099.90	325,231.78
Insurance Fund	103	66,442.26	-
Street Improvement Program	104	-	1,570.00
Facilities & Equip.Cap. Fund	105	-	-
Programs and Projects	107	-	-
Local Transit Return "A"	205	-	-
Local Transit Return "C"	207	-	727.58
TEA/Metro	208	-	-
Sewer Fund	210	-	795.86
CTC Traffic Improvement	211	-	-
Street Lighting Fund	215	-	28,349.40
Public,Education & Govt Fund	217	-	-
Clean Air Act Fund	218	-	-
Business Improvement Tax	220	-	-
Gold Line Mitigation Fund	223	-	-
Mission Meridian Public Garage	226	-	-
Housing Authority Fund	228	-	-
State Gas Tax	230	-	670.56
County Park Bond Fund	232	-	-
Measure R	233	-	-
Measure M	236	-	-
Road Maint & Rehab (SB1)	237	-	-
MSRC Grant Fund	238	-	-
Measure W	239	10,602.00	-
Measure H	241	-	-
Prop C Exchange Fund	242	-	14,531.20
Bike & Pedestrian Paths	245	-	-
BTA Grants	248	-	-
Golden Street Grant	249	-	-
Capital Growth Fund	255	-	-
CDBG	260	-	-
Asset Forfeiture	270	-	10,300.00
Police Grants - State	272	-	-
Homeland Security Grant	274	-	-
Park Impact Fees	275	-	-
Historic Preservation Grant	276	-	-
HSIP Grant	277	-	3,632.80
Arroyo Seco Golf Course	295	-	-
Sewer Capital Projects Fund	310	-	-
Water Fund	500	-	66,122.19
Water Efficiency Fund	503	-	8,749.68
2016 Water Revenue Bonds Fund	505	-	-
SRF Loan - Water	506	-	-
Water & Sewer Impact Fee	510	-	-
Public Financing Authority	550	69,491.52	-
Payroll Clearing Fund	700	13,900.55	-
			-
Column Totals:		<u>201,536.23</u>	<u>460,681.05</u>

Recap by fund	Fund No.	Amounts	
		Prepaid	Written
RSA	227	175,395.01	-
RSA Report Totals:		<u>175,395.01</u>	<u>-</u>
City Report Totals:			<u>837,612.29</u>

Payroll Period Ending: 03/18/2022	706,257.38
Payroll Period Ending: 03/19/2022	1,432.75
Wire Transfer Out - To LAIF	
Wire Transfer In - From LAIF	
Wire Transfer - RSA	
Wire Transfer Out - To Acct. # 2413	500,000.00
Wire Transfer Out - To Acct. # 1936	86,005.65
Supplemental ACH Payments	61,161.44
Voids - Prepaid	
Voids - General Warrant	(46,609.16)

Grand Report Total: 2,145,860.35

Michael A. Cacciotti, Mayor

Kenneth L. Louie, Interim Finance Director

City Clerk

ATTACHMENT 2
Prepaid Warrant List

Accounts Payable

Check Detail

User: calvarez
Printed: 03/30/2022 - 8:28AM



Check Number	Check Date	Amount
CSD3014 - Ca. State Disbursement Unit		
314142	03/17/2022	
Inv	PR 02.18.2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
02/16/2022	PR Batch 21822.02.2022 Garnishment - Case # FAMSS - 1406906	814.15
Inv PR 02.18.2022 Total		814.15
Inv	PR 03.04.2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/02/2022	PR Batch 30422.03.2022 Garnishment - Case # FAMSS - 1406906	814.15
Inv PR 03.04.2022 Total		814.15
314142 Total:		1,628.30
CSD3014 - Ca. State Disbursement Unit Total:		
		1,628.30
CHWP2010 - Colantuono,Highsmith & Whatley,PC		
0	03/17/2022	
Inv	50648	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	General Services - January 2022 Re-Issue	10,000.00
Inv 50648 Total		10,000.00
Inv	50649	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Labor & Employment - January 2022 Re-Issue	2,597.00
Inv 50649 Total		2,597.00
Inv	50650	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Litigation- January 2022 Re-Issue	196.00
Inv 50650 Total		196.00
Inv	50651	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Water & Utilities- January 2022 Re-Issue	1,813.00

Check Number	Check Date	Amount
Inv 50651 Total		1,813.00
Inv 50652		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Special Projects- January 2022 Re-Issue	5,440.50
Inv 50652 Total		5,440.50
Inv 50653		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Litigation- January 2022 Re-Issue	1,642.40
Inv 50653 Total		1,642.40
Inv 50654		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Litigation- January 2022 Re-Issue	13,975.76
Inv 50654 Total		13,975.76
Inv 50655		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/17/2022	Litigation- January 2022 Re-Issue	24.50
Inv 50655 Total		24.50
0 Total:		35,689.16
CHWP2010 - Colantuono,Highsmith & Whatley,PC Total:		35,689.16
WFGO6712 - Computershare Trust Company, N.A.		
0	03/17/2022	
Inv 2069844		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/01/2022	SoPasadena 2013 Water Rev. Bond Aministration: 03/26/22-03/25/2	2,000.00
Inv 2069844 Total		2,000.00
Inv SOPASAWTR2013		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/09/2022	South Pasadena Water Revenue Bond: Ref 03/13 FAST	67,493.76
03/09/2022	South Pasadena Water Revenue Bond: Ref 03/13 FAST	-2.24
Inv SOPASAWTR2013 Total		67,491.52
0 Total:		69,491.52
WFBK1020 - Computershare Trust Company, N.A. Total:		69,491.52

Check Number	Check Date	Amount
DTV5012 - DIRECTV		
314143	03/17/2022	
Inv	068653046X22030	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/01/2022	EOC COMMUNICATION 02/28/2022-03/27/2022	96.98
Inv 068653046X22030 Total		96.98
314143 Total:		96.98
DTV5012 - DIRECTV Total:		96.98
VRMZ7000 - Munoz, Valerie		
314144	03/17/2022	
Inv	PR 03.04.2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/02/2022	PR Batch 30422.03.2022 - Garnishment	750.00
Inv PR 03.04.2022 Total		750.00
314144 Total:		750.00
VRMZ7000 - Munoz, Valerie Total:		750.00
NAT9221 - National Business Furniture, LLC		
314145	03/17/2022	
Inv	MK570931	
<u>Line Item Date</u>	<u>Line Item Description</u>	
12/03/2021	72" W x 78" H Panel Divider	1,214.76
Inv MK570931 Total		1,214.76
314145 Total:		1,214.76
NAT9221 - National Business Furniture, LLC Total:		1,214.76
PayPlus - PayPlus Solutions Insight E-Tools		
314146	03/17/2022	
Inv	27862	
<u>Line Item Date</u>	<u>Line Item Description</u>	
02/01/2022	Monthly Conversion of ADP Report to xml format for CalPERS	217.00
Inv 27862 Total		217.00
314146 Total:		217.00

Check Number	Check Date		Amount
PayPlus - PayPlus Solutions Insight E-Tools Total:			217.00
RIN7777 - Rincon Consultants, Inc.			
0	03/17/2022		
Inv	30993		
<u>Line Item Date</u>	<u>Line Item Description</u>		
06/15/2021	Additional Staff Assistance: May 2021		511.25
Inv 30993 Total			511.25
0 Total:			511.25
RIN7777 - Rincon Consultants, Inc. Total:			511.25
SOU5435 - S.P. Police Officers Association 700-0000-0000-2246-000			
0	03/17/2022		
Inv	March 2022		
<u>Line Item Date</u>	<u>Line Item Description</u>		
03/02/2022	PR Batch 30422.03.2022 SPPOA Insurance		2,128.58
03/02/2022	PR Batch 30422.03.2022 SPPOA - Union Dues		2,882.25
Inv March 2022 Total			5,010.83
0 Total:			5,010.83
SOU5435 - S.P. Police Officers Association Total:			5,010.83
SOU5451 - S.P. Public Service Employees Association 700-0000-0000-2248-000			
0	03/17/2022		
Inv	March 2022		
<u>Line Item Date</u>	<u>Line Item Description</u>		
03/02/2022	PR Batch 30422.03.2022 SPPSEA - Union Dues		1,470.00
Inv March 2022 Total			1,470.00
0 Total:			1,470.00
SOU5451 - S.P. Public Service Employees Association Total:			1,470.00
CEAP7000 - S.P. Public Service Employees Association-PT 700-0000-0000-2249-000			
0	03/17/2022		
Inv	March 2022		
<u>Line Item Date</u>	<u>Line Item Description</u>		
03/02/2022	PR Batch 30422.03.2022 PART TIME ASSN. DUES / FEE		280.00
Inv March 2022 Total			280.00

Check Number	Check Date	Amount
0 Total:		280.00
CEAP7000 - S.P. Public Service Employees Association-PT Total:		280.00
SOU5230 - S.P.Firefighters L-3657		
0	03/17/2022	
Inv	March 2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/02/2022	PR Batch 30422.03.2022 Fire Assn. Insurance	177.42
03/02/2022	PR Batch 30422.03.2022 FFA Fire Rec Fees	90.00
03/02/2022	PR Batch 30422.03.2022 Firefighters 3657 - Union	2,050.00
Inv March 2022 Total		2,317.42
0 Total:		2,317.42
SOU5230 - S.P.Firefighters L-3657 Total:		2,317.42
SSDV2018 - Sandoval, Sheila		
0	03/17/2022	
Inv	PR 02.18.2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
02/16/2022	PR Batch 21822.02.2022 - Garnishment	737.00
02/16/2022	PR Batch 21822.02.2022 - Garnishment	485.00
Inv PR 02.18.2022 Total		1,222.00
Inv	PR 03.04.2022	
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/02/2022	PR Batch 30422.03.2022 - Garnishment	485.00
03/02/2022	PR Batch 30422.03.2022 - Garnishment	737.00
Inv PR 03.04.2022 Total		1,222.00
0 Total:		2,444.00
SSDV2018 - Sandoval, Sheila Total:		2,444.00
SMWL2990 - Shute, Mihaly & Weinberger LLP		
314147	03/17/2022	
Inv	274141	
<u>Line Item Date</u>	<u>Line Item Description</u>	
09/23/2021	Legal Assistance Regarding Moffat Street 08/31/2021	11,395.83
Inv 274141 Total		11,395.83
Inv	274496	
<u>Line Item Date</u>	<u>Line Item Description</u>	

Check Number	Check Date	Amount
10/20/2021	Legal Assistance Regarding Moffat Street 09/30/2021	11,557.75
Inv 274496 Total		11,557.75
Inv 274801		
<u>Line Item Date</u>	<u>Line Item Description</u>	
11/23/2021	Legal Assistance Regarding Moffat Street 10/31/2021	919.00
Inv 274801 Total		919.00
Inv 275120		
<u>Line Item Date</u>	<u>Line Item Description</u>	
12/21/2021	Legal Assistance Regarding Moffat Street 11/30/2021	2,089.17
Inv 275120 Total		2,089.17
Inv 275640		
<u>Line Item Date</u>	<u>Line Item Description</u>	
01/28/2022	Legal Assistance Regarding Moffat Street 12/31/2021	40,480.51
Inv 275640 Total		40,480.51
314147 Total:		66,442.26
SMWL2990 - Shute, Mihaly & Weinberger LLP Total:		66,442.26
SPBK - Springbrook Holding Company LLC		
0	03/17/2022	
Inv TM INV-005102		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/11/2022	Re-Implementation of Payroll Services: 02/28/22-03/06/22	44.75
Inv TM INV-005102 Total		44.75
0 Total:		44.75
SPBK - Springbrook Holding Company LLC Total:		44.75
USBANK - U.S. Bank NA		
0	03/17/2022	
Inv 1956866		
<u>Line Item Date</u>	<u>Line Item Description</u>	
03/11/2022	South Pasadena 2000-1 Bond Act # 6711646700	155,000.00
03/11/2022	South Pasadena 2000-1 Bond Act # 6711646700	-4.99
03/11/2022	South Pasadena 2000-1 Bond Act # 6711646700	20,400.00
Inv 1956866 Total		175,395.01

Check Number	Check Date	Amount
0 Total:		175,395.01
USBANK - U.S. Bank NA Total:		175,395.01
Total:		363,003.24

Accounts Payable

Checks by Date - Detail by Check Date

User: calvarez
Printed: 3/30/2022 8:21 AM



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
ACH	SWRCB900	SWRCB	03/23/2022	
	SW-0223026	NPDES Annual Fee: 10/01/2021-09/30/2022		10,602.00
	WD-0191525	WDR Annual Fee: 07/01/2021-06/30/2022		3,326.00
Total for this ACH Check for Vendor SWRCB900:				13,928.00
Total for 3/23/2022:				13,928.00
Report Total (1 checks):				13,928.00

ATTACHMENT 3 General City Warrant List

Accounts Payable

Checks by Date - Detail by Check Date

User: calvarez
 Printed: 3/30/2022 1:26 PM



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
ACH	ATGC8530 95612	Acorn Technology Services February 2022 Monthly IT Services	04/06/2022	22,546.73
Total for this ACH Check for Vendor ATGC8530:				22,546.73
ACH	BAK0366	Baker & Taylor Entertainment	04/06/2022	
	H60092070	DVDs/ CDs		139.11
	H60215160	DVDs/ CDs		24.78
	H60220910	DVDs/ CDs		26.09
	H60287540	DVDs/ CDs		28.93
	H60310950	DVDs/ CDs		33.04
	H60413760	DVDs/ CDs		33.07
	H60420820	DVDs/ CDs		77.69
	H60436520	DVDs/ CDs		16.49
	H60445940	DVDs/ CDs		63.58
	H60478190	DVDs/ CDs		76.04
	H60482470	DVDs/ CDs		12.38
	H60482520	DVDs/ CDs		4.94
	H60488980	DVDs/ CDs		18.19
	H60521000	DVDs/ CDs		9.08
	H60546280	DVDs/ CDs		28.93
	H60587630	DVDs/ CDs		19.00
	H60587650	DVDs/ CDs		23.13
	H60589010	DVDs/ CDs		19.00
	T24093940	DVDs/ CDs		28.93
	T24099820	DVDs/ CDs		12.39
	T24101310	DVDs/ CDs		53.72
Total for this ACH Check for Vendor BAK0366:				748.51
ACH	BAK0369	Baker & Taylor Books	04/06/2022	
	2036367944	Books for Library		333.43
	2036392796	Books for Library		515.22
	2036396359	Books for Library		368.00
	2036401717	Books for Library		442.17
	2036428036	Books for Library		856.08
	2036431674	Books for Library		491.67
	2036456720	Books for Library		401.63
	2036458190	Books for Library		285.62
	2036471609	Books for Library		233.57
	2036471875	Books for Library		690.45
	2036485256	Books for Library		318.37
	2036499593	Books for Library		159.99
	2036512115	Books for Library		267.29
	2036526722	Books for Library		265.41
	2036539218	Books for Library		33.35
	2036563630	Books for Library		47.74
Total for this ACH Check for Vendor BAK0369:				5,709.99

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
ACH	CHWP2010 51273 51275 51276 51277 51278 51279 51280 51293	Colantuono,Highsmith & Whatley,PC General Services: February 2022 Litigation: February 2022 Water & Utilites: February 2022 Special Projects: February 2022 Litigation: February 2022 Litigation: February 2022 Litigation: February 2022 Labor & Employment: February 2022	04/06/2022	10,005.00 5,341.00 2,401.00 12,702.00 2,724.25 18,443.00 1,094.75 7,508.00
Total for this ACH Check for Vendor CHWP2010:				60,219.00
ACH	CIV2123 2018-166	CivicStone, LLC Caltrans Housing Consultant: February 2022	04/06/2022	555.00
Total for this ACH Check for Vendor CIV2123:				555.00
ACH	CRDA1021 RS4777134	Corodata Records Management AN 042023 Service (02/01/22 - 02/28/22)	04/06/2022	464.42
Total for this ACH Check for Vendor CRDA1021:				464.42
ACH	CRSR2010 1351773	Corodata Shredding Inc. AN SD041103 Service (02/03/22 - 02-28-22)	04/06/2022	105.69
Total for this ACH Check for Vendor CRSR2010:				105.69
ACH	DAN0769 S1439619.002	DANGELO CO. Order of 7 Fire Hydrants and 8 Fire Hydrant Extensions for Water	04/06/2022	11,642.92
Total for this ACH Check for Vendor DAN0769:				11,642.92
ACH	DEL4000 10565554483	Dell Marketing L.P. Comprehensive Gateway Security Suite for SonicWall	04/06/2022	1,479.54
Total for this ACH Check for Vendor DEL4000:				1,479.54
ACH	HQAB8100 18434	Hi Quality Auto Body Inc. Paint 4 doors and roof of new SUV (no unit # Assigned)	04/06/2022	1,827.00
Total for this ACH Check for Vendor HQAB8100:				1,827.00
ACH	JHMS8020 282947/1 283036/1 283039/1 283728/1 283728/1 283734/1 285011/1	JHM Supply Public Works Parks Division Irrigations Controller Box repair Public Works Parks Division Irrigation and Garden Supplies Public Works Parks-Tree Posting Supplies Public Works Parks Division-Garden Tools for City Parks Public Works Parks Division-Garden Tools for City Parks Public Works Water Division-Parts to Repair Damaged backflows Public Works Parks Division-Tree Stake supplies	04/06/2022	259.30 498.87 54.24 70.86 10.03 143.56 255.23
Total for this ACH Check for Vendor JHMS8020:				1,292.09
ACH	MNBL8170 14920 14942 14942 14942	Crestline Software, LLC dba MuniBilling Postage - Feb 2022 Water Billing Services - March 2022 Absorb Charges - Feb 2022 Lock Box - Feb 2022	04/06/2022	2,082.92 24,646.23 8,397.74 719.40
Total for this ACH Check for Vendor MNBL8170:				35,846.29
ACH	OVDR8011	OverDrive Inc.	04/06/2022	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	01148CO22065743	eBooks / Audiobooks		548.42
	01148CO22067801	eBooks / Audiobooks		1,720.90
	01148CO22067803	eBooks / Audiobooks		374.41
	01148CO22075797	eBooks / Audiobooks		262.30
Total for this ACH Check for Vendor OVDR8011:				2,906.03
ACH	POS5265	Post Alarm Systems	04/06/2022	
	1461409	Alarm System for WMB: April 2022		54.33
	1461409	Alarm System for Orange Grove Rec. Building: April 2022		54.33
Total for this ACH Check for Vendor POS5265:				108.66
ACH	RED8995	Red Wing Business Advantage Account	04/06/2022	
	989-1-59326	Public Works Footware Voucher Program-Kelvin Machado-Water		238.08
	989-1-59450	Public Works Footware Voucher Program-Luis Bardales-Water		250.00
	989-1-59479	Public Works Footware Voucher Program-Lorenzo Palmieri-Water		218.27
Total for this ACH Check for Vendor RED8995:				706.35
ACH	SPBK	Springbrook Holding Company LLC	04/06/2022	
	INV-008677	CivicPay Transaction Fee - Feb 2022		102.00
Total for this ACH Check for Vendor SPBK:				102.00
ACH	STA5219	Staples Business Advantage	04/06/2022	
	3477088928	Office Supplies		-20.39
	3481998885	Office Supplies		258.07
	3484373931	Office Supplies		220.93
	3484373932	Office Supplies		198.41
	3490942051	Office Supplies		192.84
	3494788695	Office Supplies		443.19
	3497678142	Water Division office supplies		507.14
	3498255657	Public Works-Parks Division office supplies		44.82
	3498255657	Public Works-Parks Division office supplies		44.82
	3499373016	Public Works Break Room Supplies		10.10
	3499373016	Public Works Break Room Supplies		10.10
	3499373016	Public Works Break Room Supplies		10.10
	3499373016	Public Works Break Room Supplies		10.10
	3499373016	Public Works Break Room Supplies		10.10
	3499902438	Small and medium picture hanging strips		76.18
	3500591387	Returned items		-60.95
	3500752555	Margin Index tabs.		164.65
	3500947779	Office supplies for Deputy Director and Recreati		180.05
	3500947783	Office Supplies for DAR		20.50
	3500947783	Office Supplies for Senior Center		94.34
	3500947784	Office Supplies for DAR		87.94
	3501676927	Plastic envelopes		16.53
	3501676928	Plastic envelopes		20.72
	3501676929	Office Supples (Battery BackUp Qty # 7)		805.94
	3501746932	Office Supplies		65.38
	3501746934	Office Supples		41.24
	3501746935	Office Supples		308.80
	3501746936	Public Works Yard Break Room supplies		10.44
	3501746936	Public Works Yard Break Room supplies		10.45
	3501746936	Public Works Yard Break Room supplies		10.45
	3501746936	Public Works Yard Break Room supplies		10.44
	3501746936	Public Works Yard Break Room supplies		10.45
	3501746937	PD Office Supplies		49.35
	3501817606	TONER FOR DIVISION CHIEFS OFFICE		88.32
	3501817607	Office Supples		46.26

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	3501817608	Office Supples		132.27
	3501817609	PD Office Supplies		6.49
	3502068365	webcam		44.09
	3502068366	Printer drum unit, ID badges, packing tape		190.83
	3502068368	PD Office Supplies		207.93
	3502068369	PD Office Supplies		97.00
	3502222763	Public Works Operations Division-Yard office supplies		15.52
	3502222765	PD Office Supplies		510.40
	3502222766	Office supplies for CSD Sr. Ctr,Camp Med, Recreation Division.		90.00
	3502222766	Office supplies for CSD Sr. Ctr,Camp Med, Recreation Division.		52.44
	3502222766	Office supplies for CSD Sr. Ctr,Camp Med, Recreation Division.		218.22
	3502290158	Public Works Department-Yard Admin office supplies		34.36
	3502360579	desk lamp		59.51
	3502360580	WD-40, project jackes, folding table, napkins		124.45
	3502360581	Public Works Department-Streets Division Supplies		72.50
	3502360582	Public Works Department-Yard Admin office supplies		6.60
	3502664285	keyboard		33.06
Total for this ACH Check for Vendor STA5219:				5,893.48
ACH	STSM1020 192057	Studio Spectrum City Council Meeting Streaming and Production	04/06/2022	4,425.00
Total for this ACH Check for Vendor STSM1020:				4,425.00
ACH	SWRCB900 WD-0197352	SWRCB NPDES Permit Fees FY 2021-22	04/06/2022	763.00
Total for this ACH Check for Vendor SWRCB900:				763.00
ACH	UQMS8010 6098569	Unique Management Svcs Inc. Recovery Agency Services	04/06/2022	44.75
Total for this ACH Check for Vendor UQMS8010:				44.75
ACH	WES4152 183076 183076 183076 183076	West Coast Arborists, Inc. Citywide Urban Forestry Services 2/16/2022-2/28/2022 Citywide Urban Forestry Services 2/16/2022-2/28/2022 Citywide Urban Forestry Services 2/16/2022-2/28/2022 Citywide Urban Forestry Services 2/16/2022-2/28/2022	04/06/2022	400.00 600.00 6,994.00 14,600.00
Total for this ACH Check for Vendor WES4152:				22,594.00
ACH	WLST8267 January 2022	William Shuttic Contract Class Instructor Functional Fitness January 2022	04/06/2022	500.00
Total for this ACH Check for Vendor WLST8267:				500.00
314148	3DCHEM INV-2203	3D Chemical & Equipment 5 GL BUCKET PUMP, SPIGOT, FOAMER, 5 GL PROTECTANT	04/06/2022	426.84
Total for Check Number 314148:				426.84
314149	ABCBEE 6805 6836 6845	ABC Bee Control Humane Bee Removal-Parkway Tree on Garfield Ave. Humane Bee Removal- Mission St. Inspection Only Humane Bee Removal-Maund Ave.	04/06/2022	350.00 150.00 550.00
Total for Check Number 314149:				1,050.00
314150	ALH0179 February 2022	Alhambra Car Wash Police Department Car Washes - February 2022	04/06/2022	169.00

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
			Total for Check Number 314150:	169.00
314151	ALH0181	Alhambra Hospital Med Ctr	04/06/2022	
	1/12/2022	Medical Supplies for Fire Department		66.52
	1/31/2022	Medical Supplies for Fire Department		130.16
	1/6/2022	Medical Supplies for Fire Department		121.22
	10/18/2021	Medical Supplies for Fire Department		23.80
	10/28/2021	Medical Supplies for Fire Department		357.69
	10/5/2021	Medical Supplies for Fire Department		46.25
	11/22/2021	Medical Supplies for Fire Department		148.42
	11/26/2021	Medical Supplies for Fire Department		235.39
	12/28/2021	Medical Supplies for Fire Department		132.59
	2/15/2022	Medical Supplies for Fire Department		869.19
	9/14/2021	Medical Supplies for Fire Department		61.77
	9/6/2021	Medical Supplies for Fire Department		307.15
			Total for Check Number 314151:	2,500.15
314152	ACMT2920	All City Management Services, Inc.	04/06/2022	
	75614	Crossing Guard Services for February 6-February 19, 2022		8,536.50
	76056	Crossing Guard Services for February 20-March 5, 2022		8,684.93
			Total for Check Number 314152:	17,221.43
314153	ARCD6011	ARC Document Solutions, LLC	04/06/2022	
	10433028	SCAN Bushnell/Diamond Ave CIP AsBuilts for Water		35.86
	10849263	St. Albans Water CIP AsBuilts		183.06
	11059275	Sewer Drainage Layout Map Drawing		33.71
	11130639	Water Reports-Risk & Resilience Assesment required by DDW		184.78
			Total for Check Number 314153:	437.41
314154	AT&T5011	AT&T	04/06/2022	
	248 134-6100 21	AN 248 134-6100 210 5 (03-1-22)/(03-31-22)		39.01
	331 841-0756 32	AN 331 841-0756 343 2 (03-7-22)/(04-06-22)		0.19
	331 841-0802 34	AN 331 841-0802 343 6 (03-7-22)/(04-06-22)		33.97
			Total for Check Number 314154:	73.17
314155	ATCN9011	AT&T	04/06/2022	
	000017820838	AN CLAPDSOPAS Service (01/27/22-02/26/22)		320.47
			Total for Check Number 314155:	320.47
314156	CIN4011	AT&T Mobility	04/06/2022	
	287269956155X03	AN 287269956155 Service (02-07-22- 03-06-22)		298.07
	287297984615X03	AN 287297984615 (02/03/22-03/02/22)		334.48
	287312118886X03	AN 287312118886X03102022 (02/03/22-03/02/22)		1,665.54
			Total for Check Number 314156:	2,298.09
314157	ATSS6010	Athens Services	04/06/2022	
	11831406	Hazardous Waste Removal-PW Yard on Stoney Dr.		8,992.00
			Total for Check Number 314157:	8,992.00
314158	MCBKWRH	Michelle Baker-Wright	04/06/2022	
	494	Closed Water Account Refund		22.96
			Total for Check Number 314158:	22.96

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
314159	ELBNGS 119572	Elizabeth R Bangs Unable to attend Skateside class. \$20 admin fee deducted.	04/06/2022	105.00
Total for Check Number 314159:				105.00
314160	BT4U8180 0222-3319	Better 4 You Meals Meals for Onsite and Home Delivery: February 2022	04/06/2022	3,542.00
Total for Check Number 314160:				3,542.00
314161	TYBL7000 03/14-03/16/22	Tyler Borrello Reimb. Training Expense for Officer Borrello: 03/14/22-03/16/22	04/06/2022	227.10
Total for Check Number 314161:				227.10
314162	CAL5236 1961433 1963547	CA Linen Services Fire Station Linen Rental and Cleaning Services Fire Station Linen Rental and Cleaning Services	04/06/2022	87.89 105.21
Total for Check Number 314162:				193.10
314163	DACA4011 03/11/2022	David Calderon Training Class Reimb. for Officer Calderon 03/11/2022	04/06/2022	14.51
Total for Check Number 314163:				14.51
314164	CAL8012 5414	Califa Group CENIC Broadband - December 2021	04/06/2022	2,667.30
Total for Check Number 314164:				2,667.30
314165	CAL6695 12/23-1/20/22	California American Water Acct # 1015-210021511021: Water Connection fee - Wislon Well # 2	04/06/2022	13.30
Total for Check Number 314165:				13.30
314166	CPC4011 021822	California Police Chiefs Association Executive Leadership Course for Lt. Jacobs 06/04/22-06/18/22	04/06/2022	10,300.00
Total for Check Number 314166:				10,300.00
314167	CAN0607 20737 20739 20742 20744 20754	Cantu Graphics Inc. Business Cards Mission Statement Poster Business cards for Sgt. Ronnie and Officer Godoy FIRE & SAFETY INSPECTION FORM 30"x40"PVC Sign & 22"x28" mounted matte foam board	04/06/2022	33.02 97.02 66.04 468.56 128.39
Total for Check Number 314167:				793.03
314168	CAPI2010 15126	CAPIO CAPIO Membership Thru 02/21/2023	04/06/2022	275.00
Total for Check Number 314168:				275.00
314169	CBSE6010 75666805	Cell Business Equipment Cell Business AN 857406 Service (03/01/22-03/31/22)	04/06/2022	291.50
Total for Check Number 314169:				291.50
314170	EUGCHNG 1608418757	Eugene Chang Refund Applicant for Duplicate Payment : 1608418757	04/06/2022	354.20

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
			Total for Check Number 314170:	354.20
314171	JENCHONG 119576	Jennifer Chong Class cancelled due to low enrollment per instructor's request.	04/06/2022	280.00
			Total for Check Number 314171:	280.00
314172	ALPD4010 SP 02/2022	City of Alhambra Police Department Inmate housing for the month of February 2022	04/06/2022	2,064.00
			Total for Check Number 314172:	2,064.00
314173	CRSSTWN9 4620-002 4620-002	Crosstown Electrical & Data Inc. Fair Oaks Ave. Traffic Signal Improvements Project Fair Oaks Ave. Traffic Signal Improvements Project	04/06/2022	14,531.20 3,632.80
			Total for Check Number 314173:	18,164.00
314174	DSP0755 2012 3003	D & S Printing Overnight parking permit applications Regular and window envelopes	04/06/2022	435.49 700.09
			Total for Check Number 314174:	1,135.58
314175	DAYWIREL INV714577	Day Management Corporation RA-781;REPAIR AND TROUBLESHOOT POWER SUPPLY TO MCT/COMMUNICATION	04/06/2022	150.00
			Total for Check Number 314175:	150.00
314176	DUB0187 02/10/2022 02/10/2022 02/23-02/24/22 02/23-02/24/22	Andrew DuBois Reimb. Training Expense for Cpl. Dubois: 02/10/2022 Reimb. Training Expense for Cpl. Dubois: 02/10/2022 Reimb. Training Expense for Cpl. Dubois: 02/23-02/24/22 Reimb. Training Expense for Cpl. Dubois: 02/23-02/24/22	04/06/2022	27.00 43.45 44.61 111.94
			Total for Check Number 314176:	227.00
314177	ELL1017 EE77877	Ellen's Silkscreening Caps for Police Recruit Lizeth Gonzalez-Sotelo	04/06/2022	66.04
			Total for Check Number 314177:	66.04
314178	LACD5011 P8289 O SNIDER	Emergency Medical Services Agency O SNIDER; PARAMEDIC LICENSE RENEWAL-EXAM 1	04/06/2022	150.00
			Total for Check Number 314178:	150.00
314179	FHCM5011 INV5684	Foothill Communications 2 hand mics, power cables, accessory connectors Unit # 218 & SUV	04/06/2022	338.97
			Total for Check Number 314179:	338.97
314180	GAR5011 140791 140791 141461 142392 142533 142533 142613 142613	Garvey Equipment Co Public Works Parks Division-Chainsaw & Rake Supplies Public Works Parks Division-Chainsaw & Rake Supplies Public Works Parks Division-Chainsaw and Rake Supplies Public Works Parks Div. Chainsaw Chains for Street Tree Maint. Public Works Parks Divi.-Chainsaw Chains & Loppers Public Works Parks Divi.-Chainsaw Chains & Loppers Public Works Parks Div.-Spline Screw and Tapping Screw Public Works Parks Div.-Spline Screw and Tapping Screw	04/06/2022	204.41 65.95 137.53 97.42 76.62 91.73 22.42 15.15

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	142613	Public Works Parks Div.-Spline Screw and Tapping Screw		3.83
	142874	Public Works Parks Division--Pressure Washer Maintenance		69.59
	143890	Public Works Parks Division Small Tool Supplies		1,739.99
	143890	Public Works Parks: Battery Packs, Chargers and Chainsaw Chains		1,114.55
	143896	Public Works Parks Division-Trimmer, Battery Pack & Charger		1,455.30
			Total for Check Number 314180:	5,094.49
314181	EGGO4011 02/16-2/17/22	Elias Giron-Garrido Reimb. Training Expense for Officer Giron-Garrido 02/16-02/17/22	04/06/2022	24.57
			Total for Check Number 314181:	24.57
314182	ISGU4011 03/13/2022	Issac Gutierrez Reimb. Training Expense for Officer Gutierrez 03/13/2022	04/06/2022	17.55
			Total for Check Number 314182:	17.55
314183	HGSI6010 22-40651	Harry's Glass Shop Inc. Glass Window Supplies-War Memorial Glass replacement	04/06/2022	395.35
			Total for Check Number 314183:	395.35
314184	HDLC3010 SIN015118	Hinderliter deLlamas & Associates Sales Tax and Audit Services	04/06/2022	1,229.48
			Total for Check Number 314184:	1,229.48
314185	HRSCHPIP 8115742	Hirsche Pipe & Supply Solar Generator for Garfield Reservoir	04/06/2022	392.55
			Total for Check Number 314185:	392.55
314186	HOMCOMM 030922 031022	Reagan Hom Repair control panel key pad for gun release unit #1404 Repair and replace Radio and relocate transreceiver unit #218	04/06/2022	250.00 200.00
			Total for Check Number 314186:	450.00
314187	HOM1515 4100936	Home Depot Credit Services PWD Street Div-Epoxy Products for sign installation	04/06/2022	552.84
			Total for Check Number 314187:	552.84
314188	THMJRGRP 15-2022	Patrick Ibarra Facilitation of Executive Staff Retreat on March 21, 2022	04/06/2022	5,294.16
			Total for Check Number 314188:	5,294.16
314189	IMGN8032 35250-1 35250-1 35250-1 35250-1	iMagen Embroidered Jackets for Recreation Division Embroidered Jackets for Recreation Division Embroidered Jackets for Recreation Division Embroidered Jackets for Recreation Division	04/06/2022	186.97 100.00 200.00 100.00
			Total for Check Number 314189:	586.97
314190	LARJOHNS 119615	Lauren B Johnson Unable to attend Brit West Soccer class.	04/06/2022	79.00
			Total for Check Number 314190:	79.00
314191	JCRS5011	Jones Coffee Roasters	04/06/2022	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	51149	Fire Dept. Coffee Supplies		162.68
			Total for Check Number 314191:	162.68
314192	MJRI2950 335742	Magic Jump Rentals Inc. Four Inflatables for Camp Med Spring Break	04/06/2022	1,141.60
			Total for Check Number 314192:	1,141.60
314193	MER2145 689125 697604	Merit Oil Company Emergency Fuel at Public Works Service Yard - Ordererd 1/12/2022 Fuel for City Departments: 3,117 Gallons of Unleaded Gas	04/06/2022	5,017.61 13,003.23
			Total for Check Number 314193:	18,020.84
314194	NBSFIN 1221001084	NBS Library Parcel Tax Admin: 04/01/2022-06/30/2022	04/06/2022	1,662.12
			Total for Check Number 314194:	1,662.12
314195	NXPX2920 INV31299	Nexusplex 2 year subscription to the SouthPasadenan	04/06/2022	70.00
			Total for Check Number 314195:	70.00
314196	OREI6711 3213-227755 3213-248685 3213-250312	O' Reilly Automotive Inc. Public Works Water Distribution Unit #19-Brake Lights Public Works- Air Filters for Water Distribution Vehicle Fleet Public Works Street Division-Products and Vehicle Supplies	04/06/2022	16.34 194.25 310.48
			Total for Check Number 314196:	521.07
314197	OLNP8010 74717	Outlook Newspapers Group Renewal subscription to the South Pasadena Review	04/06/2022	60.00
			Total for Check Number 314197:	60.00
314198	PMHE6116 63030832 63030833	Pape Material Handling Exchange Quarterly Maintenance for Service Yard Forklift Quarterly Maintenance for John Deere Tractor	04/06/2022	242.61 401.46
			Total for Check Number 314198:	644.07
314199	PHS4011 Mar2022SoPas	Pasadena Humane Society Animal Control Services - March 2022	04/06/2022	14,035.83
			Total for Check Number 314199:	14,035.83
314200	PWP4465 1/11/22-2/11/22 10/12-11/12/21 11/12-12/13/21 11/9/21-1/12/22 12/13-1/11/22	Pasadena Water & Power Acct# 80176-1-City Of Pasadena water purchase Jan 2022 Acct# 80176-1-City Of Pasadena water purchase Nov 2022 Acct# 80176-1-City Of Pasadena water purchase Dec 2021 Acct# 80233-0-City Of Pasadena water purchase Nov-Jan 2022 Acct# 80176-1-City Of Pasadena water purchase Jan 2022	04/06/2022	3,368.29 3,500.13 3,192.51 0.04 2,818.98
			Total for Check Number 314200:	12,879.95
314201	PHOE4610 022022184	Phoenix Group Information Systems Parking Citation Processing & Database Access:	04/06/2022	4,091.27
			Total for Check Number 314201:	4,091.27
314202	CHRISPON	Christopher Pong	04/06/2022	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	119575	Refund Cancelled Class due to Low Enrollment		280.00
			Total for Check Number 314202:	280.00
314203	ROWI2011 59513	Right of Way Inc. On-Call Services for Traffic Control for AI Fresc: Jan'22-Mar'22	04/06/2022	4,146.00
			Total for Check Number 314203:	4,146.00
314204	RIV4011 BCTC0045952	Riverside County Sheriff's Dept Field Training Event 03/14-03/16/22 for Officer Borrello	04/06/2022	185.00
			Total for Check Number 314204:	185.00
314205	RKAC6010 31813	RKA Consulting Group Engineering Design, and Construction Services: October 2021	04/06/2022	1,570.00
			Total for Check Number 314205:	1,570.00
314206	RPCH8210 09/23/2021	Christina Roppo Reimb. Training Expense for Officer Roppo: 09/23/2021	04/06/2022	19.26
			Total for Check Number 314206:	19.26
314207	ANGSAENZ 119573	Angelina Saenz Parent request a check refund for Super Soccer Stars class.	04/06/2022	110.00
			Total for Check Number 314207:	110.00
314208	SAN4961 RFR-01-09	San Gabriel Valley Council of Governments Participation in the SGV Regional Food Recovery Program	04/06/2022	57,765.00
			Total for Check Number 314208:	57,765.00
314209	SCAT6710 16722 16819 16822 16845 16847 16872 16873	Scott's Automotive Supplementary battery for #1802 Maintenance to Water Div.Unit# 16-Safety Break & Window repair Maintenance to Water Division Unit; 16-Starter replacement Replace PCM Module unit #1501 Remove & replace mail oil seal unit#0219 replace blend door actuator, thermostat, and coolant Unit # 1501 Replace Oil, Filters, Brake Pads on Unit # 1705	04/06/2022	187.19 250.00 212.80 118.65 522.83 249.42 262.20
			Total for Check Number 314209:	1,803.09
314210	SDSI0107 232767 232767 232767 233921 233921 233921	SDS Security Design Systems Installation of Security Cameras at Public Works Yard Installation of Security Cameras at Public Works Yard Installation of Security Cameras at Public Works Yard Maintenance of Security Cameras at Public Works Yard Maintenance for Security Cameras at Public Works Yard Maintenance of Security Cameras at Public Works Yard	04/06/2022	286.57 286.56 286.56 29.15 29.15 29.15
			Total for Check Number 314210:	947.14
314211	SKYERENT ID 1115657440 ID 1115665969	Skye Rentals REFUND-NO TENT FEE FOR FILMING; ONLINE TRANS ID #1115657440 REFUND-NO TENT FEE FOR FILMING; ONLINE TRANS ID #1115665969	04/06/2022	169.00 169.00
			Total for Check Number 314211:	338.00
314212	MCST4010	Michael Smith	04/06/2022	

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
	03/07-03/11/22	Reimb. Training Expense for Officer Smith	03/07-03/11/22	122.09
	03/07-03/11/22	Reimb. Training Expense for Officer Smith	03/07-03/11/22	76.56
	10/25/2021	Reimb. Training Expense for Officer Smith	10/25/2021	11.98
Total for Check Number 314212:				210.63
314213	SOGA6501	SoCalGAS	04/06/2022	
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.17
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.17
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.17
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.18
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.17
	2/1/22-3/1/22	CNG for City Vehicles (PW & Transit)-2/1/22-3/1/22		97.17
Total for Check Number 314213:				583.03
314214	SEBASTEI Film 257	Sebastian Steinberger Refund Police Film Deposit	04/06/2022	630.00
Total for Check Number 314214:				630.00
314215	SRYC5011 3005943963	Stericycle Inc. HAZARDOUS MEDICAL WASTE	04/06/2022 04/2022-06/2022	156.07
Total for Check Number 314215:				156.07
314216	SUVA8022 21325 21326	Sunset Vans Inc. Wheelchair Maint. Repair for Units 75 & 80 Dial-a-Ride Wheelchair Maint. Repair for Units 75 & 80 Dial-a-Ride	04/06/2022	271.96 150.00
Total for Check Number 314216:				421.96
314217	SSSS8267 7709 7731 7733 7734 7762 7781	Super Soccer Stars Contract Class Instructor Payment (2-3 W) 10 AM - 02/23-03/23/22 Contract Class Instructor Payment (Parent & Me) 02/23-03/23/22 Contract Class Instructor (3-4 W) 10:45 AM 02/23-03/23/22 Contract Class Instructor Payment (3-4 W) 2:10PM 02/23-03/23/22 Contract Class Instructor Payment (5-6 W) 3PM 02/23-03/23/22 Contract Class Instructor Payment (7-10 W) 4:05PM 02/23-03/23/22	04/06/2022	715.00 143.00 214.50 357.50 286.00 214.50
Total for Check Number 314217:				1,930.50
314218	SCRR4010 February 2022	Superior Court of California, County of LA Citations processed for February 2022	04/06/2022	3,962.00
Total for Check Number 314218:				3,962.00
314219	CHEKSHO 119617	Cheuk Sze Ho Unable to attend Brit West Soccer class. Admin fee deducted.	04/06/2022	79.00
Total for Check Number 314219:				79.00
314220	TMON4011 16800T 16802T	Team One Network Training Class for Officer Giron-Garrido: 06/16-06/17/22 Training Class for Cpl Dubois: 06/16/2022	04/06/2022	650.00 350.00
Total for Check Number 314220:				1,000.00
314221	TERZHYK 000271	Hayak Terzyan Notary Services for Police Applicant Fierro	04/06/2022	90.00
Total for Check Number 314221:				90.00

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
314222	TLSI8011 559478	The Library Store Inc. CD/DVD HUB Labels	04/06/2022	398.49
Total for Check Number 314222:				398.49
314223	TIM4011 0029763022722 0052005022622 0070193030122 0251967022222 0355990030222 0357905030522	Time Warner Cable AN 8448 20 899 0029763 Service (02-16-22 / 03-15-22) AN 8448 20 899 0052005 Service (02-11-22 / 03-10-22) AN 8448 30 008 0070193 Service 03/01/22 - 03/31/22 AN 8448 30 008 0251967 Service (02-22-22 / 03-21-22) AN 8448 30 008 0355990 Service (03-02-22 / 04-01-22) Account # 0357905030522: 03/05/22 - 04/04/22	04/06/2022	409.61 3,477.78 83.95 233.35 418.33 130.55
Total for Check Number 314223:				4,753.57
314224	TOM4455 170	Tom's Men's Wear & Uniform's, Inc. Pepper spray for Lizeth	04/06/2022	19.96
Total for Check Number 314224:				19.96
314225	UCL6115 3013-97	UC Regents Continuing Education and Certification for Fire Dept; MARCH 2022	04/06/2022	2,215.02
Total for Check Number 314225:				2,215.02
314226	UND6710 220220696	Underground Service Alert/SC Utility Underground Service Alert March 2022	04/06/2022	231.10
Total for Check Number 314226:				231.10
314227	POR4707 114-10374138 114-12304333 114-12884022	United Site Services, Inc. Skate Park Portable Toilet Services period 05/19/20- 06/15/20 Skate Park Portable Toilet Services period 08/10/21-09/06/21 Skate Park Portable Toilet Services period 02/22/22-03/21/22.	04/06/2022	72.03 339.72 367.86
Total for Check Number 314227:				779.61
314228	UPP7789 SoPas-1.6.22 SoPas-10.12.21 SoPas-11.4.21 SoPas-12.09.21 SoPas-2.8.22 SoPas-3.7.22	Upper San Gabriel Valley MWD Co-funding for MWD Water Conservation rebates for (Dec. 2021) Co-funding for MWD Water Conservation rebates (7/1/21 - 9/30/21) Co-funding for MWD Water Conservation rebates for (Oct. 2021) Co-funding for MWD Water Conservation rebates (Nov. 2021) Co-funding for MWD Water Conservation rebates (Jan. 2022) Co-funding for MWD Water Conservation rebates (Feb 2022)	04/06/2022	409.00 1,536.58 632.00 1,765.00 862.00 3,545.10
Total for Check Number 314228:				8,749.68
314229	VALD4011 03/11/2022	Catalina Valdez Reimb. Training Expense for Officer Valdez 03/11/2022	04/06/2022	14.51
Total for Check Number 314229:				14.51
314230	VPSI407 I36863 013070	Valley Power Systems Inc. Vehicle Rapair to Fire Engine RA-81: Engine / Crank Repair	04/06/2022	9,239.31
Total for Check Number 314230:				9,239.31
314231	VMIS8011 15580	Venmill Industries Repair of Library's VMI-2500 CD cleaning machine	04/06/2022	350.00
Total for Check Number 314231:				350.00

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
314232	VERW6711	Verizon Wireless	04/06/2022	
	9900265273	AN 571839627-00001 Service (01-24-22 / 02-23-22)		16.03
	9900461882	AN 270619951-0004 Service (01-27-22 / 02-26-22)		508.92
	9900813442	AN 642443919 Service (02-02-22 / 03-01-22)		1,645.20
Total for Check Number 314232:				2,170.15
314233	WLHD8020	Westlake Hardware	04/06/2022	
	14302301	Hardware Supplies for Public Works Water Div.		67.62
	14302302	Hardware Supplies for Public Works Water Div.		94.68
	14302303	Hardware Supplies for Public Works Water Div.		70.68
	14302306	Hardware Supplies for Public Works Facilities Div.		130.77
	14302314	Hardware Supplies for Public Works Facilities Div.		79.84
	14302318	Hardware Supplies for Public Works Facilities Div.		66.09
	14302323	Hardware Supplies for Public Works Facilities Div.		147.74
	14302324	Hardware Supplies for Public Works Water Div.		209.89
	14302325	Hardware Supplies for Public Works Facilities Div.		328.51
	14302326	Hardware Supplies for Public Works Facilities Div.		405.59
	14302337	Hardware Supplies for Public Works Parks Div.		98.01
	14302339	Hardware Supplies for Public Works Water Div.		247.62
	14302340	Hardware Supplies for Public Works Facilities Div.		35.26
	14302341	Hardware Supplies for Public Works Water Div.		487.06
	14302342	Hardware Supplies for Public Works Facilities Div.		38.57
	14302343	Hardware Supplies for Public Works Facilities Div.		13.73
	14302360	Hardware Supplies for Public Works Facilities Div.		46.28
	14302363	Hardware Supplies for Public Works Engineering Div.		88.14
	14302364	Hardware Supplies for Public Works Water Div.		498.31
Total for Check Number 314233:				3,154.39
314234	WGZM6011	WG Zimmerman Engineering, Inc.	04/06/2022	
	21-10-646	815 Fremont Ave Impact Study: October 2021		8,044.00
	21-11-665	815 Fremont Ave Impact Study: November 2021		14,197.50
Total for Check Number 314234:				22,241.50
314235	WIT6353	Wittman Enterprises LLC	04/06/2022	
	2202059	Paramedic Billing Services; FEBRUARY 2022		3,942.30
Total for Check Number 314235:				3,942.30
314236	GRA1244	Woods Maintenance Services, Inc.	04/06/2022	
	SPAS0222	City Wide Graffiti Removal Services -February 2022		912.00
	SPAS1121	City Wide Graffiti Removal Services-November 2021		171.00
	SPAS1221	City Wide Graffiti Removal Services - December 2021		1,311.00
Total for Check Number 314236:				2,394.00
314237	XRXF5010	Xerox Financial Services	04/06/2022	
	3107281	AN 010-0061587-003 (02/18-22 - 03/17/22)		162.35
Total for Check Number 314237:				162.35
314238	YTI1023	Y Tire Complete Auto Repair	04/06/2022	
	32192	Mount and balance 3 tires unit 1501		888.44
Total for Check Number 314238:				888.44
Total for 4/6/2022:				460,681.05

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
			Report Total (113 checks):	460,681.05

ATTACHMENT 4
Supplemental ACH
Payments

City of
SOUTH PASADENA

Supplemental ACH Payment Log			
Date	Vendor	Amount	Description
3/16/2022	So Cal Gas	\$1,637.73	Online Payment for City's So Cal Gas Accounts.
3/16/2022	So Cal Edison	\$50,899.07	Online Payment for City's So Cal Edison Accounts.
3/24/2022	UMPQUA Bank	\$8,624.64	Online Payment for City's February 2022 Credit Card Expenses.
Total:		\$61,161.44	

Accounts Payable

Checks by Date - Detail by Check Date

User: calvarez
 Printed: 3/30/2022 9:16 AM



Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
2114	UMQAMC	UMPQUA Bank (Manual Check)	03/24/2022	
	02.01.2021	Fuel for Motor Officers / Chevron South Pasadena		23.94
	02.01.2022	Day Translation / Translation Services		148.92
	02.01.2022	Fuel for Motor Officers / Chevron South Pasadena		20.67
	02.02.2022	Hobby Lobby - Supplies for Community Services		225.65
	02.03.2022	Fuel for Motor Officers / Chevron South Pasadena		23.19
	02.03.2022	American Public Works - Job Posting		375.00
	02.03.2022	TrueSens - Filters & UV Bulbs		31.97
	02.03.2022	TrueSens - Filters & UV Bulbs		214.99
	02.04.2022	Smart & Final - Supplies for Community Services		39.97
	02.04.2022	Facebook - Advertisement		50.00
	02.06.2022	Netflix - Community Services		13.99
	02.07.2022	Fuel for Motor Officers / Chevron South Pasadena		30.04
	02.08.2022	American Planning Association Chapter for B Madrid		125.00
	02.08.2022	American Planning Association Chapter for S Martinez		125.00
	02.08.2022	American Planning Association Chapter for M Chang		125.00
	02.08.2022	Monthly Zoom Charge for Community Development		16.11
	02.08.2022	American Planning Association Chapter for S Robles		125.00
	02.08.2022	Fuel for Motor Officers / Chevron South Pasadena		18.78
	02.08.2022	Day Translation / Translation Services		5.10
	02.08.2022	Constant Contact Annual Renewal		940.00
	02.08.2022	Grocery Outlet - Supplies for Community Services		85.50
	02.09.2022	League of CA Cities		45.00
	02.09.2022	National APA Membership for A Frausto-Lupo		194.00
	02.09.2022	United States Postal Services - Stamps		174.00
	02.10.2022	Fuel for Motor Officers / Chevron South Pasadena		30.82
	02.11.2022	Cantu Graphics - Office Supplies for Community Services		137.81
	02.11.2022	Fuel for Motor Officers / Chevron South Pasadena		18.70
	02.11.2022	Day Translation / Translation Services		52.02
	02.12.2022	GotPrint.com - Bookmarks for Library		165.13
	02.13.2022	Staples - Table for Management Services		154.33
	02.13.2022	American Planning Association - Job Posting		50.00
	02.14.2022	Fuel for Motor Officers / Shell Oil		18.14
	02.14.2022	Pavilions - Supplies for Community Services		59.94
	02.15.2022	LA Area Fire Chiefs Dues		800.00
	02.15.2022	Planetizen - Job Posting		99.95
	02.15.2022	Ace - Supplies for Community Services		86.94
	02.15.2022	Wayfair - Depository Safe for Community Services		213.38
	02.15.2022	CP & DR Subscription		119.00
	02.16.2022	Crowdcast - Virtual Events Platform for Library		10.00
	02.17.2022	United States Postal Services - Stamps		58.00
	02.17.2022	United States Postal Services - Stamps		5.80
	02.17.2022	Southwest Airlines - Conference for Community Services		66.84
	02.17.2022	Ace - Supplies for Community Services		132.61
	02.17.2022	Southwest Airlines - Conference for Community Services		505.00
	02.17.2022	Smart & Final - Supplies for Community Services		92.46
	02.17.2022	Zoom		105.52
	02.17.2022	Fuel for Motor Officers / Chevron South Pasadena		23.27
	02.17.2022	Fuel for Motor Officers / Chevron South Pasadena		25.82

Check No	Vendor No Invoice No	Vendor Name Description	Check Date Reference	Check Amount
02.17.2022		Western Region IPMA-HR - Job Posting		225.00
02.17.2022		Fuel for Motor Officers / Chevron South Pasadena		19.51
02.17.2022		Fuel for Motor Officers / Chevron South Pasadena		24.34
02.18.2022		Canva Subscription		119.99
02.18.2022		4th of July Books		58.49
02.19.2022		Crowdcast - Printing Press reader Bookmarks and Invites		190.58
02.22.2022		Fuel for Motor Officers / Chevron South Pasadena		18.48
02.22.2022		CA Library Association Membership for C. Mitchem		120.00
02.23.2022		City Clerks Association - Job Posting		200.00
02.23.2022		Fuel for Motor Officers / Chevron South Pasadena		24.85
02.23.2022		Ace - Power Tool for Community Services		198.44
02.23.2022		Libert Cassidy - Event for HR Staff		100.00
02.24.2022		Fuel for Motor Officers / Chevron South Pasadena		20.28
02.24.2022		Costco - Supplies for Community Services		43.95
02.24.2022		League of CA Cities - Human Resources		300.00
02.24.2022		Westlake / Key Duplication		42.09
02.26.2022		NBF / Reception Station for Community Svcs.		635.34
02.27.2022		Facebook - Advertisement		75.00
Total for Check Number 2114:				8,624.64
Total for 3/24/2022:				8,624.64
Report Total (1 checks):				8,624.64

ATTACHMENT 5
Prepaid &Warrant Voids

Accounts Payable

Void Check Proof List

User: calvarez
 Printed: 03/17/2022 - 3:01PM
 Batch: 00004.03.2022



Account Number	Amount	Invoice No	Inv Date	Description	Reference	Task Label	Type	PONumber	Close PO?	Line Item
Vendor: CHWP2010	Colantuono,Highsmith & Whatl									
Check No: 0	Check Date: 03/16/2022									
	24.50	50655	02/13/2022	Litigation: January 2022					No	0
101-2010-2501-8160-000	13,975.76	50654	02/13/2022	Litigation: January 2022					No	0
101-2010-2501-8160-000	196.00	50650	02/13/2022	Litigation: January 2022					No	0
101-2010-2501-8160-000	5,440.50	50652	02/13/2022	Special Projects: January 2022					No	0
101-2010-2501-8160-000	10,000.00	50648	02/13/2022	General Services: January 2022					No	0
101-2010-2501-8160-000	1,813.00	50651	02/13/2022	Water & Utilities: January 2022					No	0
101-2010-2501-8160-000	1,642.40	50653	02/13/2022	Litigation: January 2022					No	0
101-2010-2501-8160-000	13,517.00	50649	02/13/2022	Labor & Employment: January 2022					No	0
101-2010-2013-8160-000										
Check Total:	46,609.16									
Vendor Total:	46,609.16									
Report Total:	46,609.16									

ATTACHMENT 6
Payroll Summary

Payroll

Payroll Summary Report



Payroll Date: 3/18/2022 Regular

Checks	\$	5,217.01
Direct Deposits	\$	445,621.76
IRS Payments	\$	89,447.81
EDD - State of CA	\$	25,482.42
PERS Pension	\$	115,057.69
Deferred Comp	\$	25,430.69
PERS Health		
Subtotal:	\$	706,257.38

Payroll Date: 3/19/2022 Off-Cycle

Checks	\$	-
Direct Deposits	\$	-
IRS Payments	\$	4.52
EDD - State of CA	\$	1,428.23
PERS Pension	\$	-
Deferred Comp	\$	-
PERS Health	\$	-
Subtotal:	\$	1,432.75

Grand Total: \$ **707,690.13**



City Council Agenda Report

ITEM NO. 10

DATE: April 6, 2022
FROM: Arminé Chaparyan, City Manager *Ac*
PREPARED BY: Tamara Binns, Assistant to the City Manager
SUBJECT: Review and Approval of the 2022 Legislative Platform

Recommendation

It is recommended that the City Council review and approve the 2022 Legislative Platform that will serve as the guiding policy document for the City when determining whether a position should be taken on proposed State and Federal legislation that may impact the City during the 2022 Legislative Session.

Background

A Legislative Platform is a standard tool used by cities to streamline legislation review processes to facilitate timely and effective response to legislation. The Legislative Platform will give staff the ability to proactively engage in the legislative process and respond to issues that may have significant impacts to the City in a timely manner.

Upon adoption of the Legislative Platform, the City Manager's Office will exercise day-to-day oversight of legislative matters. Staff may initiate letters, contact League of California Cities (CalCities) staff, or speak to legislative staff on behalf of the City regarding legislation that falls within the platform. Councilmembers will be included with discussions held with State or Federal elected official.

Once staff determines that a legislative proposal may impact the City, a letter outlining the City's position (support/oppose) will be prepared for the Mayor's review and signature, and copies will be distributed to the full Council. If the Mayor is unavailable, letters will be signed by the Mayor Pro-Tem with copies made available to the full City Council. Letters will be sent to the bill's authors, the City's legislative representatives, CalCities, and other stakeholders as deemed appropriate.

In cases where a legislative issue is not addressed in the Legislative Platform but impacts the City, staff will return to City Council for direction. Additionally, staff will seek Council direction when proposing amendments to bill language or in developing new legislation.

Consideration of the 2022 Legislative Platform

April 6, 2022

Page 2 of 3

This proposed Legislative Platform has been drafted using the guiding priorities of the City Council, as established in the Goals and Objectives of the City's 2021-2026 Strategic Plan, the General Plan, and other adopted policy documents. Once adopted, the Legislative Platform remains in effect for the legislative cycle. The City Council may add, remove, or modify items on the Legislative Platform at any time.

Analysis

As a current member of CalCities, the City is part of a network of California jurisdictions that work together to enhance their knowledge and skills, exchange information, and combine resources so that they may influence policy decisions that affect cities. CalCities engages in lobbying efforts at the State Capitol on bills that are of critical importance to cities. Often times, CalCities will ask its members for support or opposition on bills of interest. As the Legislature increasingly acts through "gut and amend" legislation, more cities are adding a "Quick Response Protocol" through their legislative platforms to authorize positions on these fast-moving bills that could be harmful to the City.

The City's first Legislative Platform was adopted in June 2018. The California Legislative session typically begins in December and ends in November of the following year. By engaging early and staying engaged, the City has the opportunity to be a part of the legislative conversation, and remains proactive rather than reactive on potential impacts to our quality of life. Legislation impacts the City if there are unfunded mandates, financial effects, or local control from other jurisdictions.

The most recent Legislative Platform was adopted in February 2021 and covers the current Legislative Calendar through November 2022. As of the last update, many of the priorities remain the same. Priorities identified by the City Council since that time, including priorities identified in the City's Strategic 2021-2026 Plan adopted December 15, 2021, have been included in the platform. Additional priorities have been included in consultation with Department Directors and in response to foreseeable challenges. Notable additions to the policy document include support for post-pandemic relief and economic recovery, equitable public safety reform, and consumer access to renewable energy. The document includes advocacy for the sale of Caltrans properties in the City in accordance with the Roberti Act, as well as a legislative stance regarding efforts to thwart catalytic converter thefts, which was approved by Council March 2022. All suggested changes have been redlined in the attached document.

Next Steps

Staff will continue to monitor key legislation as it moves through the legislative process, and provide City Council with quarterly updates on significant developments. At the end of each legislative session, a report will be submitted to the City Council summarizing all activity regarding measures on which the City has taken a position.

Consideration of the 2022 Legislative Platform

April 6, 2022

Page 3 of 3

Fiscal Impact

While there is no fiscal impact with the adoption of a Legislative Platform, future implications on City finances could result from new legislation.

Attachment:

1. Proposed 2022 Legislative Platform Redlined to the 2021-2022 Adopted South Pasadena 2021-2022 Legislative Platform

Attachment 1
Redline Changes to Legislative Platform



City of South Pasadena Legislative Platform

~~2021-2022~~ 2022

The primary objective of the Legislative Platform is for the City Council to adopt official City positions on specific legislative issues, including proposed state initiatives, at the start of the legislative session. The legislative platform will streamline the approval process by providing staff clear direction on pertinent issues at the beginning of the legislative session.

The Platform is developed and maintained using the goals and objectives adopted by the City Council, a review of legislative priorities from the League of California Cities, input from City Council and staff, research of current law and pending legislation, as well as discussions with local legislative staff and the City's legal counsel.

For proposed legislation, either consistent with the City's legislative priorities or consistent with legislative positions the City has taken in the past; City staff shall be authorized to prepare position letters for the Mayor's signature after City Council consideration. Items not addressed in the City's legislative priorities will require further Council direction, and staff will be required to submit a request to Council. Legislative priorities may only address issues directly relevant to or impacting the provision of municipal services.

City departments are encouraged to monitor and be knowledgeable of any legislative issues related to their discipline. However, any requests for the City to take positions on a legislative matter must be directed to the City Manager's Office. City departments may not take positions on legislative issues without City Manager's Office review and approval.

The process for responding to legislative proposals is streamlined as follows:

1. Once a determination is made that a legislative proposal may impact the City, a letter outlining the City's position (supporting or opposing the issue) will be drafted for the Mayor's signature.
2. If the Mayor is unavailable, the Mayor Pro Tem will sign the position letter.
3. If a legislative issue is not addressed in the Legislative Platform but impacts the City, staff will place the matter on the next City Council agenda for consideration.
4. The position letter will be sent to the bill's author, the City's legislative representatives, the League of California Cities, and other stakeholders as deemed appropriate.
5. A copy of the final letter will be distributed to the City Council.

City of South Pasadena Legislative Platform

LOCAL CONTROL	<ol style="list-style-type: none"> 1. Support legislation that enhances local control and allows cities to address the needs of local constituents within a framework of regional cooperation. 2. Oppose preemption of local authority whether by state or federal legislation or ballot propositions. 3. Support legislation that streamlines and simplifies the job of running a city and oppose efforts that erode the City's authority to control its own affairs.
ECONOMIC DEVELOPMENT	<ol style="list-style-type: none"> 1. Oppose legislation that erodes the ability of cities to condition and deny projects that negatively impacts the community. 2. Support legislation that preserves or increases funding for the Community Development Block Grant (CDBG) program as provided by the U.S. Department of Housing and Urban Development. Support legislation that expands the eligibility and allowable uses of CDBG funds. Oppose legislation that will reduce funds dedicated to the CDBG program. 3. Support legislation that enhances the City's efforts to retain existing businesses and attract new businesses. 4. Support legislation that provides tangible and productive tools and incentives to support new investment and community development. 5. Support legislation that provides funding for the production of affordable housing. 6. Support efforts to increase resources for critical and sustainable local infrastructure projects including roads, public transit, active transportation, water availability, and broadband deployment that enhance workforce and economic development and improve quality of life.

<p style="text-align: center;">HOUSING/ HOMELESSNESS</p>	<ol style="list-style-type: none"> 1. Support legislation and local, state, and federal programs that employ evidence-based best practice strategies to reduce the number of people experiencing homelessness by: preventing homelessness for those at-risk; providing emergency and transitional housing; expanding affordable permanent housing; and promoting self-empowerment through counseling, job training, and other supportive services, including but not limited to mental health and substance abuse counseling services). 2. Support efforts to increase the supply and affordability of housing and resources to assist individuals at risk of homelessness, while preserving historic resources and local decision making to ensure cities retain flexibility based on the land use needs of each community. 3. Work collaboratively to facilitate the purchase, rehabilitation, and resale of the Caltrans-owned SR-710 surplus properties in compliance.
<p style="text-align: center;">LAND USE</p>	<ol style="list-style-type: none"> 1. Oppose legislation that imposes unreasonable mandatory development standards in transit intensive areas and residential neighborhoods. 2. Support legislation that strengthens the concept of local control/local home rule for local decision making on land use and zoning matters. 3. Support legislation that would increase available funding for affordable housing. 4. Support reforms and improvements to housing element law to provide clear protections for local jurisdictions to preserve historic resources and processes and flexibility to allow regional cooperation; and to establish realistic housing goals and performance standards—including modifications in criteria and methodology -to meet the State’s Regional Housing Needs Assessment (RHNA) goals. 5. Oppose legislation that places new restrictions on local land use control and transportation funding tied to external factors beyond municipal control. 6. Support legislation that strengthens local governments’ regulatory authority and control over the siting of marijuana industries. 7. Oppose legislation and regulatory efforts that would diminish or eliminate the authority of cities to zone and plan for the development of telecommunications infrastructure, including the siting of cellular communications towers or transmission sites.

<p>TRANSPORTATION</p>	<ol style="list-style-type: none"> 1. Support measures to finance local and regional transportation programs and improvements, including Active Transportation Mode and Complete and Green Streets, and extension of Gold Line. 2. Support continuous appropriations of new monies directly to cities for the preservation, maintenance, rehabilitation, and development of local street and road systems. 3. Support efforts to fully fund the TSM/TDM alternatives in accordance with prior City positions. 4. Support efforts to relinquish the property along the SR-710 freeway between the I-10 and I-210 back to the local jurisdictions
<p>FISCAL RESPONSIBILITY</p>	<ol style="list-style-type: none"> 1. Oppose any legislation that would make local agencies more dependent on the State for financial stability and policy direction. 2. Oppose legislation that would impose State mandated costs for which there is no guarantee of local reimbursement or offsetting benefits. 3. Oppose any change in revenue allocations that would negatively (current or future) affect local government, including the redistribution of sales tax, property tax, COPS grants, Proposition 172 funds, gas tax (HUTA), transient occupancy tax (TOT) and vehicle in- lieu fees (VLF). 4. Support full cost reimbursement to the City for all federal, state and county-mandated programs. 5. Support legislation that strengthens and expands ongoing revenue for the City. 6. Oppose legislation that undermines and preempts local authority over local taxes and fees. 7. Support efforts to utilize American Rescue Plan Act (ARPA) funding to secure direct and flexible funding and resources for cities to protect residents from the recovery of the COVID-19 pandemic, deliver essential services, support small businesses, and assist the community's ability to fully recover from the effects of the pandemic. 8. Monitor the partial suspension of Support suspension of the Maintenance of Effort (MOE) requirement for SB1 funding (Road Maintenance and Rehabilitation Program) in consideration of the economic challenges cities are facing due to the COVID-19 pandemic.

<p>PUBLIC SAFETY</p>	<ol style="list-style-type: none"> 1. Support federal, state, and local assistance for local police, fire, and homeland security initiatives, and any measures that will help contribute to local public safety. 2. Oppose legislation that would impede local law enforcement from addressing crime problems and recovering costs resulting from a crime committed by the guilty party. 3. Support efforts that strengthen local law enforcement’s ability to prevent and fight crime. 4. Support legislation that minimizes alcohol-related criminal behavior and underage drinking. 5. Support equitable public safety reforms that reduces liability to cities, improves public safety in the community, and strengthens community relations with peace officers, while addressing concerns over excessive use of force and distrust in peace officers. 6. Oppose efforts to reprioritize public safety funding and programs without proper procedural or stakeholder engagement that would result in decreased public safety services and increased crime. 7. Support legislation and additional resources to strengthen community disaster preparedness, resiliency, and recovery in collaboration with the state and federal governments. 8. Support ongoing efforts to mitigate wildfire disasters through responsible brush and forestry management, including coordination between local and state governments and utility providers. 9. Support efforts to fund crisis response units such as the pilot program being considered by the SGVCOG.
<p>ENERGY</p>	<ol style="list-style-type: none"> 1. Protect Community Choice Aggregation (CCA) local control and autonomy, especially with regard to finances, power procurement, reliability, and local customer programs. 2. Support legislation that keeps funding for public benefits programs in local communities. 3. Support CCA efforts to purchase renewable energy at competitive rates and create benefits and savings for cities, small businesses, and residents. 4. Support equal treatment of bundled and unbundled customers by the CPUC and other state agencies. 5. Support efforts to expand consumer access to renewable energy, such as incentives and grants for solar, which would reduce reliance on non-renewable sources.

<p style="text-align: center;">WATER</p>	<ol style="list-style-type: none"> 1. Oppose efforts to mandate a state water public benefits charge unless funds remain within the local community. 2. Oppose new regulations that do not allow appropriate time and resources to achieve for compliance. 3. Oppose actions by Regional Water Quality Control Boards that impose mandates on cities that exceed state or federal regulations and/or are outside their jurisdictional authority to impose or enforce. 4. Support legislation that provides funding for Water Infrastructure, Security and Programs that promote water reuse and conservation. 5. Support legislation that extends the compliance period for Maximum Contaminant Levels (MCLs) in drinking water. 6. Support practical, feasible, and affordable solutions to meet mandatory compliance with water quality and treatment standards, notwithstanding prior agreements that otherwise limit cities' ability to undertake such activities.
<p style="text-align: center;">ENVIRONMENT</p>	<ol style="list-style-type: none"> 1. Oppose legislation that imposes undue hardship on local agencies to implement environmental regulations. 2. Support policy development, funding, research, and implementation strategies based on scientific data and human/ecological risk assessment for addressing urban water and storm water runoff. 3. Support policy development, "watershed based" solutions, funding and research for addressing urban runoff and beach closures, which identify the sources of bacterial, viral and other contaminants as well as human pathogens. 4. Support initiatives to advance the State's goals for sales of all new passenger vehicles to be zero-emission by 2035 and additional measures to eliminate harmful emissions from the transportation sector and lawn care maintenance industry.
<p style="text-align: center;">ARTS & CULTURE</p>	<ol style="list-style-type: none"> 1. Support legislation that will help maintain and enhance the City's performance arts venues, and funding for arts development. 2. Oppose any reductions and/or eliminations of arts and library programming or funding.
<p style="text-align: center;">COMMUNITY SERVICES/ RECREATION</p>	<ol style="list-style-type: none"> 1. Support legislation that will help provide residents with safe, accessible services and facilities. 2. Oppose action that depletes services and funding sources created to enhance the community's varying needs.

<p>EMPLOYEE AND LABOR RELATIONS</p>	<ol style="list-style-type: none"> 1. Oppose any measure that imposes upon local government mandated employee benefits that are more properly decided at the local level. 2. Oppose efforts which reduce local control over public employee disputes and impose the regulations of an outside agency. 3. Support reform measures that provide sustainable and secure public pensions and other post-retirement benefits to ensure responsive and affordable public services. 4. Oppose efforts to legislate changes in how the California Public Employee Pension System invests its assets if the proposed changes will result in a loss of funds. 5. Support legislation that streamlines the Workers' Compensation system and makes it easier for employers, employees, and health care providers to navigate.
<p>ELECTIONS</p>	<ol style="list-style-type: none"> 1. Support legislation that provides small to mid-sized cities to have at-large elections instead of divisive districts.
<p>FILMING</p>	<ol style="list-style-type: none"> 1. Support efforts to promote and retain film and television jobs in California.



City Council Agenda Report

ITEM NO. 11

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Tamara Binns, Assistant to the City Manager

SUBJECT: **Adoption of a Resolution to Oppose Initiative Taxpayer Protection and Government Accountability Act 21-0042A1**

Recommendation

It is recommended that the City Council:

1. Adopt a resolution to oppose Initiative Taxpayer Protection and Government Accountability Act 21-00421A; and
2. Approve a letter to the League of California Cities (CalCities) in formal opposition to the Initiative.

Background

In 2018, the "Tax Fairness, Transparency and Accountability Act" or [AG# 17-0050 Amdt. #1](#), was being circulated to qualify for the November 2018 ballot. This initiative would have drastically limited local revenue authority. Through the successful work and advocacy of the League of California Cities (CalCities) and its coalition partners, the measure's proponents withdrew the initiative from the ballot in June 2018.

On January 4, 2022, the California Business Roundtable filed the Taxpayer Protection and Government Accountability Act or [AG# 21-0042A1](#). The "Taxpayer Protection and Government Accountability Act," or Initiative 21-0042A1, would, if passed, amend the state Constitution to change the rules for how state and local governments can impose taxes, fees and other charges, according to the Legislative Analyst's Office.

The initiative would require a ballot measure to coincide with any tax increase approved by the State Legislature. In local jurisdictions, any tax increases that currently require a voter majority would require a two-thirds majority vote.

Analysis

The proposed measure would limit voters' authority, adopt new and more strict rules for raising taxes and fees, and makes it more challenging to hold violators of State and local laws accountable. Although the initiative is currently in the signature gathering

stage, CalCities recommends that cities now adopt a resolution in opposition to it because of its harmful effects if enacted.

Specifically, the measure would:

1. Limit voter authority and accountability
 - Limits voter input as it prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
 - Invalidates the Upland decision that allows a majority of local voters to pass special taxes. Taxes proposed by the initiative process are subject to the same rules as taxes placed on the ballot by a city council.
 - All local tax measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months, costing taxpayers more for additional elections.
2. Restrict local fee authority to provide local services
 - Impacts franchise fees by setting new standard for fees and charges paid for local and state government property use. The standard may significantly restrict the amount that oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property, including roads.
 - Places new restrictions on setting local fees and charges for services under threat of legal challenge. Major examples of affected fees and charges are:
 - Nuisance abatement charges for things such as weeds, rubbish, code enforcement, etc.
 - Emergency response fees such as in connection with DUI.
 - Transit fees, parking fees, and facility use charges for parks or recreation centers.
3. Restrict authority of state and local governments to issue fines and penalties for violations of law
 - Requires voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.
4. Restricts local tax authority to provide local services
 - New taxes can only be collected for a specified time period.
5. Other changes
 - No fee, charge, or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy, potentially severely limiting steps to curb greenhouse gas emissions in response to global warming.

During the meeting held on December 2nd and 3rd of 2021, the League of California Cities Board of Directors voted unanimously to oppose Initiative 21-0026A1. Following the Board's unanimous decision, a coalition of public safety, labor, local government and infrastructure advocates have joined together to fight against this measure.

Impacts to Voter Rights, Transparency, and Accountability:

- This proposed measure changes our constitution to make it more difficult for local voters to pass measures needed to fund local services and local infrastructure.
- It also includes a hidden provision that would retroactively cancel measures that were passed by local voters — effectively undermining the rights of voters to decide for themselves what their communities need.
- It would limit voter input by prohibiting local advisory measures, where voters provide direction to politicians on how they want their local tax dollars spent.

CalCities, along with a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly oppose this initiative. CalCities requests local leaders to take a stand against an affront to local control and adopt a resolution to demonstrate how harmful this measure would be to local communities.

The following 79 California cities have adopted a resolution to oppose this tax initiative; Agoura Hills, Albany, Angels Camp, Artesia, Azusa, Beaumont, Bell Gardens, Blue Lake, Brisbane, Buena Park, Burbank, Carson, Chowchilla, Colton Corte Madera, Cypress, Dinuba, Downey, Dunsmuir, El Cerrito, Fairfield, Fowler, Glendora, Gustine, Highland, Hughson, Indio, Kerman, King City, La Palma, Lafayette, Lakeport, Lakewood, Larkspur, Lathrop, Lomita, Madera, Manteca, Marina, Mill Valley, Montebello, Monterey, Monterey Park, Moorpark, Needles, Newman, Norco, Novato, Oakdale, Palm Desert, Paramount, Placentia, Placerville, Rancho Cucamonga, Redlands, Riverbank, Rolling Hills Estates, Salinas, San Jose, San Juan Bautista, San Leandro, San Pablo, San Rafael, Sebastopol, Selma, Signal Hill, South Gate, Sunnyvale, Torrance, Tracy, Tullake, Ukiah, Vallejo, Ventura, West Hollywood, Williams, Woodlake, Yountville, and Yuba City.

Fiscal Impact

This potential measure puts billions of dollars of currently dedicated state and local revenues at risk, potentially forcing cuts to essential services such as public schools, fire and emergency response, law enforcement, code enforcement, affordable housing, and support for the unhoused.

Attachments:

1. Resolution to Oppose Initiative 21-0042A1
2. Sample Opposition Letter

Resolution to Oppose Initiative 21-0042A1

April 6, 2022

Page 4 of 4

3. League of California Cities Press Release Dated February 2, 2022
4. League of California Cities Legal Analysis for The Taxpayer Protection and Government Accountability Act Initiative No. 21-0042A1
5. League of California Cities Fact Sheet for The Taxpayer Protection and Government Accountability Act Initiative No. 21-0042A1
6. Fiscal Analysis of The Taxpayer Protection and Government Accountability Act Initiative No. 21-0042A1

Attachment 1

Resolution to Oppose Initiative 21-0042A1

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA
OPPOSING CALIFORNIA STATEWIDE BALLOT INITIATIVE 21-0042A1**

WHEREAS, an association representing California’s wealthiest corporations is behind a deceptive proposition aimed for the November 2022 statewide ballot; and

WHEREAS, the measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

WHEREAS, the measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure puts billions of dollars currently dedicated to state and local services at risk, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more; and

WHEREAS, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, drinking water, new schools, sanitation, and utilities.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF SOUTH PASADENA HEREBY RESOLVES:

SECTION 1. The City of South Pasadena, opposes Initiative 21-0042A1.

SECTION 2. The City of South Pasadena will join the “NO on Initiative 21-0042A1 Coalition”, a growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the State.

We direct staff to email a copy of this adopted resolution to the League of California Cities at BallotMeasures@calcities.org.

PASSED, APPROVED, AND ADOPTED this day 6th day of April, 2022.

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael A. Cacciotti, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina A. Muñoz
Deputy City Clerk

Andrew L. Jared, City Attorney

Attachment 2
Sample Opposition Letter

April 6, 2022

Bismarck Obando
Director of Public Affairs, League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

RE: Letter Opposing Initiative 21-0042A1

On April 6, 2022, the City of South Pasadena voted to oppose Initiative 21-0042A1, a proposition aimed for the November 2022 statewide ballot that would significantly jeopardize cities' ability to provide essential services and infrastructure for residents.

This measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including impacts on local infrastructure, our environment, water quality, air quality, and natural resources.

Furthermore, the measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent.

This measure also makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

The measure, as proposed, puts billions of dollars currently dedicated to state and local services at-risk, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.

You may list South Pasadena's formal opposition resolution dated April 6, 2022 to Initiative #21-0042A1, and include our City as part of the growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the State opposed to this deceptive proposition.

Sincerely,

Arminè Chaparyan
City Manager
City of South Pasadena

CC: South Pasadena City Council

Attachment 3

League of California Cities Press Release Dated
February 2, 2022

Public safety, labor, local government, and infrastructure advocates announce strong opposition to California Business Roundtable ballot measure that would benefit wealthy corporations while decimating vital local and state services

Feb 2, 2022

Deceptive proposition enables large corporations to avoid paying their fair share and evade enforcement when violating environmental, public health, and safety laws

Contact Kayla Sherwood, (530) 844-1744, ksherwood@calcities.org (<mailto:ksherwood@calcities.org>)
Fera Dayani, (916) 921-9111, fdayani@cpf.org (<mailto:fdayani@cpf.org>)
Mila Myles, (812) 240-3938, MMyles@afscme.org (<mailto:MMyles@afscme.org>)
Kyle Packham, (916) 642-3808, kylep@csga.net (<mailto:kylep@csga.net>)

FOR IMMEDIATE RELEASE

Sacramento – Today, the League of California Cities, California Professional Firefighters, SEIU California, California Alliance for Jobs, AFSCME California, and the California Special Districts Association announced their strong opposition to the deceptively named “<https://oag.ca.gov/system/files/initiatives/pdfs/21-0042A1%20%28Taxes%29.pdf>) **Taxpayer Protection and Government Accountability Act** (<https://oag.ca.gov/system/files/initiatives/pdfs/21-0042A1%20%28Taxes%29.pdf>),” a ballot measure sponsored by the California Business Roundtable (CBRT), an organization that advocates on behalf of the largest and wealthiest corporations in California.

The coalition of public safety, labor, local government, and infrastructure groups are vocalizing their opposition as the California Attorney General is set to issue an official Title and Summary for the measure tomorrow, February 3. Once Title and Summary is released, proponents can begin signature gathering. They must submit 997,139 valid signatures in order to qualify for the November 2022 ballot. The Secretary of State’s recommended date to turn in signatures is April 29, 2022.

“This far-reaching measure would significantly jeopardize cities’ ability to provide services and critical infrastructure to local residents,” said **Carolyn Coleman, Executive Director and CEO, League of California Cities**. “It would impose undemocratic restrictions on local voters and local governments that could force significant cuts to vital services like fire and emergency response, infrastructure, libraries, parks, sanitation, and more.”

“This irresponsible measure would significantly reduce state and local funding available for fire prevention and response, including emergency services,” said **Brian K. Rice, President, California Professional Firefighters**. “At a time when our state and local communities are reeling from the impacts of intense and prolonged wildfires, this proposition interferes with the ability of firefighters and first responders to do our jobs and keep the public safe.”

The CBRT measure would create major new loopholes that allow wealthy corporations to avoid paying their fair share for the impacts they have on our communities; while also allowing corporations to evade enforcement when they violate environmental, health, safety, and other state and local laws. It would also significantly restrict the ability of local voters, local governments, and state elected officials to fund critical services like public schools, fire and emergency response, public health, parks, libraries, affordable housing, homeless and mental health services, and public infrastructure.

“This initiative is a deceptive scheme written and paid for by wealthy corporations for their sole benefit,” said **Tia Orr, Interim Executive Director, SEIU California**. “These rich corporations are trying to create constitutional loopholes to avoid paying their fair share, while shifting the burden onto hardworking Californians.”

“This measure would make it much more difficult to fund critical infrastructure that’s needed in California,” said **Michael Quigley, Executive Director, California Alliance for Jobs**. “It would undercut our ability to invest in virtually every form of infrastructure, including safe bridges, local streets and roads, public transportation, drinking water quality, new schools, and utilities.”

“This proposition would make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods,” said **Alia Griffing, Political and Legislative Director, AFSCME California**. “It’s a get out of jail free card for wealthy corporations that will hurt our efforts to provide critical public services necessary to keep our communities healthy and safe.”

“This measure exposes taxpayers to a new wave of costly litigation, limits the discretion of locally elected officials to respond to the needs of their communities, and injects uncertainty into financing critical infrastructure,” said **Neil McCormick, CEO, California Special Districts Association**. “We are in strong opposition to this dangerous measure that jeopardizes the health and safety of communities and prevents critical investments in climate adaptation and community resilience to address drought, flooding, and wildfire as well as reduce emissions and harmful pollutants.”

Background

A broad and growing coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses **opposes this measure**. The measure:

Gives Wealthy Corporations a Major Loophole to Avoid Paying their Fair Share — Forcing Local Residents and Taxpayers to Pay More

- The measure creates new constitutional loopholes that **allow corporations to pay far less than their fair share for the impacts they have on our communities**, including local infrastructure, our environment, water quality, air quality, and natural resources — shifting the burden and making individual taxpayers pay more.

Allows Corporations to Dodge Enforcement When They Violate Environmental, Health, Public Safety and Other Laws

- It creates new loopholes that makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Jeopardizes Vital Local and State Services

- This far-reaching measure **puts at risk billions of dollars currently dedicated to critical state and local services**.
- It could **force cuts** to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.
- It would also **reduce funding for critical infrastructure** like streets and roads, public transportation, drinking water, new schools, sanitation, utilities, and more.

Opens the Door for Frivolous Lawsuits, Bureaucracy and Red Tape that Will Cost Taxpayers and Hurt Our Communities

- The measure will encourage **frivolous lawsuits, bureaucracy, and red tape that will cost local taxpayers millions** — while significantly **delaying and stopping investments in infrastructure and vital services**.

Undermines Voter Rights, Transparency, and Accountability

- It would **limit voter input** by prohibiting local advisory measures, where voters provide direction to politicians on how they want their local tax dollars spent.
- It would change our constitution to make it more difficult for local and state voters to pass measures needed to fund local services and local infrastructure.
- It also includes a hidden provision that **would retroactively cancel measures that were passed by local voters** — effectively undermining the rights of voters to decide for themselves what their communities need.

Attachment 4

League of California Cities Legal Analysis for The
Taxpayer Protection and Government Accountability
Act Initiative No. 21- 0042A1



The Taxpayer Protection and Government Accountability Act
Initiative No. 21-0042A1
January 21, 2022

Summary: The measure **limits the voters' input**, adopts new and stricter rules for raising taxes and fees, and makes it more difficult to hold state and local law violators accountable.

Limiting Voter Authority and Accountability

- Limits voter input. Prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
- Invalidates Upland decision that allows majority of local voters to pass special taxes. Taxes proposed by the Initiative are subject to the same rules as taxes placed on the ballot by a city council. All measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months.

Restricting Local Fee Authority to Provide Local Services

- Franchise fees. Sets new standard for fees and charges paid for the use of local and state government property. The standard may significantly restrict the amount oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property. Rental and sale of local government property must be "reasonable" which must be proved by "clear and convincing evidence."
- Except for licensing and other regulatory fees, fees and charges may not exceed the "actual cost" of providing the product or service for which the fee is charged. "Actual cost" is the "minimum amount necessary." The burden to prove the fee or charge does not exceed "actual cost" is changed to "clear and convincing" evidence.

Restricting Authority of State and Local Governments to Issue Fines and Penalties for Violations of Law.

- Requires voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

Restricting Local Tax Authority to Provide Local Services

- Expanding existing taxes (e.g., UUT, use tax, TOT) to new territory (e.g., annexation) or expanding the base (e.g., new utility service) requires voter approval.
- City charters may not be amended to include a tax or fee.
- New taxes can be imposed only for a specific time period.
- Taxes adopted after January 1, 2022, that do not comply with the new rules, are void unless reenacted.
- All state taxes require majority voter approval.
- Prohibits any surcharge on property tax rate and allocation of property tax to state.

Other Changes

- No fee or charge or exaction regulating vehicle miles traveled can be imposed as a condition of property development or occupancy.

Attachment 5

League of California Cities Fact Sheet for The Taxpayer Protection and Government Accountability Act Initiative No. 21- 0042A1

Stop the Corporate Loopholes Scheme

Deceptive Proposition Allows Major Corporations to Avoid Paying their Fair Share and Evade Enforcement when they Violate Environmental, Health & Safety Laws

An association representing California's wealthiest corporations — including oil, insurance, banks and drug companies — is behind a deceptive proposition aimed for the November 2022 statewide ballot. Their measure would create major new loopholes that allow corporations to avoid paying their fair share for the impacts they have on our communities; while also allowing corporations to evade enforcement when they violate environmental, health, safety and other state and local laws. Here's why a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses oppose the Corporate Loophole Scheme:

Gives Wealthy Corporations a Major Loophole to Avoid Paying their Fair Share - Forcing Local Residents and Taxpayers to Pay More

- The measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources – shifting the burden and making individual taxpayers pay more.

Allows Corporations to Dodge Enforcement When They Violate Environmental, Health, Public Safety and Other Laws

- The deceptive scheme creates new loopholes that makes it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Jeopardizes Vital Local and State Services

- This far-reaching measure puts at risk billions of dollars currently dedicated to critical state and local services.
- It could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services and more.
- It would also reduce funding for critical infrastructure like streets and roads, public transportation, drinking water, new schools, sanitation, utilities and more.

Opens the Door for Frivolous Lawsuits, Bureaucracy and Red Tape that Will Cost Taxpayers and Hurt Our Communities

- The measure will encourage frivolous lawsuits, bureaucracy and red tape that will cost local taxpayers millions — while significantly delaying and stopping investments in infrastructure and vital services.

Undermines Voter Rights, Transparency, and Accountability

- This misleading measure changes our constitution to make it more difficult for local voters to pass measures needed to fund local services and local infrastructure.
- It also includes a hidden provision that would retroactively cancel measures that were passed by local voters — effectively undermining the rights of voters to decide for themselves what their communities need.
- It would limit voter input by prohibiting local advisory measures, where voters provide direction to politicians on how they want their local tax dollars spent.

Attachment 6

Fiscal Analysis for The Taxpayer Protection and
Government Accountability Act Initiative No. 21-
0042A1

Fiscal and Program Effects of Initiative 21-0042A1 on Local Governments

If Initiative 21-0042A1 is placed on the ballot and passed by voters, it will result in:

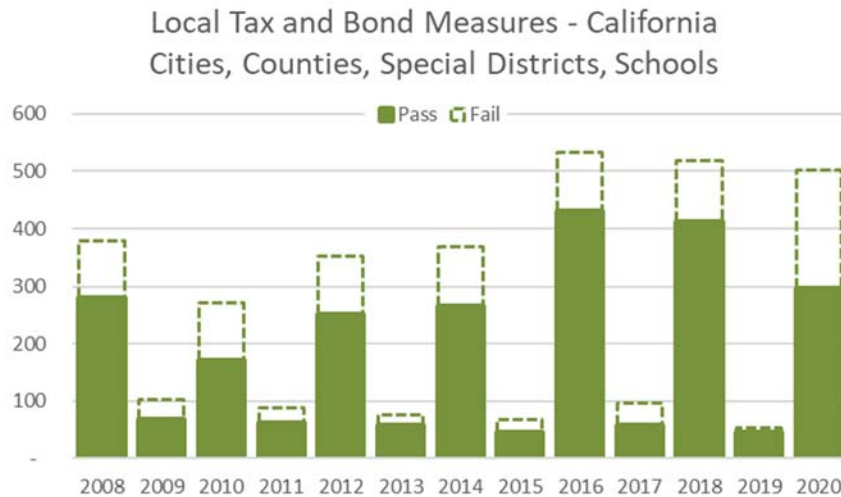
- Billions of local government fee and charge revenues placed at heightened legal peril. Related public service reductions across virtually every aspect of city, county, special district, and school services especially for transportation, and public facility use.
- Hundreds of millions of dollars of annual revenues from dozens of tax and bond measures approved by voters between January 1, 2022 and November 9, 2022 subject to additional voter approval if not in compliance with the initiative.
- Indeterminable legal and administrative burdens and costs on local government from new and more empowered legal challenges, and bureaucratic cost tracking requirements.
- The delay and deterrence of municipal annexations and associated impacts on housing and commercial development.
- Service and infrastructure impacts including in fire and emergency response, law enforcement, public health, drinking water, sewer sanitation, parks, libraries, public schools, affordable housing, homelessness prevention and mental health services.

1. Local Government Taxes and Services Threatened

With regard to taxes, Initiative 21-0042A1:

- Prohibits advisory, non-binding measures as to use of tax proceeds on the same ballot.
 - Voters may be less informed and more likely to vote against measures.
- Eliminates the ability of special tax measures proposed by citizen initiative to be enacted by majority voter approval (*Upland*).
 - Because the case law regarding citizen initiative special taxes approved by majority vote (Upland) is so recent, it is unknown how common these sorts of measures might be in the future. This initiative would prohibit such measures after the effective date of the initiative. Any such measures adopted after January 1, 2022 through November 8, 2022 would be void after November 9, 2023.
- Requires that tax measures include a specific duration of time that the tax will be imposed. This seems to require that all tax increases or extensions contain a sunset (end date).
 - This would require additional tax measures to extend previously approved taxes at additional cost to taxpayers.
- Requires that a tax or bond measure adopted after January 1, 2022 and before the effective date of the initiative (November 9, 2022) that was not adopted in accordance with the measure be readopted in compliance with the measure or will be void twelve months after the effective date of the initiative (November 9, 2023).
 - If past election patterns are an indication, dozens of tax and bond measures approving hundreds of millions of annual revenues may not be in compliance and would be subject to reenactment. Most will be taxes without a specific end date. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, measures not in compliance would need to be placed on a special election ballot for approval before November 9, 2023 or the tax will be void after that date. General tax measures would require declaration of emergency and unanimous vote of the governing board.

- Requires voter approval to expand an existing tax to new territory (annexations). This would require additional tax measures and would deter annexations and land development in cities.
 - If a tax is "extended" to an annexed area without a vote after January 1, 2022, it will be void 12 months later until brought into compliance. Because there is no regularly scheduled election within the 12 months following the effective date of the initiative, such extensions for general taxes would, under current law, each require unanimous vote of the agency board to be placed on a special election ballot or would be void after November 9, 2023.



1.a. Number of Measures and Value of Local Taxes at Risk¹

In 2020, voters in California approved 293 local tax and bond measures for cities, counties, special districts and schools (95 in March and 198 in November). The approved measures enacted \$3.85 billion in new annual taxes including \$1.3 billion for cities, \$302 million for counties, \$208 million for special districts (fire, wastewater, open space and transit districts), and \$2.037 billion for schools (including for school bonds).

Most tax measures go to the ballot during a presidential or gubernatorial primary or general election in an even year. However, some tax measures are decided at other times. During 2019, there were 45 approved tax and bond measures (24 city, 14 special district, 7 school) adopting \$154.0 million in new annual taxes (\$124.0 million city, \$10.5 million special district and \$19.2 million school).

Most tax and bond measures comply with the new rules in Initiative 21-0042Amdt#1 except:

- Dozens of taxes would require end dates. This would require additional measures in future years to extend the taxes further. Very few extensions of existing local taxes fail.
- Majority vote general tax measures could not be accompanied on the same ballot with an advisory, non-binding measure as to use of tax proceeds.
- Special taxes placed on the ballot via citizen initiative would require two-thirds voter approval.

Bond measures have fixed terms. Historically, about 20 percent of other tax measures have included specific durations (i.e. sunsets). Advisory measures as to use of revenues are uncommon. I do not expect the provisions of 21-0042A1 to have any substantial effect on passage rates. However, some 2022 approved measures would likely have to put back on the ballot.

Based on history, a reasonable estimate of the annualized tax revenues estimated to be approved by

¹ Source: Compilation and summary of data from County elections offices.

voters in 2022 and placed at risk by this initiative is at least **\$1.5 billion, including \$1.0 billion from cities and \$500 million from counties and special districts.**²

1.b. Additional Costs and Public Service Effects of the Tax Provisions

In addition to service delays and disruption due to new tax revenues placed at greater legal risk, there will be substantial additional costs for legal defense. The deterrence of taxes for annexations will delay and deter municipal annexations.

2. “Exempt Charges” (fees and charges that are not taxes) and Services Threatened

With regard to fees and charges adopted after January 1, 2022, Initiative 21-0042A1:

- Subjects new fees and charges for a product or service to a new "actual cost" test defined as "(i) the minimum amount necessary to reimburse the government for the cost of providing the service to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In addition, subjects these same charges to a new, undefined, "reasonable" standard.
- Subjects fees and charges for entrance to local government property; and rental and sale of local government property to a new, undefined, "reasonable" test.
- Subjects a challenged fee or charge to new, higher burdens of proof if legally challenged.
- Prohibits a levy, charge or exaction regulating or related to vehicle miles traveled, imposed as a condition of property development or occupancy.

2.a. Value on New Local Government Fees and Charges at Risk³

Virtually every city, county, and special district must regularly (e.g., annually) adopt increases to fee rates and charges and revise rate schedules to accommodate new users and activities. Most of these would be subject to new standards and limitations under threat of legal challenge. Based on the current volume of fees and charges imposed by local agencies and increases in those fees simply to accommodate inflation, the amount of local government fee and charge revenue placed at risk is about **\$1 billion per year including those adopted since January 1, 2022. Of this \$1 billion, about \$570 million is for special districts, \$450 million is cities, and \$260 million is counties.**⁴

Major examples of affected fees and charges are:

1. Nuisance abatement charges - such as for weed, rubbish and general nuisance abatement to fund community safety, code enforcement, and neighborhood cleanup programs.
2. Commercial franchise fees.
3. Emergency response fees - such as in connection with DUI.
4. Advanced Life Support (ALS) transport charges.
5. Document processing and duplication fees.
6. Transit fees, tolls, parking fees, public airport and harbor use fees.
7. Facility use charges, fees for parks and recreation services, garbage disposal tipping fees.

In addition to fees and charges, the measure puts fines and penalties assessed for the violation of state and

² This does not include citizen initiative special tax approved by majority but not two-thirds. Because this approach is new, the number of these measures and amount of revenue involved cannot be estimated.

³ Source: California State Controller Annual Reports of Financial Transactions concerning cities, counties and special districts, summarized with an assumed growth due to fee rate increases (not population) of 2 percent annually.

⁴ School fees are also affected but the amount is negligible by comparison.

local law at risk, making them taxes subject to voter approval under certain circumstances.

2.b. Additional Costs and Public Service Effects of the Fee/Charge Provisions

In addition to service delays and disruptions due to fee and charge revenues placed at greater legal risk, there would be substantial additional costs for legal defense. The risk to fees and charges will make infrastructure financing more difficult and will deter new residential and commercial development.

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City Council Agenda Report

ITEM NO. 12

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *Ac*

PREPARED BY: Lucy Demirjian, Management Services Director
Belinda Varela, Human Resources & Risk Manager

SUBJECT: **Approval of Reorganization of the Public Works Department**

Recommendation

It is recommended that the City Council:

1. Approve the implementation of changes recommended by the Public Works organizational assessment to include elimination of one Deputy Director position, updated classification for the Deputy Public Works Director position, and addition of two Management Analyst positions; and
2. Approve a modified organizational chart for the Public Works Department.

Background

In August 2021, the City began an independent, high level review and assessment of the roles and responsibilities of staff within the Public Works Department. The assessment's objective was to identify possible areas for change, and provide the City with suggested recommendations for consideration and implementation, including the assignment and prioritization of work, the identification of team work improvements and possible longer-term improvement opportunities in the organization, as well review of the effectiveness of communication between staff and the accountability within the Department. The review also included other observations regarding organizational structure and staff utilization, both contracted and in-house.

On December 15, 2021, the City Council received and filed the assessment report, and approved the classification for the Environmental Services and Sustainability Manager position as recommended in the assessment findings.

Analysis

The proposed reorganization is consistent with the recommendations of the recent department organizational assessment, aimed at achieving greater internal efficiencies.

Recommended staffing changes include the consolidation of two Deputy Director positions into one Deputy Director position and the addition of two Management Analyst positions.

This item proposes an update to the Deputy Public Works Director classification/job specification to combine components of the two existing positions which currently oversee Water Operations and Engineering and Administration. This consolidated position will assist the Public Works Director in overseeing the four divisions of the Public Works Department. With the proposed changes, the Water Operations Manager, Public Works Operations Manager, and Environmental Services & Sustainability Manager will report directly to the Deputy Public Works Director, as will the Engineering staff. Administrative staff and the newly created Management Analyst positions will report to the Public Works Director.

The two Management Analyst positions will assist the Department in the administration, analysis, and management of Department programs and projects, including but not limited to management of department or division budget, grant funding and reporting, management of federal, state, and local compliance programs, operations programs, and capital improvement programs and projects. The proposed positions will assist the Department in preparing City Council and Commission reports, analysis, research, and other assignments as needed, and may also oversee work of other administrative staff within the department. The Management Analyst position is an existing classification.

In addition to these changes, city staff is exploring the feasibility of adding an Engineering position to focus on traffic and transportation projects. This is largely in response to the community feedback gathered during the recent Commission Study Session with City Council, which emphasized the need to enhance the Public Works Department's transportation projects throughput, and further support the Mobility and Transportation Infrastructure Commission.

Other recommended changes in the department's operations and structure have been included in the proposed organizational chart, including:

1. Elimination of "Administration Division";
2. Creation of "Environmental Sustainability Division"; and
3. Renaming of "Maintenance Division" to "Operations & Maintenance Division."

Fiscal Impact

The cost of the two new analyst positions will be mostly offset by the cost savings from combining the two Deputy Director positions into one position. The fiscal impact for the current fiscal year is nominal and will be covered by savings due to vacancies for the remaining fourth quarter. Staff will appropriate additional funds in the next fiscal year budget, not to exceed \$30,000, to cover the net increase to the personnel budget from several Public Works funding sources, including the Water Fund, Sewer Fund, Gas Tax, and General Fund.

Attachments:

1. Deputy Public Works Director Job Description/Classification Specification
2. Proposed Public Works Organizational Chart
3. Public Works Organizational Assessment - Annealta Group – Fall 2021

Attachment 1

Public Works Deputy Director
Classification (redlined)

**DEPUTY PUBLIC WORKS DIRECTOR
(~~WATER UTILITY & SUSTAINABILITY~~)**

Purpose

Under direction of the Public Works Director, plans, organizes and provides administrative direction and oversight for the field operations and engineering sections of the Public Works Department including Streets, Parks, Facilities, Transportation/Traffic, Inspection, Right-of-Way Acquisition, Capital Improvement Program, and Development Engineering, ~~Water Utility Capital Improvement Projects,~~ Water Utility Field Operations, and the development and administration of the City's Sustainability Program; supervises staff, administers the division's budget, performs ~~professional civil~~ engineering work; acts as project manager for ~~major Water Utility~~ projects; provides highly responsible and complex administrative management support to the Public Works Director; may serve as Acting Public Works Director during absences, as assigned; and performs other related duties as required.

Distinguishing Characteristics

~~This is one of two Deputy Public Works Director positions for the Public Works Department.~~ This single-incumbent managerial and professional class serves as a ~~division~~ manager with specific responsibility for Public Works related functions ~~Water Utility capital improvement projects, Water Utility field operations, and the City's Sustainability Program,~~ and reports directly to the Public Works Director. This class is designated as "at-will" and is exempt from the classified service; the incumbent shall serve at the pleasure of the City Manager. This classification is distinguished from the Public Works Director in that the higher-level class has overall responsibility for departmental operations. An employee in this class exercises supervision over multiple functions through assigned managers and supervisors, and exercises considerable discretion and independent judgment in the performance of assigned duties, based on extensive experience and training in municipal public works engineering and field operations.

Examples of Essential Duties

The duties listed below are examples of the work typically performed by employees in this class. An employee may not be assigned all duties listed and may be assigned duties that are not listed below:

Develops and implements goals, objectives, policies and priorities of the assigned division within Public Works; evaluates division plans, policies and procedures to achieve goals and objectives.

Provides for the selection, training, professional development and work evaluation of assigned staff; works with employee to correct deficiencies; and provides policy guidance and interpretation to assigned staff.

Continually monitors and evaluates the efficiency and effectiveness of service delivery methods and procedures; assesses and monitors workload, administrative and support systems, and internal reporting relationships; identifies opportunities for improvement and reviews with the Public Works Director; directs the implementation of improvements.

Develops and implements effective work management tracking tools; responds to citizen complaints or requests for service deploying staff as required; prioritizes needs and requests; prepares written responses to citizens and other parties, as required.

Develops long range plans to keep up with water usage demands and to conform with State and Federal water quality requirements; analyzes the cost of services and develops water rate schedules.

Assumes direct responsibility for oversight of ~~all major Water Utility related~~ capital improvement projects and activities, development projects, inspection, permits, and the full range of other engineering and related services and activities.

~~Oversees~~At the direction of the Public Works Director, and through a subordinate manager, directs and monitors the City's water production which produces, tests, treats and delivers potable water; and the maintenance of the City's water distribution system including repairs to water mains, valves, and related pipes and equipment; ensures that the City conforms with all State and Federal water quality requirements and submits all operations, production, and quality reports as required.

At the direction of the Public Works Director, and through a subordinate manager and supervisors, directs and monitors the Department's field operations including streets, sewers, parks, equipment, and facilities maintenance.

~~Oversees~~At the direction of the Public Works Director, directs and monitors the preparation of engineering plans and specifications for ~~Water Utility~~ capital improvement projects, the construction of ~~water utility~~ projects, and the administration of professional service, construction, maintenance and other contracts; performs engineering studies and cost/benefit analysis.

Reviews and approves plans and specifications for City infrastructure and facilities, assessment districts, subdivisions and developments.

Reviews and approves plans and specifications for City infrastructure and facilities, assessment districts, subdivisions and developments; directs aspects of rights-of-way and easement acquisition and abandonment.

At the direction of the Public Works Director, directs and monitors traffic engineering and transportation planning activities.

~~Oversees and directs~~At the direction of the Public Works Director, and through a subordinate manager, directs and monitors the City's environmental and sSustainability pPrograms through a subordinate manager; leads and participates in developing concepts, initiatives and strategies; directs and leads in the development of a strategic plan and implementation of approved programs.

Develops and implements City policies, programs, and initiatives that promote sustainable and green practices for the City; monitors and measures effectiveness of policies and programs.

Provides leadership and support to continually move the City towards embracing innovative and sustainable practices.

Confers with and represents the Department and the City in meetings with members of the City Council, members of board and commissions, various governmental agencies, developers, contractors, business and industrial groups and the public.

Represents the Department and the Public Works Director before the City Council, boards and commissions, professional groups, at community meetings, and on inter-departmental working groups.

Responds to public concerns, problems, and complaints in a meaningful and timely manner. Develops local, state and federal funding sources; prioritizes and allocate available resources.

Reviews and evaluates program and service delivery, makes recommendations for improvement and ensures maximum effective service provision.

Oversees and participates in the selection and management of consultants and contractors for activities and services to support the business needs of the department.

Stays abreast of new trends and innovations in the Public Works, Public Utilities, Engineering, and Green/Sustainability fields.

Prepares and directs the preparation of a variety of written correspondence, reports, procedures, ordinances and other written materials; prepares agenda items for City Council presentation and approval including staff reports, exhibits, PowerPoint presentations, and other information items and materials.

Assumes the duties of the Public Works Director in his/her absence, as assigned. Performs other related duties, as assigned.

Employment Standards

Education/Experience

A minimum of five years of broad and progressively responsible experience in ~~Water-Utility-engineering public works administration~~, including three years of supervisory experience; and the completion of a Bachelor's Degree from an accredited college or university in ~~Civil or Water Engineering~~, Engineering, Public Management, Public Administration or a closely related field. Any combination of training, education, and/or experience that could likely provide the desired knowledge and abilities is qualifying. A Master's Degree in a related field is highly desirable. Possession of, or ability to obtain within six months of appointment, a Certificate of Registration as a Professional ~~Civil~~ Engineer in the State of California is highly desirable.

Knowledge of:

Principles and practices of Public Works Water-Utility and Sustainability program management; principles of administration, organization and operation; principles, practices and techniques of ~~Water-Utility~~public works engineering, including the planning, design, construction, contract management, and inspection of municipal utility projects; principles and practices of funding and budget development, administration and evaluation; principles and practices of street maintenance, traffic control device maintenance, equipment maintenance, storm drain systems maintenance, sewerage collection systems construction and maintenance, facilities maintenance, and capital projects; principles and practices of water production, water treatment, water distribution, water system maintenance and repair, capital projects, sustainability programs, and environmental services; methods and techniques of supervision, training and motivation; basic

principles of mathematics; applicable federal, state and local laws, codes and regulations; methods and techniques of scheduling work assignments; standard office procedures, practices and equipment; modern office practices, methods and equipment, including a computer and applicable software; methods and techniques for record keeping and report preparation and writing; proper English, spelling and grammar; occupational hazards and standard safety practices.

Ability to:

Plan, manage and coordinate the work of the ~~Water Utility and Sustainability Division of the~~ Public Works Department; read and interpret maps, sketches, drawings, specifications, and technical manuals; develop and administer sound division goals, objectives, policies and methods for evaluating achievement and performance levels; develop, present and participate in the administration of a program budget; facilitate group participation and consensus building; plan, organize, train, evaluate and direct work of assigned staff; perform mathematical calculations quickly and accurately; interpret, explain and apply applicable laws, codes and regulations; read, interpret and record data accurately; organize, prioritize and follow-up on work assignments; work independently and as part of a team; make sound decisions within established guidelines; analyze a complex issue, and develop and implement an appropriate response; follow written and oral directions; observe safety principles and work in a safe manner; communicate clearly and concisely, both orally and in writing; establish and maintain effective working relationships; operate an office computer and a variety of word processing and software applications.

Physical Demands

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Ability to exert light to moderate physical effort, and exert sufficient force to lift, carry, push, pull, or otherwise move objects up to 25 pounds. Ability to remain in a sitting/standing position for extended periods of time. Ability to hear and speak to the general public, and City staff on the telephone and in person. Hand and eye coordination are needed to operate office equipment. Strength, dexterity, coordination and vision to use keyboard and video/computer display terminal.

Special Requirements

Possession of a valid Class "C" California Driver License and a satisfactory driving record. Possession of a Certificate of Registration as a Professional Civil Engineer in the State of California is required.

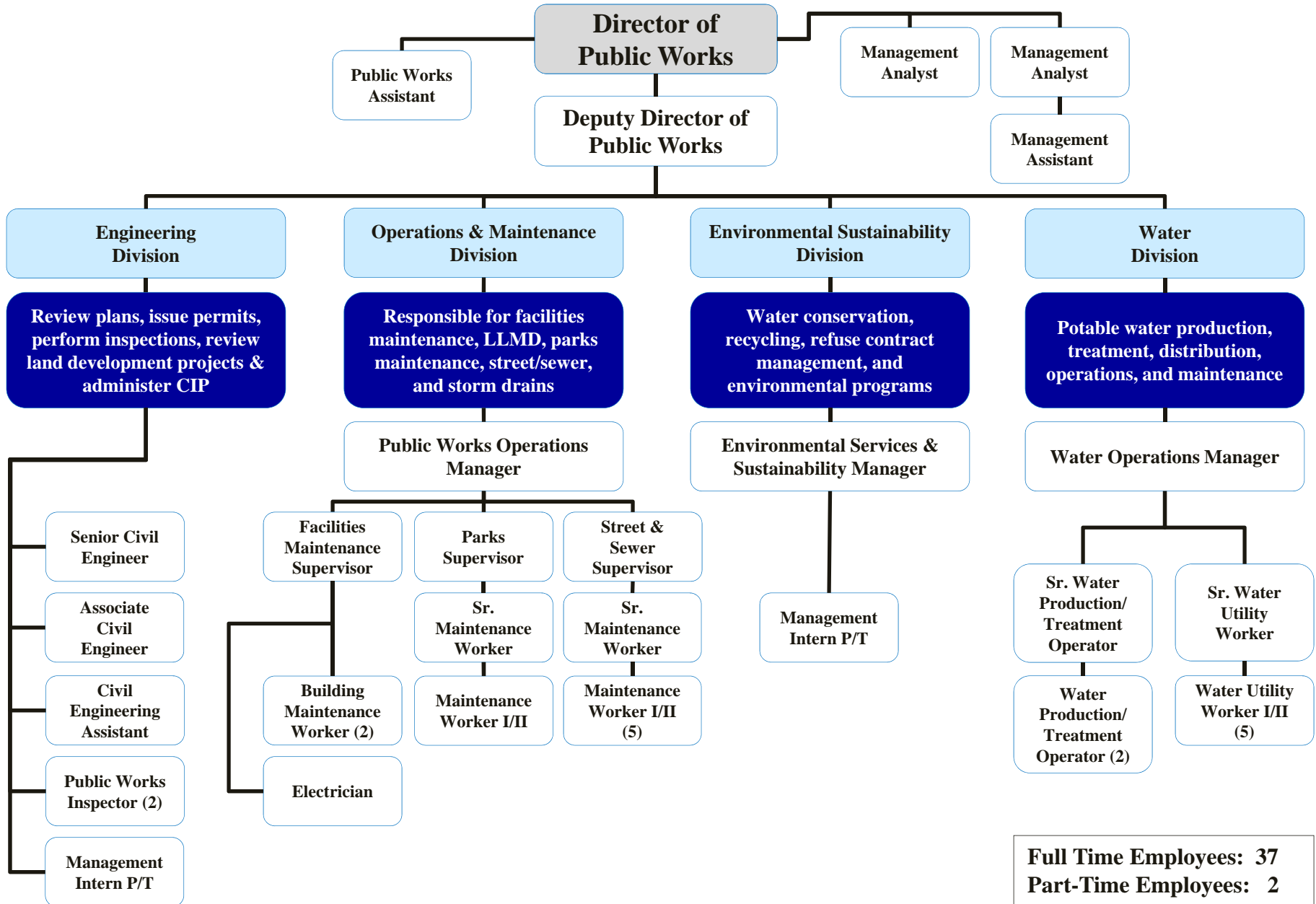
Working Conditions

Environment is generally clean with limited exposure to conditions such as dust, fumes, odors, or noise. Environment is generally clean with some limited exposure to such conditions as dust, fumes, odors, or noise. Computer terminal, copier/scanner, and other office machines are used on a daily basis. Requires traveling throughout the City and adjacent areas, and the attendance of occasional night meetings.

FLSA Status

Exempt

Public Works Department



Attachment 3
Public Works Organizational Assessment
(Annealta Group)



ANNEALTA
GROUP

City of South Pasadena

**Public Works Department
Organizational Study**

October 2021



ANNEALTA
GROUP

October 22, 2021

Arminé Chaprayan, City Manager
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

Dear Ms. Chaprayan:

Annealta Group is pleased to submit this report which contains the results of our Public Works Department Organizational Study. During our analysis we found that you have a strong and very capable core of existing staff members in the department; however, we also identified several areas for consideration of potential improvements in the delivery of services to your customers.

The objective of this study was to identify possible areas for change and provide you with suggested recommendations for consideration and implementation. Our recommendations are set forth in the body of the text as well as summarized in a table at the end of the report.

Thank you for the opportunity to assist the City of South Pasadena on this important project!

Sincerely,

Tim D'Zmura PE, CBO, AICP
President

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Executive Summary

Annealta Group was retained by the City of South Pasadena to analyze and make recommendations about the Public Works Department, which is responsible for the maintenance and construction of a wide array of public infrastructure.

The Public Works Department is comprised of four divisions: Engineering & Operations, Maintenance, Water & Sustainability and Administration.

The Administration Division

- Overall supervision and coordinates all department activities, including workforce development, training, safety, environmental programs, Lighting and Landscaping Maintenance District (LLMD), solid waste, street sweeping, and graffiti abatement.
- Customer service and manages service requests (approximately 4000 service requests each year).

The Engineering & Operations Division

- Interagency Coordination (METRO, Arroyo Verdugo Communities Joint Powers Authority, San Gabriel Valley Council of Governments, Federal Highway Administration, Caltrans, CalRecycle, LA County, and neighboring jurisdictions).
- Capital Improvement Projects; Design, plan review, construction management, and inspections.
- Grants administration, and contracts award and management.
- Traffic Operations; Active Transportation and Intelligent Transportation Systems.
- Private Developments; Plan reviews, right of way improvements inspections, traffic, and environmental impact studies.
- Municipal Separate Storm Sewer System (MS4) permit compliance.
- Issuance of right of way encroachment permits (approximately 500 each year).
- Support Public Works & Mobility and Transportation Infrastructure Commissions.

The Maintenance Division

- Parks and Urban Forest Management; 92 acres of open space and 21,000 trees.
- Traffic Signals, Street Lights, and Facilities; 12 Facilities for 98,971 Sq. Ft., 932 streetlights, and 33 traffic signals.
- Streets (69 lane miles), Sidewalks (83 miles), and Traffic Control setup for special events.
- Storm Drains (117) and Sewer System (58 miles) maintenance.
- Utility Coordination.

The Water & Sustainability Division

- Water Production, Treatment, and Distribution, Delivery of safe, clean water to over 6,200 connections.
- Water Infrastructure Maintenance; consisting of eight water storage tanks, six pump stations, and 130 miles of pipelines.
- Water Resources Planning and Coordination; for short and long-term reliable water supplies.
- Water Conservation; educate, promote, and implement water-saving programs through rebates and workshops.
- Sustainability; protect the environment and natural resources through sustainable initiatives, promote and implement the City's Green Action Plan (GAP) and Climate Action Plan (CAP).

We were not able to identify a department level mission or value statement and therefore conducted this analysis within the framework of the City's Mission Statement and Core Values which are as follows:

MISSION STATEMENT

The City of South Pasadena is committed to providing effective and efficient municipal services for the community while preserving our small town character.

CORE VALUES (not in priority order)

- *Honesty and Integrity*
- *Teamwork*
- *Outstanding customer service*
- *Responsiveness*
- *Open and accessible government*
- *Community participation*
- *Fiscal responsibility*

Due to recent staff changes, the City of South Pasadena is seeking an independent review and assessment of the roles and responsibilities of the Public Works Department staff.

As part of this effort, Annealta Group examined the organizational structure and major management processes used by the department. We conducted individual interviews, reviewed department material and job descriptions/resumes. The scope of our work did not include an evaluation of individual staff members.

The purpose of this assessment is not to conduct an exhaustive audit of policies and procedures, but instead to provide an objective, high level management review and assessment that includes the following:

- Effectiveness of Communication between Director and staff
- Accountability within the department
- The assignment and prioritization of work
- Observations regarding organizational setup and staff utilization, both contract and in house
- The current assignment of roles and responsibilities
- Identification of team work improvements and possible longer term improvement opportunities in the organization
- Identification of opportunities and initiatives to improve the team's performance
- Potential customer service improvements
- Alignment of Department operations with City Mission Statement and Core Values

As a result of our study, this report outlines several organization structural changes including possible changes to the makeup of City Commissions currently supported by the Public Works Department, elimination of a deputy director position and several other staffing changes. The goal of these recommendations is to better position the department to serve the public and to gain greater internal efficiencies.

The report also recommends several changes to internal processes and identifies several physical improvements that we believe will assist the department. Attachment A provides a list of the recommendations contained in this report.

Background

The City of South Pasadena has experienced a number of staff changes in the past year including several key changes within the Public Works Department. Recently, the adopted budget included two new positions: a Senior Civil Engineer and Inspector. Due to these changes, staff turnover and the re-prioritization of capital projects due to the City's success in its battle to stop the 710 Freeway extension project, the City is seeking an independent, high level review and assessment of the roles and responsibilities of the Public Works Department staff.

While internal changes have occurred in the department that affect its ability to effectively and efficiently deliver services, significant external factors have played a key role in changing the priorities and responsibilities of the department. Specifically, the City has been the recipient of significant amount of new funding for infrastructure improvements. As a result of the cessation of the 710 extension project, \$100 million in regional funding has been granted for traffic and mobility projects. Also, the City received approximately \$4.7 million of Federal Funds through the pandemic rescue fund program, a portion of which may be allocated to the department. Lastly, the Federal Infrastructure funding re-authorization will result in the City receiving a yet unknown amount of additional funding and/or provide the opportunity to apply for specific grant funding needs.

Changes in plans, programs and regulations related to the environment greatly impact the workload of the Public Works Department. Most notably is the creation and adoption of the Green Action Plan adopted by the City Council on November 20, 2019. This coupled with the Climate Action Plan adopted on December 16, 2020 created a tremendous amount of staff work required for the implementation of each plans recommendations.

Staff in the department has been faced with new challenges and responsibilities in the successful delivery of services to the public. The department is responsible for supporting three City Commissions: Public Works Commission, Mobility and Transportation Infrastructure Commission and the Natural Resources and Environmental Commission.

The City's Public Works Department is responsible for a wide variety of tasks, all of which we could characterize as traditional for public works.

Although the purpose of this study was to identify potential improvements, it is important to note that many aspects of the City's approach to service delivery are working well. For example, the public counter at city hall is well staffed and coordinated with building and planning serving the public in one location for planning and development needs. Also, a Facility Condition Assessment was performed in 2017 and serves as an excellent reference for preparation of city facility projects for the capital improvement program.

Methodology

Annealta Group used a variety of analytical and management in completing techniques in completing this project. We reviewed documents and met with staff to obtain information about operations and functions. Each is described briefly below.

Document Review

To gain an understanding of the roles and responsibilities, Annealta Group reviewed current organization charts, job descriptions, resumes and budget information. In addition, we examined the City's adopted budget, information available on the City's website, and other publicly available information.

Interviews

Annealta Group conducted six individual interviews with department staff as well as meeting with the director. The purpose of the interviews was to gain an understanding of the roles and responsibilities. The interviews were helpful in gaining insight into the day-to-day operations as well as current issues facing the department.

Public Works Department

The responsibilities assigned to the Public Works Department varies from city to city depending on local conditions and business practice approach by city management. Generally, Public Works includes the following core areas of responsibility: Capital Project Delivery, Street Maintenance including signals, stripping & signing, Refuse & Recycling, Sewer and Storm Drain. Additional areas of responsibility for the South Pasadena Department include Water and Parks Maintenance. We did not identify any non-traditional responsibilities performed by the department.

We were not able to identify an adopted Capital Improvement Program. We understand that a program is being drafted and were provided a copy of the draft document.

According to the City's adopted budget:

"The City maintains a long-range fiscal perspective through the use of a Capital Improvement Program to maintain the quality of City infrastructure, including streets, sidewalks, sewers, drains, lighting, buildings, parks, and trees. The City Council adopts capital projects budgets and may modify appropriations with majority approval. All changes in appropriations at the fund level during the year must be submitted to the City Council for approval. Beginning in FY 2013/14, the City's goal has been to commit a minimum of \$2,000,000 per year towards street improvements. This amount has fluctuated based upon available resources. For Fiscal Year 2022, a total of \$2,000,000 has been budgeted from Fund 104, Street Improvement reserves, and additional funding for street improvements have been budgeted using Prop C funds."

- ♣ **Recommendation #1 – Create, adopt and publish a minimum 5-year Capital Improvement Program in conjunction with budget adoption process each year (reference - Government Code Section 65403).**

We were not able to locate any service delivery metrics for the department. For example, number of pot holes patched, trees trimmed, etc. within a given service period, typically for a given fiscal year. Tracking of key performance indicators (KPIs) and reviewing trends will assist in maintaining proper levels of staffing and contract support services.

- ♣ **Recommendation #2 – Create, adopt and publish department KPI metrics in conjunction with budget adoption process each year.**

Organizational Staffing and Structure

Staffing

The Public Works Department is led by the Public Works Director and two (2) Deputy Public Works Director. One Deputy is over Water and Sustainability and the other Deputy is charged with the responsibility of the Engineering and Maintenance divisions. At the time of the preparation of this report, there are thirty-five (35) authorized full time positions, seven (7) of which were vacant. This equates to a vacancy rate of 20% which is high and very impactful to the delivery of services. The vacant positions consist of the following:

- Senior Civil Engineer
- Associate Civil Engineer
- Public Works Operations Manager
- Maintenance Worker
- Public Works Inspector
- Public Works Intern (2)

A department of this small size and variety of duties and responsibilities requires a strong, hands-on leader who is able to communicate with the residents, City Manager and City Council about issues and priorities and take responsibility for communicating information from the City Manager and City Council to staff. As such, this individual should ensure that priorities are set, schedules are monitored and that the quality of work remains high. During the interviews, we learned that internal communication could be more formalized and conducted on a more regular basis. Given the recent staff changes and reassignment of responsibilities, the need for additional lateral and vertical communication within the department is critical. We learned that all-hands department meetings ceased as of August. We also learned that 1 on 1 meetings are not consistent for the management team in the department. Additionally, the department is not represented on a consistent basis at Executive Team Meetings.

- ♣ **Recommendation #3 – Establish and maintain monthly all-hands department meetings. Establish and maintain weekly 1 on 1 meetings for Director level through Supervisor level. Director must attend all Executive Team Meetings.**

A consistent comment throughout the interviews was the lack of support staff to assist in the completion of administrative work - the majority of which we identified to be at the analyst level. For example, management and supervisor level staff are spending time drafting, administering and processing requests for proposals (RFPs) and the resulting contracts/agreements. Several staff members expressed frustration that Finance was not assisting with this task. It is our opinion the Public Works Department would be best served by having additional Management Analyst positions dedicated to the delivery of services such as this example provided. With additional support staff in place, managers and supervisors will be freed up to perform more of the duties that they have been hired to perform including many of the recommendations included in this report.

Additionally, based on the size of the department and comparing the City to others of a similar size, it would appear unwarranted to have two Deputy Directors.

♣ **Recommendation #4 – Eliminate one of the Deputy Director positions.**

♣ **Recommendation #5 – Add two (2) new Management Analyst positions in the department.**

The factor that we identified as most impactful to the Department's ability to deliver services, was the level of support required to meet the expectations of the Commissions supported by Public Works. The Public Works Commission, Mobility and Transportation Infrastructure Commission and the Natural Resources and Environmental Commission, all have adopted work plans for calendar year 2021 (See attachment B for the current work plans). Each work plan contains a number of tasks for the year, task which are the responsibility of the public works staff serving the respective commissions. We realize this issue was recently reviewed in February of 2020, but it appears that opinion was not unanimous on the best way to proceed. Re-visiting how the February 2020 changes are working would appear to be appropriate and timely as part of the Fiscal year 2022-23 budget cycle.

We also learned that the Director does not regularly attend the Commission meetings. Given the importance of the assigned duties and responsibility of the Commissions and to ensure good communication and implementation of City Council and City Manager directives, it our opinion that the Director should be present at each of the Commission meetings.

The Commission work plans should be developed at the same time as the budget is developed each year so that staff/consultant resources can (1) be appropriately adjusted as needed for the proposed work plan or (2) communicated as a limiting factor as to the curtailing of work plan goals. The current practice of creating the work plans each calendar year and not as part of the budget process places added pressure on department staff should the work plans not be aligned with available resources.

- ♣ **Recommendation #6 – Require that the Director attend all Commission meetings.**
- ♣ **Recommendation #7 – Re-visit the need for all three (3) of the Commissions supported by the Public Works Department. Consider consolidating the Public Works Commission and Mobility and Transportation Infrastructure Commission into one Commission.**
- ♣ **Recommendation #8 – Develop Commission work plans for the fiscal year - not the calendar year - as part of the budget development process each year.**

Structure

Structural coordination is important in any organization's ability to effectively carry out its desired mission. Coordination is, by definition, the harmonious functioning of parts for effective results. For example, for a professional baseball player to hit a ball, his eyes must follow the trajectory of the pitched ball, his arms and hands must move in a fashion that meets the recognized trajectory and his muscles must support the desired movement at the moment of impact. In a professional business organization, coordination is defined as the process of organizing people or groups so that they work together properly and well.

Figure 1 shows the current organization of the Public Works Department. Responsibilities are divided between four division with two divisions reporting to a Deputy Director, one to a Deputy Director and one to the Director. The division with the widest span of responsibility is the Water & Sustainability Division due to its assigned areas including potable water production & distribution, water conservation, sustainability including the Green Action Plan and the Climate Action Plan and supporting the Public Works Commission and the Natural Resources and Environmental Commission. The delivery of the Capital Improvement Program rests with the Engineering Division.

During interviews we heard some concern expressed over the division of duties and the ability of the assigned staff to effectively carry out said duties. Concerns were also expressed about adequate support staff resources such as assistants and analysts. Further analyses revealed insufficient resources to meet the demands placed on the department. In light of this and considering the potential for the staffing changes as outlined in recommendations #4 and #5, a change would appear warranted.

- ♣ **Recommendation #9 – Reduce the number of divisions in the department from four (4) to three (3). Reallocate existing staff and allocate new staff as depicted in Figure 2. Reallocate functional responsibilities as shown in Figure 3.**

Given the issues identified during our interviews, a revised organizational structure will likely result in improved levels of service. Figure 2 shows a revised organization structure with an emphasis in aligning resources with the priority responsibilities of the department. The advantages of this approach include the following:

- ✓ Having one (1) Director and one (1) Deputy Director over all divisions will provide an opportunity for clarity and consistency in the overall management of the department.

- ✓ The approach permits the Director to focus on the area(s) of priority as needed in the organization. The current priority would appear to be the successful delivery of the CIP as executed by the Engineering Division. While the Maintenance Division and Water & Sustainability Divisions would continue to be led by operations managers, the Engineering Division should be led by the Director position. Given the size of the division we do not see any span of control issues in proceeding in this manner. Aligning the responsibility for the successful delivery of the CIP with the department Director we see as critical to the success of the department meeting management's expectations.

The disadvantages of this approach include the following:

- ✓ The changes recommended are not significant, however, implementing functional changes may result in short term confusion over the areas of responsibility and execution of assignments.

Figure 1. Current Organization Chart

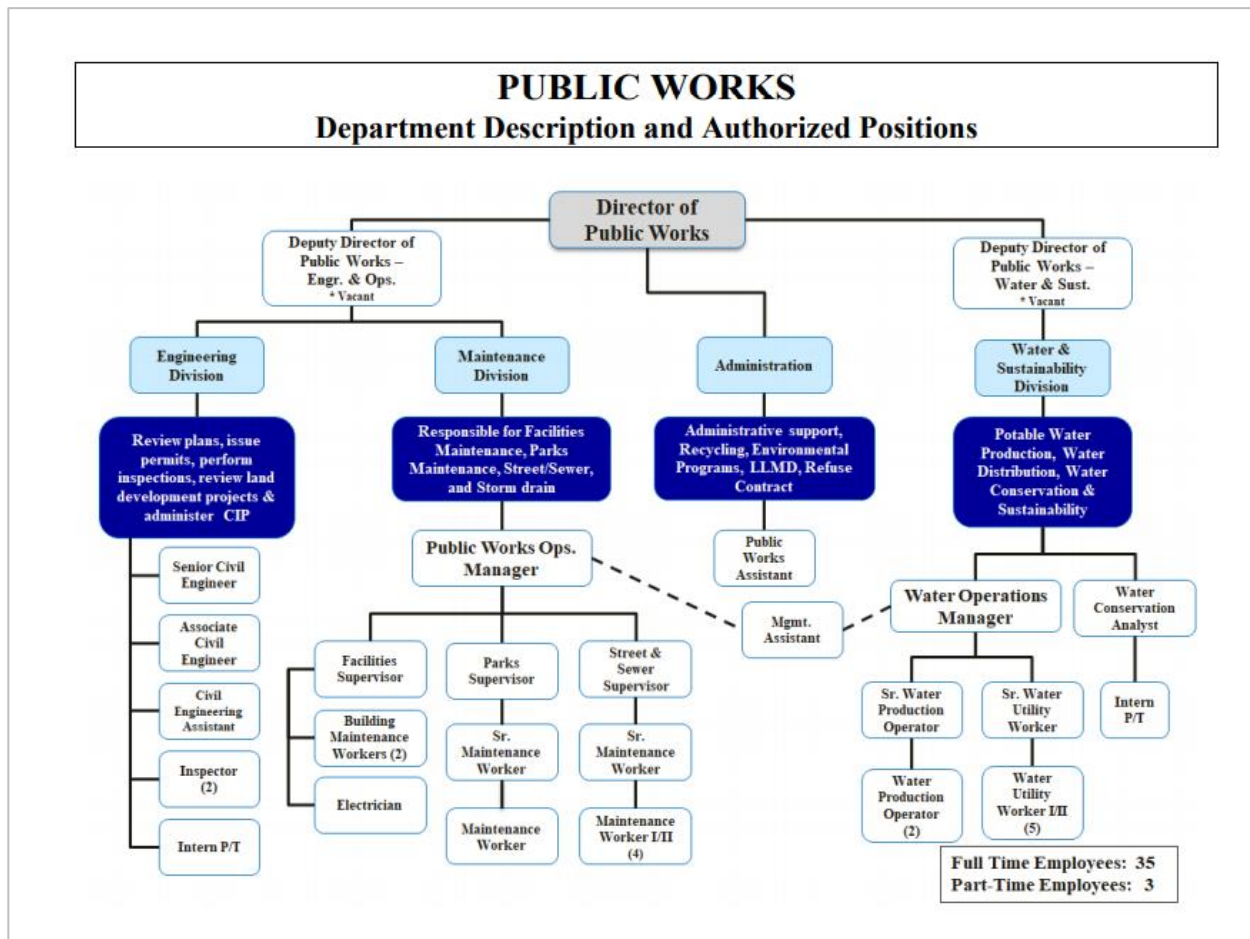
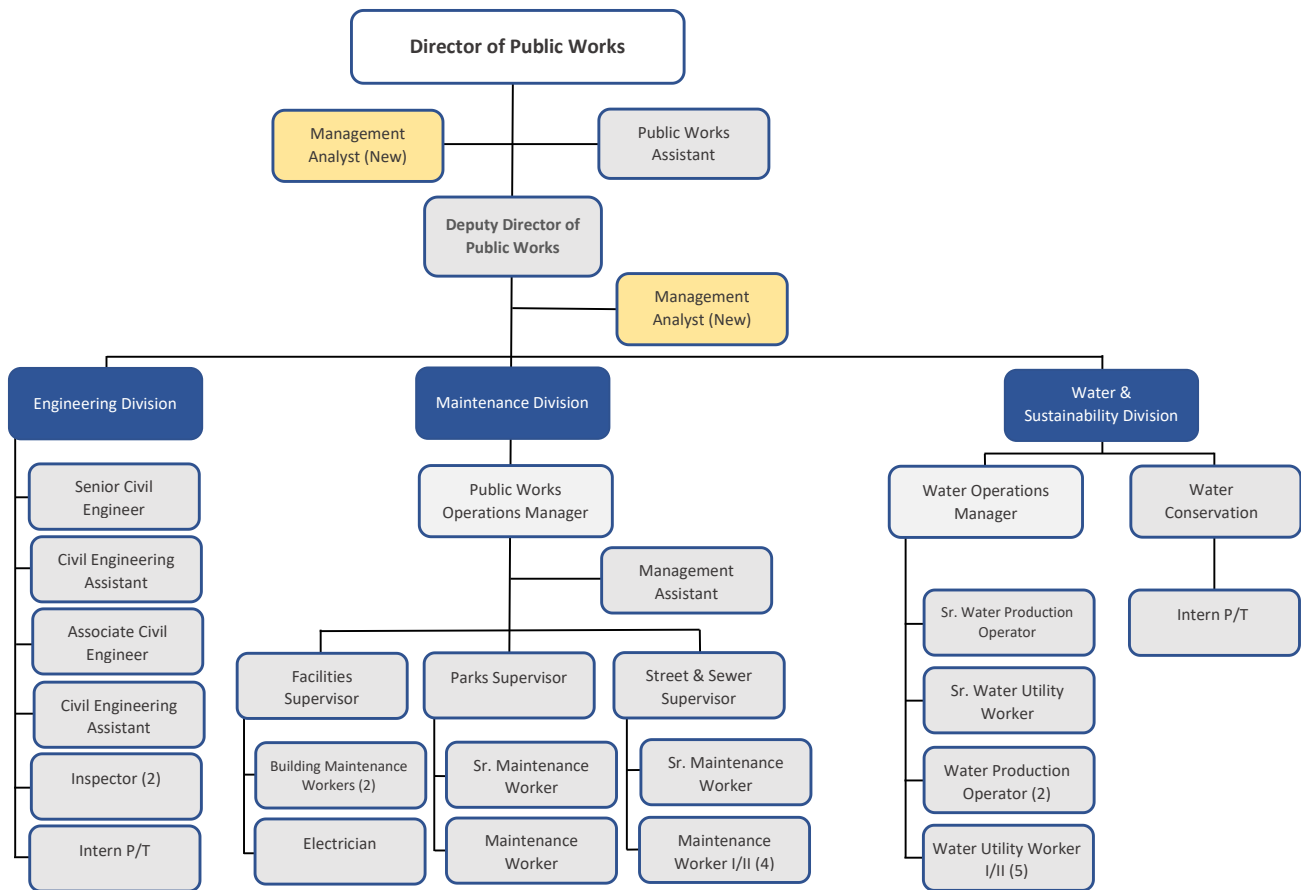


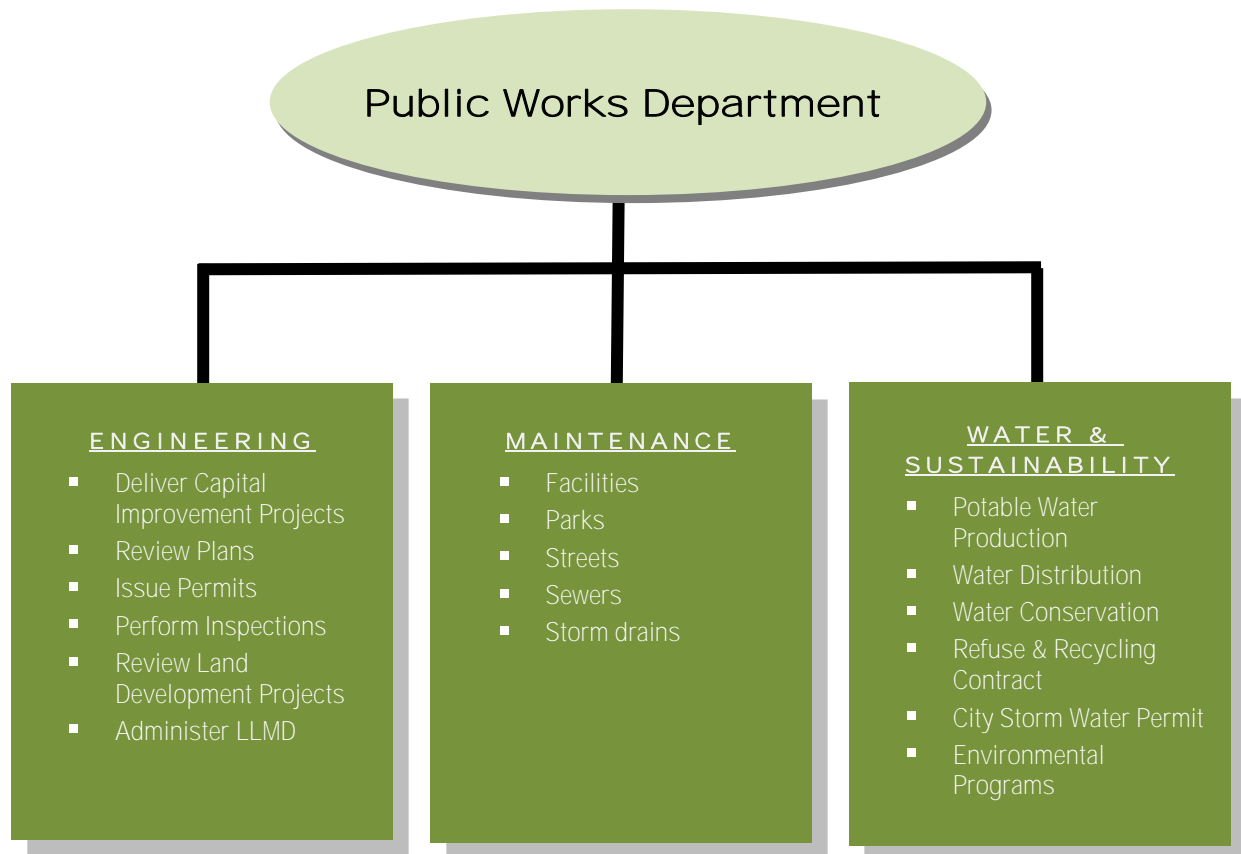
Figure 2. Proposed Organization Chart

PUBLIC WORKS - PROPOSED STRUCTURE



Full Time Employees: 36
 Part Time Employees: 2
 Positions Eliminated: 1 Deputy Director of PW
 Positions Added: 2 Management Analysts

Figure 3. Recommended Functional Structure for the Public Works Department



Physical Support - PP&E

Property, plant, and equipment (PP&E) are long-term assets vital to business operations and the long-term financial health of a city. In order to best serve the department's customers, physical systems and structures must be in place and aligned with the department's mission and values. The scope of our assignment did not include an evaluation of the department's equipment.

The Public Works Department is currently housed in three (3) different facilities. They are as follows:

- ✓ City Hall, 1414 Mission Street – Approximately seven (7) staff members. This location is the only location that Public Works is open to the public. The counter service hours are coordinated with and physically connected to the planning and building department counter services.
- ✓ Public Works Yard, 825 Mission Street – Approximately twenty (20) staff members.
- ✓ Water Distribution Facility, 346 Garfield Avenue – Approximately ten (10) staff members.

We understand that there currently is insufficient space available at city hall for community development needs. The second stories of both the Public Works Yard and Water Distribution Facility have space available for build out of additional offices. Tenant improvements would need to be budgeted for, designed and built in order to accommodate new work spaces. In order to free up space at city hall, it is recommended that the Director and Engineering Division be re-located to the Water Distribution Facility. We do not recommend the relocation of public counter services. Engineering should maintain and staff a location at city hall to serve the public counter. This could be done on a rotating schedule basis for appropriate level staff as determined by the Director.

- ♣ **Recommendation #10: Re-house the Engineering Division at the Water Distribution Facility.**

Also, during our field review of the public works facilities it was noted that the Public Works Yard, 825 Mission Street, is not protected by security gates. The Water Distribution Facility, 346 Garfield Avenue is protected by secure gates that are openable with key cards.

- ♣ **Recommendation #11: Install operable security gates at the Public Works Yard, 825 Mission Street, similar to the gates installed at the Water Distribution Facility.**

Conclusion

The City of South Pasadena Public Works Department has a solid foundation from which to build from as it continues to adapt to changing external factors. The successful implementation of the recommendations in this report will result in a higher level of service to the community and greater internal efficiencies.

The proposed changes in the organizational structure will result in improved internal communications and clarity of roles and duties. An emphasis on training and staff development will also assist greatly as staff members take on new responsibilities.

Attachment A: List of Recommendations

- ♣ Recommendation #1 – Create, adopt and publish a minimum 5-year Capital Improvement Program in conjunction with budget adoption process each year (reference - Government Code Section 65403).
- ♣ Recommendation #2 – Create, adopt and publish department KPI metrics in conjunction with budget adoption process each year.
- ♣ Recommendation #3 – Establish and maintain monthly all-hands department meetings. Establish and maintain weekly 1 on 1 meetings for Director level through Supervisor level. Director must attend all Executive Team Meetings.
- ♣ Recommendation #4 – Eliminate one of the Deputy Director positions.
- ♣ Recommendation #5 – Add two (2) new Management Analyst positions in the department.
- ♣ Recommendation #6 – Require that the Director attend all Commission meetings.
- ♣ Recommendation #7 – Re-visit the need for all three (3) of the Commissions supported by the Public Works Department. Consider consolidating the Public Works Commission and Mobility and Transportation Infrastructure Commission into one Commission.
- ♣ Recommendation #8 – Develop Commission work plans for the fiscal year - not the calendar year - as part of the budget development process each year.
- ♣ Recommendation #9 – Reduce the number of divisions in the department from four (4) to three (3). Reallocate existing staff and allocate new staff as depicted in Figure 2. Reallocate functional responsibilities as shown in Figure 3.
- ♣ Recommendation #10: Re-house the Engineering Division at the Water Distribution Facility.
- ♣ Recommendation #11: Install operable security gates at the Public Works Yard, 825 Mission Street, similar to the gates installed at the Water Distribution Facility.

Attachment B: Commission Work Plans (2021)

- ♣ Mobility and Transportation Infrastructure
- ♣ Public Works Commission
- ♣ Natural Resources and Environmental

Mobility and Transportation Infrastructure Commission

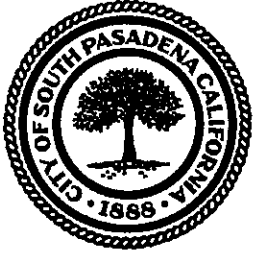
2021 Work Plan



Objective	Tasks and Activities	Lead Person(s)	Timeline	Desired Outcome
	Private Development Project briefing from Planning	Planning Staff	January 2021	Update on Planning Development Projects
	Staff Briefing and Discussion: Fremont Avenue grant and projects	Staff Liaison		Briefing on grant opportunities for Fremont Avenue
	Action: 2021 Work Plan and 2020 Annual Report	Staff Liaison & Commission		Review and Approve MTIC 2021 Work Plan and 2020 Annual Report
	Action: Elect a Chair and Vice Chair	Staff Liaison & Commission	February 2021	Elect MTIC Chair and Vice Chair
	Action: COVID-19 Ad Hoc Committee	Commission		Selection of Commissioners
	Discussion: Measure M Projects	Staff Liaison & Commission		Discuss the Measure M projects.
	Discussion: Ramona Traffic Study			Discuss Ramona Traffic Study
	Staff Briefing: Update on Measure R Projects	Staff Liaison		Update on status of the project.
	Discussion: Preferential Parking Policy	Staff Liaison & Commission	March 2021	Develop a preferential parking policy.
	Update on implementation of NTMP	Staff Liaison		Update on NTMP
	Update on implementation of Meridian Avenue traffic management measures	Staff Liaison		Update on status
	Staff Briefing: Rogan Fund Project Update (Information Item)	Staff Liaison	April 2021	Update on current status of the project

	Continue Discussion on Measure M Projects	Staff Liaison		Continue discussion on Measure M projects.
	Discussion: Fremont Avenue projects	Staff Liaison		Continue discussion on proposed projects to implement with grant funds.
	Presentation: Transportation & CIP Project Overview (Information Item)	Staff Liaison	May 2021	Staff Presentation on current Transportation Projects and CIP Projects under the MTIC purview.
	Private Development Project briefing from Planning	Planning Staff		Update on Planning Development Projects.
	Action: Draft SB1 Street Resolution	Staff Liaison & Commission	June 2021	Review and recommend that City Council adopt the SB1 resolution (deadline for City Council approval is July 15, 2020)
	Continued discussion on Preferential Parking Policy	Staff Liaison		Continue discussion.
	COVID-19 Update	Staff Liaison		Update on COVID-19 Measures
	CIP Transportation Projects Status Update	Staff Liaison	July 2021	Update on CIP Transportation Projects
	Action: Selection of Measure M Projects	Staff Liaison & Commission		Recommend to City Council
	Measure R Project Update	Staff Liaison		Update on Measure R Projects
	Discussion: Fremont Avenue projects	Staff Liaison	August 2021	Continue discussion on proposed projects to implement with grant funds.
	Private Development Project briefing from Planning	Planning Staff		Update on Private Development Projects
	Measure M Projects	Staff Liaison	September 2021	Update on current status of the projects
	Update on implementation of NTMP	Staff Liaison		Update on NTMP
	Staff Briefing: Rogan Fund Project Update (Information Item)	Staff Liaison	October 2021	Update on current status of the project
	Cal Recycle Grant Update	Staff Liaison	November 2021	Cal Recycle Grant
	Discussion: Review 2022 Work Plan	Staff Liaison & Commission	December 2021	Review 2022 Work Plan
	Discussion: Review 2021 Accomplishments	Staff Liaison		Review 2021 Accomplishments


Attachment C: City Council Staff Report of February 5, 2020



City Council Agenda Report

ITEM NO. 15

DATE: February 5, 2020

FROM: Stephanie DeWolfe, City Manager 

PREPARED BY: Shahid Abbas, Director of Public Works
Kristine Courdy, Deputy Director of Public Works

SUBJECT: **Approve the First Reading and Introduction of Two Ordinances: 1) Restructure the Freeway and Transportation Commission to Create the Mobility and Transportation Infrastructure Commission with Updated Responsibilities; and 2) Restructure the Public Works Commission with Updated Roles and Responsibilities**

Recommendation

It is recommended that the City Council:

- 1) Read by title only for first reading, waiving further reading, and introduce an Ordinance to repeal Article IVD (Freeway and Transportation Commission) of Chapter 2 “Administration” of the South Pasadena Municipal Code (SPMC) and add a new Article IVD (Mobility and Transportation Infrastructure Commission) to SPMC Chapter 2 to restructure the Freeway and Transportation Commission (FTC) to create the Mobility and Transportation Infrastructure Commission (MTIC) with updated roles and responsibilities to focus on mobility policy and transportation infrastructure; and
- 2) Read by title only for first reading, waiving further reading, and introduce an Ordinance to repeal Article IVK (Public Works Commission) of SPMC Chapter 2 “Administration” and add a new Article IVK (Public Works Commission) to restructure the Public Works Commission (PWC) with updated roles and responsibilities to focus on non-transportation infrastructure including water, sewer, stormwater, buildings, and City facilities.

Executive Summary

The City of South Pasadena is at a crossroads in terms of mobility and transportation. After more than 60 years of struggling with potential impacts of the State Route 710 (SR-710) freeway, and little investment in street infrastructure or technology during that time, the freeway is now dead. For the first time in decades, the City is in a position to consider the future of mobility without the freeway dividing and impacting the City. At the same time, almost \$100 million in regional funding has been granted to the City for traffic and mobility projects. This creates a landmark opportunity for the City to not only envision, but implement, a new mobility blueprint for the community that anticipates and plans for the needs and desires of future generations.

At this juncture, the development of an overarching mobility strategy, and associated community engagement, is a critical framework needed to define allocation of current and future dollars. This unprecedented opportunity to create a comprehensive vision that will drive the City's mobility, land use and economic future. While numerous studies have been conducted over the past several decades, those studies must be knit together, and in some cases updated, to create a current definition of objectives and priorities.

The City has had a FTC charged with oversight of all things related to the now-dead freeway, and a PWC charged with oversight of major street construction projects. The scope of each is somewhat narrow and focused on specific issues that were of concern at the time the commissions were formed. The City now finds itself in a new position, needing broad policy support regarding the creation of a framework to guide the expenditure of an extraordinary amount of grant funding. As currently stated in the City's Municipal Code, this task does not fall within the purview of either commission.

At Council's direction, staff is proposing to restructure both the FTC and PWC to have clearly defined roles and responsibilities that do not overlap. The FTC would be restructured to create the Mobility and Transportation Infrastructure Commission (MTIC) to include a broader focus on mobility policy and transportation infrastructure. The PWC would be restructured to focus on non-transportation infrastructure including water, sewer, stormwater, buildings and city facilities. This alternative retains the current composition of both commissions, while still effectively generating a cohesive framework for future mobility and infrastructure planning.

Commission Review and Recommendation

On June 19, 2019, the Council established an Ad Hoc Committee comprised of Mayor Khubesian, Councilmember Schneider, FTC Chair Nuckols, and PWC Vice-Chair Abelson to explore the possibility of merging the two commissions to address the overlapping roles and responsibilities of the two commissions.

On October 16, 2019, the Ad Hoc Committee met to discuss the potential FTC and PWC merger. There was consensus regarding the need for citizen oversight, however, the Ad Hoc Committee was split on the decision to merge. Following the Ad Hoc Committee, the FTC and PWC met in a special joint meeting to discuss the potential merger of the two commissions. The commissions were split on the decision whether to merge or to remain as two separate commissions (4-4).

On November 19, 2019, the Ad Hoc Committee met to discuss the purview of both commissions. The Ad Hoc Committee agreed that both commissions provide valuable policy recommendations to the Council and the Ad Hoc Committee recommended keeping the PWC as a permanent commission. In order to address the overlap between the commission purviews, the Ad Hoc Committee suggested that the PWC should provide policy oversight over large local projects (Capital Improvement Plan, Measure M Multi-year Subregional Plan, and mobility initiatives) and the FTC should provide oversight over regional and legislative issues related to mobility and transportation items surrounding the SR-710.

Discussion/Analysis

The original intent of the FTC was to provide support to the City Council regarding the fight against the SR-710. On October 12, 2019, Governor Newsom signed Assembly Bill 29 (Holden) and Senate Bill 7 (Portantino) to remove the SR-710 from the State Streets and Highway Code and deem the SR-710 North Project Freeway Alternatives as infeasible. The PWC was established seven years ago for oversight of large capital improvement projects, an outgrowth of specific concern with construction on Fair Oaks Avenue. Both commissions have successfully accomplished the goals set forth by the City Council.

At this juncture however, the City now finds itself in a new position, needing broad policy support regarding the creation of a framework to guide the expenditure of an extraordinary amount of grant funding. As currently stated in the City's Municipal Code, this task does not fall within the purview of either commission.

In the Municipal Code, the PWC was initially set to sunset in November of 2018. Prior to that date, City Council discussed the potential merger of the commissions, rather than a sunset of PWC, in the context of the lack of a future role for the FTC once the freeway was dead. Although there was consensus regarding a need to reexamine the commission structure, council determined that it was too early to consider because final action on the freeway was still pending. The Council voted at that time to extend the sunset date of the PWC to December 31, 2019. On December 4, 2019, council discussed the issue and directed staff to return on December 18, 2019 with an outline of potential alternatives.

On December 18, 2019, staff presented, and the City Council considered, two alternatives: 1) Merge the two commissions to establish a Mobility and Infrastructure Commission (MIC); or 2) establish the PWC as a permanent commission and establish clear roles and responsibilities for each of the two commissions. The City Council also discussed a modified second alternative which included restructuring the FTC as the Mobility and Transportation Infrastructure Commission (MTIC) to include a broader focus on mobility policy and transportation infrastructure and restructuring the PWC to focus on non-transportation infrastructure including water, sewer, stormwater, buildings and city facilities. The City Council directed Staff to bring back an updated staff report with further information on this alternative. Below is a discussion of the roles and responsibilities of each commission as requested by the Council.

Mobility and Transportation Infrastructure Commission (MTIC)

The FTC would be restructured as the MTIC, expanding its purview to include a broader focus on mobility policy and transportation infrastructure, including the development of a framework for expenditure of the \$100 million in transportation grant funding. All mobility and transportation policy would be consolidated under one advisory body, eliminating overlap and friction between the FTC and PWC.

Metro and Caltrans have recently discussed the need for the City to complete a feasibility study of the corridor to provide data and analysis that supports implementation of specific projects such as the proposed State Route 110 Hook Ramp project. This feasibility analysis will likely

generate multiple technical options that may or may not align with prior studies and will need to be weighed in consideration of current community priorities and funding availability. In addition to the regional transportation funding opportunities, the City is currently undertaking major planning efforts such as the development of long-term Capital Improvement Program (CIP), Neighborhood Traffic Management Plan, Pavement Management Information System Plan, and has a pending grant application for an Active Transportation Plan. All of these plans are interconnected and complement each other.

The new MTIC would be established for the purpose of advising the City Council on policy matters regarding traffic, multi-modal transportation, new transportation technologies, and transportation infrastructure. As proposed, the MTIC would have the following roles and responsibilities:

- Advise the City Council on policy matters related to transportation and mobility including traffic management plans, transit, multi-modal transportation and active transportation, evolving transportation and mobility technologies, parking management, and regional transportation matters;
- Advise the City Council on regional transportation funding and planning;
- Provide input on mobility and transportation policies such as the transportation related CIP items, Neighborhood Traffic Management Plan, Active Transportation Plan, etc.; and
- Provide a forum for community input on mobility topics.

A single commission with a new focus on guiding mobility policy and community engagement may be the most effective structure to meet these pressing needs. Having one commission to link these components together and advise the City Council on mobility and transportation infrastructure policy matters is prudent and an effective way to oversee an integrated process.

Public Works Commission (PWC)

The Public Works Commission (PWC) would be restructured to focus on non-transportation infrastructure including water, sewer, stormwater, buildings and city facilities. The restructured PWC would advise on the integrated water/wastewater plan and non-transportation portions of the CIP. This structure would allow for a new focus on non-transportation infrastructure and policy that is currently secondary under the existing commission structure. In addition, water utility management and stormwater are not within the scope of any city commission, but new focus and funding at the local and state level in these areas is likely to present a number of critical policy issues that would benefit from commission perspective. As proposed, the PWC would have the following roles and responsibilities:

- Advise the City Council on policy matters related non-transportation infrastructure including water, sewer, stormwater, buildings and city facilities.
- Advise the City Council on regional non-transportation infrastructure funding and planning.

- Advise the City Council on policy matters related to utility management including water, sewer and stormwater.
- Provide input on infrastructure policies and plans such as the utility and infrastructure CIP items (non-transportation), Integrated Water and Wastewater Resource Management Plan, Safe Clean Water and Measure W Plans, Facility Assessment Plan, etc.; and
- Provide a forum for community input on infrastructure topics.

Due to the long-term nature of utility and infrastructure planning and projects, staff would recommend that the PWC meet bi-monthly with the provision that special meetings can be scheduled if needed.

MTIC and PWC Composition of Members

Due to the technical nature of the proposed MTIC and PWC, it is proposed that the City make a concerted effort to recruit members with technical expertise:

MTIC: All members shall have an expressed interest in and knowledge of mobility policy, multi-modal transportation, and transportation infrastructure. The City shall make a concerted effort to recruit at least one registered civil engineer or traffic engineer with an active license, and professionals with expertise in other areas such as traffic engineering, mobility planning, transportation infrastructure, contracting or construction, construction law, or construction management and inspection.

PWC: All members shall have an expressed interest in and knowledge of public works projects, methods and procedures. The City shall make a concerted effort to recruit at least one registered civil engineer with an active license, and professionals with expertise in other areas such as utilities, structural engineering, architecture, landscape architecture, stormwater, contracting or construction, construction law, or construction management and inspection.

The SPMC would be updated to include new sections for each commission effectively creating two new commissions. The initial composition of the commission shall consist of one member being appointed by each councilmember and their term lengths will be staggered as follows: one member will serve one three-year term; two members will serve one year and then be eligible for one additional three-year term; and the remaining two members will serve two years and then be eligible for one additional three-year term. Future appointments will be made by the mayor pursuant to SPMC 2.23 (Composition, appointment and removal of members).

Background

The PWC was formed on November 7, 2012, for a period of six years and was set to sunset on November 7, 2018. In September 19, 2018, the Council adopted Ordinance No. 2324 to extend the sunset of the PWC by an additional year, to sunset on December 31, 2019. In November 2018, to address the overlap in roles and responsibilities between the PWC and FTC, the City Council considered merging the PWC and FTC. At that time the State of California legislation

regarding the SR-710 was not finalized, therefore the Council directed staff to return in one year with recommendations regarding merging the two commissions. On June 19, 2019, the City Council established an Ad Hoc Committee to explore the possibility of merging the two commissions. The Ad Hoc Committee has had several meetings and discussions regarding this matter. Several alternatives have been discussed regarding the two commissions, whether to merge into one commission or remain as two separate commissions.

Legal Review

The City Attorney has reviewed this item.

Fiscal Impact

There is no fiscal impact.

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 and/or notice in the *South Pasadena Review* and/or the *Pasadena Star-News*.

Attachments:

- 1) Ordinance to Establish the Mobility and Transportation Infrastructure Commission
- 2) Ordinance to Establish the new Public Works Commission

ATTACHMENT 1
Ordinance to establish a Mobility
and Transportation Infrastructure Commission

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA
REPEALING ARTICLE IVD (FREEWAY AND TRANSPORTATION
COMMISSION) AND ADDING A NEW ARTICLE IVD (MOBILITY AND
TRANSPORTATION INFRASTRUCTURE COMMISSION)
OF THE SOUTH PASADENA MUNICIPAL CODE**

SECTION 1. Article IVD (Freeway and Transportation Commission), Sections 2.47 through 2.50, is repealed.

SECTION 2. A new and renumbered Article IVD (Mobility and Transportation Infrastructure Commission), Sections 2.47-1 through 2.47- 5, is added to Chapter 2 (Administration) to read as follows:

**"ARTICLE IVD. MOBILITY AND TRANSPORTATION INFRASTRUCTURE
COMMISSION**

2.47-1 Creation.

There is hereby created a five-member Mobility and Transportation Infrastructure Commission.

2.47-2 Responsibilities.

It shall be the responsibility of the Mobility and Transportation Infrastructure Commission to serve in an advisory capacity to the city council, as directed by the city council or city manager, on policies regarding:

- (a) Mobility policy matters related to transportation and mobility including traffic management plans, transit, multi-modal transportation and active transportation, evolving transportation and mobility technologies, parking management, and regional transportation matters;
- (b) Regional transportation funding and planning;
- (c) Input on mobility and transportation policies such as the transportation related CIP items, Neighborhood Traffic Management Plan, Active Transportation Plan, etc.; and
- (d) A forum for community input on mobility topics.

2.47-3 Limitations.

The Mobility and Transportation Infrastructure Commission may discharge its responsibilities in the manner and means selected by it, except as follows:

- (a) Unless expressly authorized to do so by the city council, it shall not represent itself to be, nor in any way act for or on behalf of the city council, nor shall it commit the officers, employees or staff of the city in any manner to any course of

action; to the contrary, it shall act as a study center and clearinghouse for advisory action to the city council; and

- (b) It shall not encroach upon any area preempted by state or federal law; and
- (c) It shall forward all of its findings and recommendations to the city manager and the city council prior to public release.

2.47-4 Composition of members.

- (a) The initial composition of the commission shall consist of one member being appointed by each councilmember and their term lengths will be staggered as follows: one member will serve one three-year term; two members will serve one year and then be eligible for one additional three-year term; and the remaining two members will serve two years and then be eligible for one additional three-year term. Future appointments will be made by the mayor pursuant to SPMC 2.23 (Composition, appointment and removal of members).
- (b) All members shall have an expressed interest in and knowledge of mobility policy, multi-modal transportation, and transportation infrastructure. The city shall make a concerted effort to recruit at least one registered civil engineer or traffic engineer with an active license, and professionals with expertise in other areas such as traffic engineering, mobility planning, transportation infrastructure, contracting or construction, construction law, or construction management and inspection.

2.47-5 Meetings.

The Mobility and Transportation Infrastructure Commission shall hold up to one regular meeting each month. The chair may call for a special meeting if needed with concurrence of the commission."

SECTION 3. SEVERABILITY. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Section 15378(b)(5) as an agency organizational or administrative activity that produces no physical changes to the environment.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code Section 36937.

SECTION 6. This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall

certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 19th day of February, 2020.

Robert S. Joe, Mayor

ATTEST:

APPROVED AS TO FORM:

Evelyn G. Zneimer, City Clerk
(seal)

Teresa L. Highsmith, City Attorney

Date: _____

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I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 19th day of February, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Evelyn G. Zneimer, City Clerk
(seal)

ATTACHMENT 2
Ordinance to establish the new
Public Works Commission

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA
REPEALING ARTICLE IVK (PUBLIC WORKS
COMMISSION) AND ADDING A NEW ARTICLE IVK (PUBLIC
WORKS COMMISSION)
OF THE SOUTH PASADENA MUNICIPAL CODE**

SECTION 1. Article IVK (Public Works Commission), Sections 2.79-1 through 2.79-6, is repealed.

SECTION 2. A new and renumbered Article IVK (Public Works Commission), Sections 2.79-1 through 2.79- 5, is added to Chapter 2 (Administration) to read as follows:

"ARTICLE IVK. PUBLIC WORKS COMMISSION

2.79-1 Creation.

There is hereby created a five-member Public Works Commission.

2.79-2 Responsibilities.

It shall be the responsibility of the Public Works Commission to serve in an advisory capacity to the city council, as directed by the city council or city manager, on policies regarding:

- (a) Policy matters related to non-transportation infrastructure including water, sewer, stormwater, buildings and city facilities;
- (b) Regional non-transportation infrastructure funding and planning;
- (c) Utility management including water, sewer and stormwater;
- (d) Input on infrastructure policies and plans such as the utility and infrastructure CIP items (non-transportation), Integrated Water and Wastewater Resource Management Plan, Safe Clean Water and Measure W Plans, Facility Assessment Plan, etc.; and
- (e) A forum for community input on infrastructure topics.

2.79-3 Limitations.

The Public Works Commission may discharge its responsibilities in the manner and means selected by it, except as follows:

- (a) Unless expressly authorized to do so by the city council, it shall not represent itself to be, nor in any way act for or on behalf of the city council, nor shall it commit the officers, employees or staff of the city in any manner to any course of action; to the contrary, it shall act as a study center and clearinghouse for advisory action to the city council; and
- (b) It shall not encroach upon any area preempted by state or federal law; and

- (c) It shall forward all of its findings and recommendations to the city manager and the city council prior to public release.

2.79-4 Composition of members.

- (a) The initial composition of the commission shall consist of one member being appointed by each councilmember and their term lengths will be staggered as follows: one member will serve one three-year term; two members will serve one year and then be eligible for one additional three-year term; and the remaining two members will serve two years and then be eligible for one additional three-year term. Future appointments will be made by the mayor pursuant to SPMC 2.23 (Composition, appointment and removal of members).
- (b) All members shall have an expressed interest in and knowledge of public works projects, methods and procedures. The city shall make a concerted effort to recruit at least one registered civil engineer with an active license, and professionals with expertise in other areas such as utilities, structural engineering, architecture, landscape architecture, stormwater, contracting or construction, construction law, or construction management and inspection.

2.79-5 Meetings.

The Public Works Commission shall hold up to one regular meeting every other month. The chair may call for a special meeting if needed with concurrence of the commission."

SECTION 3. SEVERABILITY. If any provision, section, paragraph, sentence or word of this ordinance, or the application thereof to any person or circumstance, is rendered or declared invalid by any court of competent jurisdiction, the remaining provisions, sections, paragraphs, sentences or words of this ordinance, and their application to other persons or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

SECTION 4. CEQA. This ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to 14 Cal. Code Regs. Section 15378(b)(5) as an agency organizational or administrative activity that produces no physical changes to the environment.

SECTION 5. EFFECTIVE DATE. This ordinance shall take effect thirty days after its passage and adoption pursuant to California Government Code Section 36937.

SECTION 6. This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED, AND ADOPTED this 19th day of February, 2020.

Robert S. Joe, Mayor

ATTEST:

APPROVED AS TO FORM:

Evelyn G. Zneimer, City Clerk
(seal)

Teresa L. Highsmith, City Attorney

Date: _____

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I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 19th day of February, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Evelyn G. Zneimer, City Clerk
(seal)



City Council Agenda Report

ITEM NO. 13

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *Ac*

PREPARED BY: Lucy Demirjian, Management Services Director

SUBJECT: **Second Reading and Adoption of an Ordinance Designating A City Council Election District Map as Required by the Elections Code**

Recommendation

It is recommended that the City Council read by title only for second reading, waving further reading, and adopt an ordinance designating a City Council Election District Map under Elections Code Sections 21600-21609.

Background

Every ten years, cities with by-district election systems must use new census data to review and, if needed, redraw district lines to reflect how local populations have changed. This process, called redistricting, ensures all districts have nearly equal population. The redistricting process for the City of South Pasadena must be completed by April 17, 2022.

The City adopted its current district boundaries on October 4, 2017 (Ordinance No. 2318), changing from at-large to district-based elections with respect to electing members of the City Council. The City Council adopted a final District Elections map comprised of five districts. The districts must now be redrawn using the 2020 census data and in compliance with the FAIR MAPS Act, which was adopted by the California legislature as AB 849 and took effect January 1, 2020.

Under the Act, the district boundaries adopted by the City Council shall comply with following criteria in the listed order of priority (Elections Code 21601(c) for general law cities / 21621(c) for charter cities):

1. Substantially equal in population;
2. Geographically contiguous;
3. Undivided neighborhoods and "communities of interest;"
4. Easily identifiable boundaries; and
5. Compact (do not bypass one group of people to get to a more distant group of people)

More importantly, the adopted maps cannot favor or discriminate against a political party, incumbent, or political candidate.

Once the prioritized criteria are met, other traditional districting principles can be considered, such as:

1. Minimize the number of voters delayed from voting in 2022 to 2024;
2. Respect voters' choices / continuity in office; and
3. Future population growth.

As required by law, the City held four public hearings and two public workshops for community members to provide input on the drawing of district maps.

Community Outreach

The City commenced the redistricting process in September 2021 with the assistance of a demographer, National Demographics Corporation (NDC), and communications consultant, Tripepi Smith. The City has conducted comprehensive outreach to engage community stakeholders. Efforts to date include:

- Dedicated webpage on redistricting with information on the process, schedule, and mapping tools.
- Social media, phone and email outreach promoting educational material on redistricting, including press releases, flyers and videos.
- Direct contact with community-based organizations via phone to inform them of the redistricting process and how to get involved.
- October 28, 2021 virtual community workshop about redistricting and communities of interest. Recording made available on the City website.
- Public Hearings held November 17, 2021 and January 19, 2022 to gather public input on neighborhoods and communities of interest.
- Community survey encouraging residents to share their communities of interest through the City's redistricting website.
- Mailer sent to all South Pasadena residents on January 14, 2022 with information on the redistricting process and schedule.
- January 31, 2022 virtual community workshop to review redistricting process, gather input on neighborhoods and communities of interest, and demonstrate the various mapping tools. Recording is available on the City website.
- Public Hearing held March 2, 2022 to review draft maps and receive input on district boundaries.
- Public Hearing held March 16, 2022 to review draft maps and select new district boundaries.

On November 17, 2021, the City Council held its first public meeting to receive a report on the redistricting process and permissible criteria to be considered to redraw district boundaries. Public input on communities of interest was also gathered during the meeting, as well as an introduction to the City's redistricting website. Following the first public hearing, the City launched a survey asking residents to identify their communities of interest, which are communities that should remain intact in the redistricting process. Survey results and comments received throughout the process were posted to the City's redistricting website. Online and paper mapping tools were made available for residents to draw their own maps for City Council to consider for adoption. Informational mailers

were sent to residents early January to provide a brief explanation of the process, availability of mapping tools, and upcoming public meeting dates.

On January 19, 2022, the City Council conducted a second public hearing to seek additional public input on communities of interest, the composition of maps, and to review the available public mapping tools. Following that hearing, a virtual community workshop was held on January 31, 2022 to demonstrate the various public mapping tools to the public.

On March 2, 2022, the City Council conducted a third public hearing to receive public input on district boundaries. NDC presented draft maps, received by the February 18, 2022 deadline, and reviewed criteria, such as population balance and geographical contiguity. After receiving public input, Council provided direction to eliminate Maps 102, 104, 106 and 108 (Blue) from consideration. Additional direction was provided on the balance of the maps.

On March 16, 2022, the City Council conducted a fourth public hearing to receive public input on district boundaries and select a final map. NDC presented draft maps, including modified maps per Council direction and those submitted by the March 7 deadline. Maps 101, 103a, 105a, 107, 109, Green and Teal were considered. After receiving public input and council deliberation; the City Council voted 3-2 to select map 105a. The Council then voted 4-1 to introduce for first reading an ordinance, as amended, adopting the new district boundaries as map 105a.

The final map is posted to the City's website (www.southpasadenaca.gov/redistricting) and available at City Hall in the Office of the City Clerk.

Fiscal Impact

The FY 2021-22 Budget includes funding for the demographic consultant, outreach and meeting facilitation services, and translation services in the Elections Account 101-1020-1022-8170.

Next Steps

The City Council is required to adopt new district boundaries before the April 17, 2022 deadline. Upon second reading and adoption of the ordinance ratifying the new boundaries, staff will notify the Los Angeles County Registrar/Recorder's Office of the new district boundaries. The adopted district map will be in effect for the next regular municipal election in November 2022.

Attachment: Ordinance Designating City Council Election District Map

Attachment 1

Ordinance Designating City Council Election District Map

CITY OF SOUTH PASADENA

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, ADOPTING A CITY COUNCIL ELECTION DISTRICT MAP UNDER ELECTIONS CODE SECTIONS 21600–21609

WHEREAS, the City of South Pasadena transitioned from at-large to by-district elections in October 2017;

WHEREAS, the City is required to adopt new district boundaries after each federal decennial census pursuant to a process called “redistricting” under Elections Code sections 21600–21609;

WHEREAS, pursuant to Elections Code section 21607.1, subdivisions (a)–(b), before the election district maps were drawn, the City Council held two public hearings on November 17, 2021 and January 19, 2022, to solicit feedback regarding communities of interest;

WHEREAS, pursuant to Elections Code section 21607.1, subdivisions (a)–(b), after the election district maps were drawn, the City Council held two public hearings on March 2, 2022 and March 16, 2022, to evaluate the draft maps;

WHEREAS, pursuant to Elections Code section 21608, subdivision (a), the City took steps to encourage residents to participate in the redistricting public review process by making redistricting data and computer software accessible to members of the public for the purposes of drawing draft maps and providing training on that software;

WHEREAS, pursuant to Elections Code section 21608, subdivision (a), the City took additional steps to encourage residents to participate in the redistricting public review process by contacting community-based organizations, hosting virtual community workshops, mailing flyers to all residents of the City, and publishing notices and flyers through the City’s website and social media platforms;

WHEREAS, pursuant to Elections Code section 21608, subdivision (a), the City took steps to encourage underrepresented communities and non-English speaking communities to participate in the redistricting public review process by translating the web page material into Spanish, Chinese, and Korean and making a live translator available upon request;

WHEREAS, pursuant to Elections Code section 21608, subdivision (d)(2), the City contracted with National Demographics Corporation for demographic consulting

services which produced two draft maps that included information regarding total population, citizen voting age population, and racial and ethnic characteristics of the citizen voting age population of each proposed council district;

WHEREAS, pursuant to Elections Code section 21608, subdivision (e), the public was able to submit testimony and draft maps in writing and electronically, and submitted a total of nine draft maps;

WHEREAS, the demographer revised two of the publicly submitted maps for further consideration;

WHEREAS, pursuant to Elections Code section 21608, subdivisions (f)–(g), the City created <https://www.southpasadenaca.gov/government/redistricting>, a web page for the redistricting process which includes or links to the following information: (1) a general explanation of the redistricting process for the City in English, Spanish, Chinese, and Korean; (2) the procedure for a member of the public to testify during a public hearing or to submit written testimony; (3) a calendar of all public hearings and workshop dates; (4) the notice and agenda for each public hearing and workshop; (5) the recording or written summary of each public hearing and workshop; (6) each draft map considered by the City Council at the public hearing; and (7) the adopted final map of council district boundaries;

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

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Ordinance by this reference.

SECTION 2. Redistricting Map. Commencing with the City's next regular election in 2022, the map included as Attachment A shall serve as the new City Council election district map.

SECTION 3. District Boundaries. The City Clerk is directed to request the demographer provide a list of the census tracts and/or blocks for each district and to attach that list to this Ordinance as Attachment B.

SECTION 4. Controlling Authority. If there is a discrepancy between the adopted map in Attachment A and the list in Attachment B, the adopted map in Attachment A shall control.

SECTION 5. Web Page Maintenance. The City Clerk is directed to maintain the web page dedicated to redistricting listed above for a period of 10 years from the date of this Ordinance pursuant to Elections Code section 21608, subdivision (g).

SECTION 6. Transmittal to County. The City Clerk is directed to provide a signed original of this Ordinance to the Elections Division of the Los Angeles County Registrar-Recorder.

SECTION 7. Effective Date. This Ordinance shall take effect immediately upon its adoption pursuant to California Government Code Section 36937, subdivision (a).

SECTION 8. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The City hereby declares that it would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

SECTION 9. Certification and Publication. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED AND ADOPTED by the City Council of the City of South Pasadena, State of California, on this 6th day of April, 2022, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael A. Cacciotti, Mayor

ATTEST:

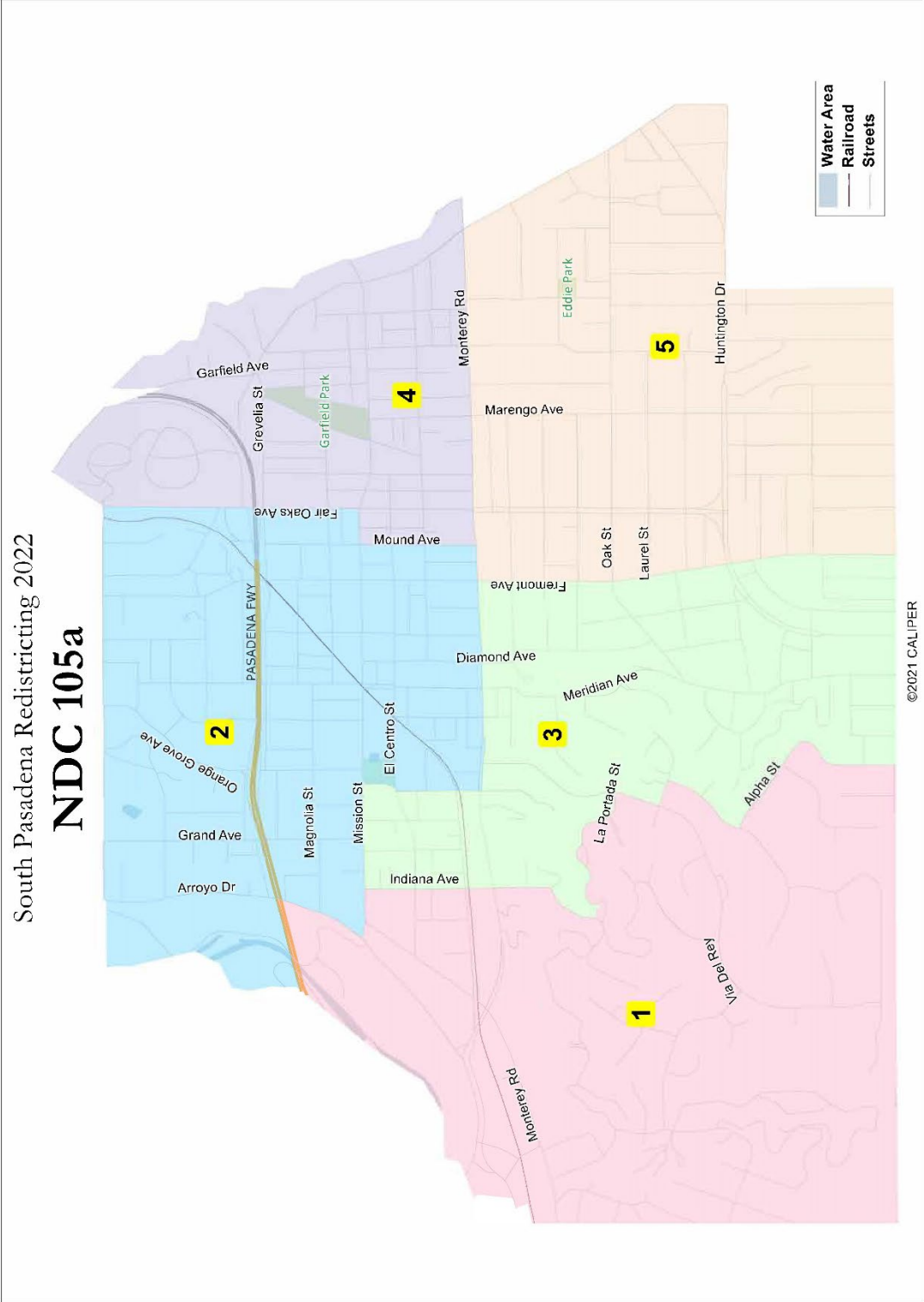
APPROVED AS TO FORM:

Christina Muñoz, Deputy City Clerk

Andrew L. Jared, City Attorney

ATTACHMENT A

District Map



ATTACHMENT B
Census Blocks by District

DISTRICT 1

060374806023006
060374806023007
060374806023010
060374806023011
060374806023012
060374806023020
060374807021000
060374807021001
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DISTRICT 2

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City Council Agenda Report

ITEM NO. 14

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *Ac*

PREPARED BY: Brian Solinsky, Chief of Police
Tom Jacobs, Lieutenant

SUBJECT: **Second Reading and Adoption of an Ordinance Adding Chapter 20F "Safe Storage of Firearms in Residences" to the South Pasadena Municipal Code**

Recommendation

It is recommended that the City Council read by title only, waiving further reading, and adopt an ordinance to add Chapter 20F "Safe Storage of Firearms in Residences" to the South Pasadena Municipal Code (SPMC).

Background

The attached ordinance proposes to address several limitations on laws related to firearms storage. The proposed implementation of a Safe Firearm Storage Ordinance was initially brought to the City Council for consideration by Moms Demand Action for Gun Sense in America, a non-partisan grassroots organization aiming to reduce gun violence and improve gun safety.

There are several state and federal laws regulating the storage of and access to firearms. These laws are aimed primarily at reasonably preventing access to firearms by children and others not legally permitted to possess a firearm. State law prohibits a person to keep a firearm in a premises under the person's custody or control where the person knows, or should know, that a child is likely to gain access to the firearm, unless reasonable action is taken by the person to secure the firearm against access by the child. (CA Penal Code section 25100(c)). Violation of such requirement can be punished as a misdemeanor. Violations can be punishable as a felony by up to three years in prison if the improperly stored firearm is used to cause death or great bodily injury. (CA Penal Code section 25100(c)).

Current California law also requires that a firearm safety device be sold with firearms unless the buyer provides proof they own a gun safe. (CA Penal Code section 23635). Federal law also requires that gun dealers provide a secure gun storage or safety device with the transfer of every handgun. (18 USC 921(z)(1)). Neither law however requires the purchaser to actually use the device. Additional concern amongst some

advocacy groups is that the California firearm storage law only applies to homes where children live or where “a child is likely to gain access to the firearm.” (CA Penal Code section 25100).

Analysis

The Safe Storage of Firearms Ordinance requires all firearms in residences to be securely stored in a Department of Justice (DOJ) approved locked container or disabled with a DOJ-approved firearm safety device, unless being carried on the person or within the immediate control of the owner/authorized user. The ordinance defines a “locked container” as a secured container on the DOJ list of approved storage devices. A locking device is any device on the DOJ list of approved devices that when applied to the firearm, renders the firearm inoperable.

There are currently 2,103 storage and safety devices on the Department of Justice approved safe gun storage list. (<https://oag.ca.gov/firearms/certified-safety-devices/search>). Storage devices can be purchased for under \$10, and trigger locks are often distributed for free at police stations. In May 2021, the South Pasadena Police Department offered these free locking devices to firearm owners upon request.

The locking requirements under the Safe Storage of Firearms Ordinance apply only to firearms that are not being carried on the person or in the person’s immediate control. Therefore, firearm owners may carry loaded and unlocked firearms in the home at any time if kept in the owner/authorized user’s immediate control. The safe storage requirements allow owners to store firearms loaded if they choose.

On September 13, 2021, the Public Safety Commission (PSC) recommended the term “person’s immediate control” be defined by adding the term “within arms-reach.” The PSC determined that immediate control was open to interpretation by the homeowner. The arms-reach clarified standards is based on Fourth Amendment search procedures used by law enforcement where a safety search for weapons can be conducted of a suspect’s arms-reach area where a weapon may be hidden. The PSC believed this term clarified the obligation over control of the weapon.

The City Attorney has reviewed the proposed ordinance and provided amendments to strengthen enforcement and address clarity as to control over the firearm. Further, the ordinance has been amended to clarify the locking devices are those specified under the Department of Justice safety device list. The amendment also changes the term “trigger lock” for “locking device” to allow those devices on the DOJ-approved list that do not involve the trigger to be used, such as a cable lock or chamber lock.

Comparable Ordinances

At least 37 cities across California have enacted similar ordinances imposing storage requirements when the firearm is in a residence regardless of the presence of a child or other person not legally able to possess a gun. Los Angeles, Cudahy, Culver City and San Marino are the closest in proximity. Staff contacted 16 of the cities that adopted the

ordinance. Of those cities contacted, representatives indicated the ordinances are used as an educational tool and the California Penal Code is used for prosecution.

It was also noted by the PSC that a safe storage ordinance had been upheld by the 9th Circuit Court of Appeal (*Jackson v. City and County of San Francisco* (2014) 746 F.3D 953, 965). Two provisions of the San Francisco ordinance were challenged, the specific challenge that required a firearm to be stored in a locked container or secured with a locking device as a provision concerning the sales of ammunition. The Ninth Circuit held that neither of provisions in the ordinance was an impermissible infringement of the Second Amendment. The ordinance allowed persons to possess firearms in their homes secured when not under their control. The United States Supreme Court chose not to hear the case in 2015.

As to the storage requirement, the court held that San Francisco had shown that the requirement that a person store firearms in a locked storage container or with a trigger lock when not carried on the person is substantially related to the important government interest of reducing firearm-related deaths and injuries. Testimony before the PSC echoed those same concerns. San Francisco had shown an important government interest of preventing firearms from being stolen and reducing the number of hand-gun related suicides and deadly domestic violence incidents. The court further held that such storage requirements does not substantially prevent law-abiding citizens from using firearms to defend themselves, but merely regulates how residence must store their handguns when not carrying them on their persons. Such regulation was held to still allow a handgun to be readily accessed in the case of an emergency, and still allowed residents to defend their home by carrying firearms on their person.

Important Government Interests

According to the Gun Violence Archive data, gun violence killed nearly 20,000 Americans in 2020, more than any other year in at least two decades. Suicides account for 6 out of 10 firearm-related deaths. An additional 24,000 people died by suicide and accidental deaths by firearms. Last year, the United States saw the highest one-year increase in homicides within the country's largest cities, including the City of Los Angeles. During that period, the City of Los Angeles suffered a 30 percent spike in shooting deaths. For non-fatal shootings, the numbers are significantly higher. According to the Brady Institute, approximately 114,000 people are shot each year in the U.S. Of those, almost 8,000 are 17 years old or younger.

Firearm purchases in 2020 soared with a record-setting number. According to the Federal Bureau of Investigation, people purchased about 23 million guns in 2020, which signifies a 64 percent increase over 2019 sales. The compounded effects of the COVID-19 pandemic hampered anti-crime efforts, and the consequent shutdowns and stay-at-home orders led to a significant rise in unemployment and homicide rates. According to a Washington Post analysis of gun sales in 2021, gun purchases skyrocketed almost

Ordinance Regarding Safe Storage of Firearms in Residences

April 6, 2022

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80% in January (Denham & Tran, 2021¹). The effort to reduce the spread of COVID-19 led to food shortages, millions of lost jobs, and empty streets. Additionally, amid waves of civil unrest across the country, a significant increase in firearms sales occurred in the weeks after massive protests throughout the nation. According to the National Shooting Sports Foundation, the flood of gun sales recorded in 2020 included more than 8 million first-time buyers.

According to data obtained in 2021 by the Gun Violence Archive, nearly 300 children were shot and killed in 2020, a 50 percent increase from the previous year. More than 5,100 kids and teens 17 and younger were killed or injured last year – an increase that is particularly alarming because it occurred in a year when most children were not attending class in person. Experts believe this points to the severity of teen suicide and domestic violence.

Given these risks, and the limitations on state and federal laws concerning storage of firearms, the attached ordinance is presented to address these issues within the City of South Pasadena.

Enforcement

A City ordinance may be enforced criminally as provided in SPMC Chapter 1 – General Provisions, Section 1.7 – General penalty; continuing violations:

Whenever in this code or in any other ordinance of the city, any act is prohibited or is made or declared to be unlawful or an offense, or the doing of any acts is required or the failure to do any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided for, the violation of any such provision of this code or any other ordinance of the city shall be punished by a fine not exceeding one thousand dollars or imprisonment for a term not exceeding six months, or by both such fine and imprisonment.

Every day any violation of this code or any other ordinance of the city shall continue shall constitute a separate offense (Ord. No. 1983, § 1).

A representative from the Alhambra District Attorney's Office indicated that the filing of criminal charges based on the municipal code would be reviewed on a case-by-case basis. Administrative citations, misdemeanor citations, and civil enforcement would be filed by the City Prosecutor.

¹ <https://www.washingtonpost.com/business/2021/02/03/gun-sales-january-background-checks/>

Recommendations from City Council Meeting of March 16, 2022

During the City Council meeting held on March 16, 2022, the ordinance was introduced as-amended, with the following additions:

In section 20F-1.1, language was added to clarify that the intent of the City Council is not to impose storage restrictions on model rocketry engines, as the state law defining firearms mentions rocket propelled projectiles. Moreover, language was added to clarify that the storage requirement does not extend to BB, pellet or paint guns. The ordinance was introduced as-amended with the following language added to section 20F-1.1:

“Notwithstanding the foregoing, rockets and rocket-propelled projectile launchers not intended for use as a weapon are not subject to this Chapter. A BB, pellet, or paint gun is not considered a firearm.”

In section 20F-1.3 language was also added to clarify that the restriction includes temporary structures. The word “tents,” was inserted after “timeshares,” and the ordinance was introduced as-amended with the following language added to section 20F-1.3 to read as follows:

“Residence means any structure intended or used for human habitation, including, but not limited to, houses, condominiums, apartments, rooms, accessory dwelling units, motels, hotels, single room occupancies, time-shares, tents, and recreational and other vehicles where human habitation occurs.”

The ordinance attached reflects the changes discussed at the March 16, 2022 City Council meeting where the first reading of the ordinance occurred.

Fiscal Impact

The costs associated with community education, outreach, or prosecution under this ordinance would be absorbed through the police department’s existing outreach plan consisting of the Public Safety Commission, social media, neighborhood watch, and community groups.

Commission Review and Recommendation

This matter was reviewed by the Public Safety Commission. The Commission unanimously recommends that the City Council approve the ordinance.

Attachments:

1. Ordinance SPMC Chapter 20F
2. California Penal Codes 25100 and 23635

Resources:

Moms Demand Action for Gun Sense in America <https://momsdemandaction.org/>
Gun Violence Archive <https://www.gunviolencearchive.org/>

ATTACHMENT 1
City Ordinance Chapter 20F
“Safe Storage of Firearms in Residences”

**CITY OF SOUTH PASADENA
ORDINANCE NO. _____**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, ADDING CHAPTER 20F “SAFE STORAGE OF FIREARMS IN RESIDENCES” TO THE SOUTH PASADENA MUNICIPAL CODE

WHEREAS, firearm injuries have a significant public health impact both nationally and locally; and

WHEREAS, the Gun Violence Archive data indicates that in 2020, more than 20,000 people persons died from firearm-related injuries in the United States; and

WHEREAS, in 2020, firearms were used in 24,000 suicides or accidental deaths in the United States; and

WHEREAS, in 2020, the United States saw the highest one-year increase in homicides; and

WHEREAS, having a loaded or an unlocked firearm in the home is associated with an increased risk of gun-related injury and death; and

WHEREAS, while children are particularly at risk of injury and death, or causing injury and death, when they can access firearms in their own homes or homes that they visit, injury and death can occur whenever a firearm is kept unlocked or outside of an unlocked storage container; and

WHEREAS, more than two-thirds of school shooters obtain their guns from their own home or that of a relative; and

WHEREAS, research shows that while most mass shootings involve handguns, shootings involving rifles contribute to higher casualty counts; and

WHEREAS, hundreds of thousands of firearms are stolen from homes and vehicles of legal gun owners each year and flow into the underground market; and

WHEREAS, applying trigger locks or using lockboxes when storing firearms in the home reduces the risk of firearm injury and death and is associated with a reduction of unintentional firearm deaths and decreases in suicides among children and teens; and

WHEREAS, the California Penal Code 25100 (2010) address the issue of criminal storage of a firearm regarding children in the home, it does not apply to all homes; and

WHEREAS, keeping a firearm locked or stored in a locked container when it is not being carried prevents unauthorized users, including children, from accessing and using firearms, which can reduce tragedies due to suicide, unintentional discharges, and firearm theft; and

WHEREAS, safe storage measures have a demonstrated protective effect in homes with children and teenagers where firearms are stored; and

WHEREAS, there is a broad consensus among medical professionals, gun control advocates, and gun rights groups that applying trigger locks or using lockboxes to store unsupervised firearms in the home promotes health and safety; and

WHEREAS, the American Academy of Pediatrics recommends that, if families must have firearms in their homes, the firearms should be stored locked, unloaded, and separate from locked ammunition; and

WHEREAS, requiring firearms to be stored in a locked container, with trigger locks or with a locking device does not substantially burden the right or ability to use firearms for self-defense in the home; and

WHEREAS, the locking requirements apply only to firearms that are not being lawfully carried and allow gun owners and adults over 18 years of age to carry loaded and unlocked firearms in the home at any time; and

WHEREAS, firearms can be safely stored in and quickly accessed from affordable, widely available lockboxes, including those with easily operable combination devices or biometric locks; and

WHEREAS, portable lock boxes can store loaded firearms such that they are within easy reach in closets, under the bed, or on tables or nightstands.

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

SECTION 1. Chapter 20F Safe Storage of Firearms in Residences is added to the South Pasadena Municipal Code in its entirety to read as follows:

Chapter 20F Safe Storage of Firearms in Residences

20F-1. Definitions.

1. Firearm means a firearm as defined in California Penal Code, Section 16520, as amended from time to time. Notwithstanding the foregoing, rockets and rocket-propelled projectile launchers not intended for use as a weapon are not subject to this Chapter. A BB, pellet, or paint gun is not considered a firearm.
2. Locked container means a secure container that is fully enclosed and locked that is listed on the California Department of Justice's roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code Section 23655(d).
3. Residence means any structure intended or used for human habitation, including, but not limited to, houses, condominiums, apartments, rooms, accessory dwelling units, motels, hotels, single room occupancies, time-shares, tents, and recreational and other vehicles where human habitation occurs.
4. Locking device means a locking device that is listed on the California Department of Justice's roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm or to the physical characteristics of the firearm that match those listed on the roster for use with the device under Penal Code Section 23655(d).

20F-2 Prohibition. No person shall keep a firearm within a residence unless the firearm is:

1. Stored in a locked container or disabled with a locking device that has been approved by the California Department of Justice; or
2. Carried on the person of the owner, or other lawfully authorized user of the firearm who is over the age of 18, in a manner to allow such person to retrieve and control the use of the firearm, in accordance with all applicable laws; or

3. Within arms-reach proximity of the owner, or other lawfully authorized user of the firearm who is over the age of 18, to allow such person to readily retrieve and physically control the use of the firearm, as if carried on the person. Arms-reach refers to the area of physical control an individual has over the firearm from a standing, or seated position without moving from such position.
4. An exemption for this section shall apply if the firearm owner is a peace officer or a member of the Armed Forces or the National Guard using the firearm during, or incidental to, the performance of the person's official duties.

20F-3 Penalty. Every violation of this Section shall constitute a misdemeanor and upon conviction shall be punished by a fine not to exceed \$1,000 or by imprisonment in the county jail not to exceed six months, or by both.

20F-4 Severability. If any provision of this Section is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this Section which can be implemented without the invalid provisions, and to this end, the provisions of this Section are declared to be severable. The City Council hereby declares that it would have adopted this Section and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional, or otherwise unenforceable.

SECTION 2. CEQA. The City Council hereby finds that the proposed Code amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines § 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

SECTION 3. Effective Date. This ordinance shall take effect thirty (30) days after its final passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED AND ADOPTED ON this 6th day of April, 2022.

AYES:

NOES:

ABSENT:

ABSTAIN:

Michael A. Cacciotti, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina A. Muñoz
Deputy City Clerk

Andrew L. Jared, City Attorney

ATTACHMENT 2
California Penal Codes 25100 and 23635


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PART 6. CONTROL OF DEADLY WEAPONS [16000 - 34370] (Part 6 added by Stats. 2010, Ch. 711, Sec. 6.)

TITLE 4. FIREARMS [23500 - 34370] (Title 4 added by Stats. 2010, Ch. 711, Sec. 6.)

DIVISION 4. STORAGE OF FIREARMS [25000 - 25225] (Division 4 added by Stats. 2010, Ch. 711, Sec. 6.)

CHAPTER 2. Criminal Storage of Firearm [25100 - 25140] (Chapter 2 added by Stats. 2010, Ch. 711, Sec. 6.)

25100. (a) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the first degree" if all of the following conditions are satisfied:

(1) The person keeps any firearm within any premises that are under the person's custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.

(3) The child obtains access to the firearm and thereby causes death or great bodily injury to the child or any other person, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes death or great bodily injury to themselves or any other person.

(b) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the second degree" if all of the following conditions are satisfied:

(1) The person keeps any firearm within any premises that are under the person's custody or control.

(2) The person knows or reasonably should know that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, or that a person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law is likely to gain access to the firearm.

(3) The child obtains access to the firearm and thereby causes injury, other than great bodily injury, to the child or any other person, or carries the firearm either to a public place or in violation of Section 417, or the person prohibited from possessing a firearm or deadly weapon pursuant to state or federal law obtains access to the firearm and thereby causes injury, other than great bodily injury, to themselves or any other person, or carries the firearm either to a public place or in violation of Section 417.

(c) Except as provided in Section 25105, a person commits the crime of "criminal storage of a firearm in the third degree" if the person keeps any firearm within any premises that are under the person's custody or control and negligently stores or leaves a firearm in a location where the person knows, or reasonably should know, that a child is likely to gain access to the firearm without the permission of the child's parent or legal guardian, unless reasonable action is taken by the person to secure the firearm against access by the child.

(Amended by Stats. 2019, Ch. 840, Sec. 6. (SB 172) Effective January 1, 2020.)

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)

23630. (a) This division does not apply to the commerce of any antique firearm.

(b) (1) This division does not apply to the commerce of any firearm intended to be used by a salaried, full-time peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, for purposes of law enforcement.

(2) Nothing in this division precludes a local government, local agency, or state law enforcement agency from requiring its peace officers to store their firearms in gun safes or attach firearm safety devices to those firearms.

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)

23635. (a) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall include or be accompanied by a firearm safety device that is listed on the Department of Justice's roster of approved firearm safety devices and that is identified as appropriate for that firearm by reference to either the manufacturer and model of the firearm, or to the physical characteristics of the firearm that match those listed on the roster for use with the device.

(b) The sale or transfer of a firearm shall be exempt from subdivision (a) if both of the following apply:

(1) The purchaser or transferee owns a gun safe that meets the standards set forth in Section 23650. Gun safes shall not be required to be tested, and therefore may meet the standards without appearing on the Department of Justice roster.

(2) The purchaser or transferee presents an original receipt for purchase of the gun safe, or other proof of purchase or ownership of the gun safe as authorized by the Attorney General, to the firearms dealer. The dealer shall maintain a copy of this receipt or proof of purchase with the dealer's record of sales of firearms.

(c) The sale or transfer of a firearm shall be exempt from subdivision (a) if all of the following apply:

(1) The purchaser or transferee purchases an approved safety device no more than 30 days prior to the day the purchaser or transferee takes possession of the firearm.

(2) The purchaser or transferee presents the approved safety device to the firearms dealer when picking up the firearm.

(3) The purchaser or transferee presents an original receipt to the firearms dealer, which shows the date of purchase, the name, and the model number of the safety device.

(4) The firearms dealer verifies that the requirements in paragraphs (1) to (3), inclusive, have been satisfied.

(5) The firearms dealer maintains a copy of the receipt along with the dealer's record of sales of firearms.

(d) (1) Any long-gun safe commercially sold or transferred in this state, or manufactured in this state for sale in this state, that does not meet the standards for gun safes adopted pursuant to Section 23650 shall be accompanied by the following warning:

"WARNING: This gun safe does not meet the safety standards for gun safes specified in California Penal Code Section 23650. It does not satisfy the requirements of Penal Code Section 23635, which mandates that all firearms sold in California be accompanied by a firearm safety device or proof of ownership, as required by law, of a gun safe that meets the Section 23650 minimum safety standards developed by the California Attorney General."

(2) This warning shall be conspicuously displayed in its entirety on the principal display panel of the gun safe's package, on any descriptive materials that accompany the gun safe, and on a label affixed to the front of the gun safe.

(3) This warning shall be displayed in both English and Spanish, in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package or descriptive materials, in a manner consistent with Part 1500.121 of Title 16 of the Code of Federal Regulations, or successor regulations thereto.

(e) Any firearm sold or transferred in this state by a licensed firearms dealer, including a private transfer through a dealer, and any firearm manufactured in this state, shall be accompanied by warning language or a label as described in Section 23640.

(Added by Stats. 2010, Ch. 711, Sec. 6. (SB 1080) Effective January 1, 2011. Operative January 1, 2012, by Sec. 10 of Ch. 711.)



City Council Agenda Report

ITEM NO. 15

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Brian Solinsky, Chief of Police
Gilbert Carrillo, Police Corporal

SUBJECT: **Authorize the Purchase of Mobile Data Computers with CODE 3 Technologies, for a Not-to-Exceed Amount of \$63,920.20 from the Urban Area Security Initiative Grant**

Recommendation

It is recommended that the City Council:

1. Authorize the purchase of Mobile Data Computers (MDCs) with CODE 3 Technologies Inc., in the amount of \$63,920.20; and
2. Authorize the City Manager or designee to execute all necessary documents.

Background

In April 2021, the South Pasadena Police Department was awarded \$62,680 as part of the United States Department of Homeland Security and Federal Emergency Management Agency's Urban Areas Security Initiative (UASI) 2020 grant. Funds are awarded to purchase equipment that supports regional homeland security goals. The Police Department requested to purchase Mobile Data Computers (MDCs), and UASI approved \$62,680 in grant funding. No cash or in-kind match is required for this grant, which terminates on May 31, 2023. Subsequently, the City Council accepted the grant and authorized the City Manager or designee to execute the agreement and related documents of the grant to purchase the equipment at the October 20, 2021 City Council Meeting.

MDCs are vehicle-mounted computers built rugged to provide mobility and hazard protection that consumer-grade laptops cannot. MDCs come vehicle-ready with built-in GPS and antenna pass-through connecting to the vehicle dock providing high-speed internet connection and location accuracy. MDCs provide law enforcement officers a wide array of information sharing capabilities such as the ability to access, send and receive sensitive information to and from the FBI Criminal Justice Information Services (CJIS) database, the National Crime Information Center (NCIC) database, access local want and warrant databases, criminal histories, firearm registration databases, missing person databases, and multi-state Department of Motor Vehicle databases, among many others. These databases are critical in the effort to identify domestic and

international terrorists and persons listed on the FBI watch list, career criminals, missing persons, and those restricted from owning or possessing firearms. The Police Department does not currently have any operational MDCs. The purchase of MDCs will allow officers to conduct thorough investigations in the field, rapidly identify persons wanted locally and federally, and communicate vital information to allied agencies.

Analysis

The South Pasadena Police Department is currently implementing a new Computer Aided Dispatch and Records Management Software (CAD/RMS) that expands greatly on what the previous CAD/RMS can perform. In order to fully take advantage of this new software, it is recommended that the Department outfit the fleet of police vehicles with MDCs, as the Department does not currently have any operational MDCs.

Currently, officers rely solely on radio communications between officers and dispatchers, which can hinder communication during critical incidents, leading to ineffective policing in this modern age. The Police Department recommends that 10 MDCs be purchased using the funds from the 2020 UASI grant and the balance from the Police Department general fund. The Police Department currently has eight operational frontline patrol vehicles.

The South Pasadena Police Department received three bids after publishing a notice inviting bids for 10 MDCs with a specific set of requirements in compliance with SPMC 2.99-29(11) Formal Contract Procedure, Purchases Greater Than Twenty-Five Thousand Dollars.

The lowest responsible vendor that met the specifications outlined in the Request for Proposals, CODE 3 Technologies, is a full-spectrum public safety consulting firm and technology provider for day-to-day emergency response operations. CODE 3 was founded by professionals with backgrounds in Law Enforcement, Military, and Construction. The firm understands work conducted in rugged environments and the importance of having dependable technology in the field.

CODE 3 Technologies received high recommendations from several Southern California law enforcement agencies, including the Fontana, Huntington Beach, and Palm Springs Police Departments. All three departments praised CODE 3's customer service, competitive pricing, and attention to detail. CODE 3's South Pasadena Police Department quote came in at \$63,920.20, and includes installation of 10 Getac K120 MDCs and 10 additional keyboards that will remain in the vehicles. Additional keyboards are necessary to reduce the wear and tear on the MDCs. The MDCs the Department is proposing to purchase have removable screens that double as a tablet, adding to the usability in the field. For example, tablets can be used to capture signatures, reducing the use of paper citations and other police forms, leading to a decrease of environmental paper waste. Reducing paper usage would propel the Department forward in to the modern age of digital storage, making it safer to store sensitive information and comply with the Department of Justice's regulations.

Police Department Mobile Data Computer Purchase Using Grant Funds

April 6, 2022

Page 3 of 3

Fiscal Impact

The City of South Pasadena was awarded a \$62,680 grant award from UASI 2020 for the purchase and installation of ten (10) Mobile Data Computers. The award was formally accepted by the City Council at the October 20, 2021 regular meeting. The UASI grant sets forth procedures that must be followed for the purchase of the MDCs for the grant to be reimbursed. The funding is provided approximately 1-2 months after documentation outlining the purchase procedure is submitted to the City of Los Angeles Mayor's Office. No local matching funds are required for the grant.

The UASI grant award of \$62,680 has been appropriated to account 274-4010-4019-8520-000 for a portion of the Mobile Data Computers purchase and installation. An additional \$3,000 from the Police Department's Professional Services account 101-4010-4011-8170 will be transferred into account 101-4010-4011-8520-000 Machinery and Equipment, to cover the remaining cost. The bidding and purchasing process undertaken for this project complies with South Pasadena Municipal Code 2.99-29 Purchasing System subsection (11) - Formal Contract Procedure, Purchases Greater Than Twenty-Five Thousand Dollars.

Commission Review and Recommendation

On May 13, 2020, the Public Safety Commission (PSC) reviewed the purchase of a new CAD/RMS software during their regularly scheduled meeting. The PSC unanimously supported the purchase of a new CAD and RMS software. The purchase of MDCs is a continuation and considered the next phase of implementation of the CAD/RMS software. The MDCs are needed to run the CAD/RMS software in the patrol vehicles.

Attachment: Price Quote from CODE 3 Technologies Inc.

ATTACHMENT 1

Price Quote from CODE 3 Technologies in the
amount of \$63,920.20



PROPOSAL

Date: 2/24/2022

QUOTE: 21-246

South Pasadena RFP: 2022-01PD

City Clerk
 City of South Pasadena
 1414 Mission Street
 South Pasadena, CA 91030
 626-403-7231

Customer ID: SPPDCA001

Salesperson	Project	Payment Terms	Contract#	
Clay Jeppsen	Getac K120 – Tablet Mode	Net 30		
Part#	Description	Qty	Unit Price	
KP27T4VAACXF	120 G2 - Intel Core i5-1135G7 Processor, W/Windows Hello Webcam, Microsoft Windows 10 Pro x64 with 16GB RAM, 256GB PCIe SSD, Sunlight Readable Full HD LCD + Touchscreen + Rear Camera + Hard Tip stylus, US Red Backlit Keyboard Dock (w/ RF Passthrough), Wifi + BT + 4G LTE (EM7511) w/ integrated GPS/Glonass + Passthrough, Barcode Reader, 3 Year B2B Warranty	10	\$3299	
GE-SVTBNFX5Y	Bumper-to-Bumper+ Extended Warranty 5 Years	10	\$499	
OHG160108403	Gamber Johnson K120 (tablet) Vehicle Dock w/ Tri-Passthrough	10	\$654	
GAD1L1	LIND 11-16V DC vehicle adapter/charger with Bare Wires	10	\$98	
KBA-BLTXR-UCNNR-US	TG3 Rugged Rubber 83 Key Keyboard W/ Touchpad and Red Backlighting. Coiled Cord and USB	10	\$199	
590GBL000240	Airgain Antenna Cell/LTE, WiFi, GNSS, 19ft coax, color black, (Threaded bolt)	10	\$159	
Mounting Package	Gamber-Johnson Premium Mounting Package *This set-up is specific to the year make and model of the vehicle, the type of mounting style ie: dash, console, or side mount* *Price is an estimate until photos of vehicles are obtained*	10	\$479	
Installation	Certified Onsite Installation of 10 vehicles, includes: labor, nuts, bolts, and wiring	1	\$4990	
Cal Recycle Tax	Mandatory California recycle tax on computers	10	\$5	
		Subtotal	\$58,860.00	
		Sales Tax	\$5010.20	
		Cal Tax	\$50.00	
		Shipping	\$0.00	
		Total	\$63,920.20	



Thanks for your business!
 Quote expires **6/30/2022**



City Council Agenda Report

ITEM NO. 16

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Ted Gerber, Director of Public Works

SUBJECT: **Adoption of a Resolution Initiating the Proceedings and Ordering of the Preparation of the Engineer's Report for Fiscal Year 2022-23 Lighting and Landscaping Maintenance District**

Recommendation

It is recommended that the City Council:

1. Adopt the attached resolution initiating the proceedings for the Fiscal Year (FY) 2022-23 Lighting and Landscaping Maintenance District (LLMD); and
2. Authorize the preparation of the Engineer's Report for the annual levy and collection of assessments.

Background

The LLMD assessment provides annual funds for the maintenance and operation of traffic signals, streetlights, median landscaping, street tree trimming, and tree removals and replacements. Each year, the City Council establishes assessments to cover these costs. The first step requires the authorization to prepare an Engineer's Report, which contains the engineering study and details of the assessments and methodologies which are needed to submit the assessments to the County Assessor's Office. The maintenance costs are distributed equitably, assessing properties in accordance with special benefits received. Revenues generated by the proposed assessment district will substantially cover the maintenance cost within the LLMD service area, which coincides with the City of South Pasadena (City) boundaries. The City Council has previously approved the methodology for the assessments, and staff will continue with the same methodology this year.

Analysis

The attached resolution calls for the preparation of an Engineer's Report showing the total maintenance costs, the parcels to be assessed, the assessment methodology, and the specific assessment for each affected parcel in the LLMD (refer to Attachment 1). For more than two decades, the Engineer's Report has been prepared adhering to the procedures established in the 1972 Landscaping and Lighting Act. As in previous years, the City must follow the same procedures, such as preparing an Engineer's Report and

conducting a Public Hearing to proceed with levying the assessments. The LLMD Proceedings Schedule is shown in Attachment 2.

As a result of Proposition 218 (Prop 218), the City cannot increase the proposed assessments without going through a public ballot process. The City Council has supported the staff's recommendation to rely on an exemption of Prop 218 (passed in 1997), which allows the renewal of the LLMD assessments, provided the rates are not changed. If the assessment rates are changed, then the balloting requirements under Prop 218 must be fulfilled.

In January 2017, a ballot to increase assessments was performed. However, the weighted vote of the "No" ballots was 60.9%, therefore, the ballot measure failed as the simple majority requirement was not met. As a result, assessment rates the stayed the same as those previously in effect. In FY 2022-23, there will be no change or increase in assessments under the currently proposed LLMD.

Next Steps

The LLMD Proceedings Schedule (Attachment 2) proposed the following schedule:

1. Harris & Associates will prepare the Engineer's Report.
2. The Engineer's Report and Resolution of Intention will be presented for consideration at the May 18, 2022, City Council Meeting.
3. A Public Hearing will be conducted on June 15, 2022, to adopt a Resolution confirming the annual levy and collection of assessments for the LLMD for FY 2022-23.
4. In August 2022, Harris & Associates will submit the proposed assessments to the Los Angeles County (County) Assessor's Office.

Fiscal Impact

The LLMD establishes the funding mechanism to provide approximately \$900,000 in revenues to exclusively cover the maintenance costs within the LLMD boundaries. In FY 2021-22, the LLMD estimated cost was \$1,227,881, and the General Fund subsidized the difference. For FY 2022-23, the LLMD update will evaluate the cost as part of the Engineering Report. The revenue is collected through the County Assessor's Office as part of the property tax rolls. The consulting services of Harris & Associates have been engaged to prepare the Engineer's Report reflecting individual parcel assessments, including recordation with the County. The consultant fee of \$8,700 is budgeted in the LLMD Account Number 215-6010-6201-8170-000.

Community Outreach

The public will have an opportunity to speak on this matter during the Public Hearing at the June 15, 2022 City Council meeting.

Attachments:

1. Resolution
2. LLMD Proceedings Schedule

Attachment 1

LLMD Resolution to Initiate Engineer's Report for Fiscal Year 2022-2023

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,
INITIATING PROCEEDINGS FOR THE FISCAL YEAR 2022-23
LEVY AND COLLECTION OF ASSESSMENTS FOR CERTAIN
LIGHTING AND LANDSCAPE MAINTENANCE IN AN EXISTING
DISTRICT AND ORDERING THE PREPARATION OF A
REPORT PURSUANT TO THE PROVISIONS OF DIVISION 15,
PART 2, OF THE STREETS AND HIGHWAYS CODE OF THE
STATE OF CALIFORNIA**

WHEREAS, the City Council of the City of South Pasadena, California, has previously formed a street lighting and landscaping maintenance district pursuant to the terms and provisions of the "Landscaping and Lighting Act of 1972," Division 15, part 2 Streets and Highways Code of the State of California, in what is known and designated as City of South Pasadena Lighting and Landscaping Maintenance District (District); and

WHEREAS, at this time, this City Council desires to conduct proceedings to provide for the annual levy of assessments for the next ensuing Fiscal Year (FY) 2022-23, to provide for the costs and expenses necessary for continual maintenance of improvements within said District; and

WHEREAS, the provisions of said Streets and Highways Code of the State of California Division 15, Part 2, Chapter 3 requires a written report (commencing with Section 22620).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the above recitals are all true and correct.

SECTION 2. That the public interest and convenience requires, and it is the intention of the City Council, to initiate proceedings for the annual levy and collection of special assessments for the continual maintenance of certain improvements, all to serve and benefit said District as said area is shown and delineated on a map as previously approved in prior annual levy's by this City Council and on file in the Office of the City Clerk, open to public inspection, and herein so referenced and made a part hereof.

SECTION 3. Staff is hereby authorized and ordered to have prepared and file with the City Council an engineers report relating to the FY 2022-23 levy of

annual assessment for said District in accordance with the provisions of Streets and Highways Code of the State of California Division 15, Part 2, Chapter 3 (commencing with Section 22620).

SECTION 4. That this resolution shall take effect immediately upon its adoption.

SECTION 5. For any and all information relating to the proceedings, project procedure, any documentation and/or information of a procedural or technical nature, your attention is directed to the below listed person at the local agency or department so designated.

H. Ted Gerber, Public Works Director
City of South Pasadena
1414 Mission Street
South Pasadena, CA 91030

SECTION 6. The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

PASSED, APPROVED AND ADOPTED ON this 6th day of April, 2022.

Michael A. Cacciotti, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Muñoz, Deputy City Clerk

Andrew L. Jared, City Attorney

Attachment 2
LLMD Proceedings Schedule

City of South Pasadena

Street Lighting and Landscaping Maintenance District

FY 2022/23 Assessment Levy Schedule as of March 3, 2022

MARCH						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

MARCH 4

Harris to review City Council Meeting #1 Staff Report and Resolution and provide comments for council agenda

MARCH 15

City staff to begin developing annual budget and Harris to begin updating parcel database and preparing engineer's report

APRIL 1

City staff to provide Harris with annual budget information

APRIL 6 - 7:30 pm

City Council Meeting #1 (Resolution of Initiation)
City Council Chambers, 1424 Mission Street

APRIL 27

Harris to review City Council Meeting #2 Staff Report and Resolution and provide comments for council agenda, Harris to provide engineer's report for council agenda

MAY 18 - 7:30 pm

City Council Meeting #2 (Resolution of Intention)
City Council Chambers, 1424 Mission Street

MAY 26

Harris to review City Council Meeting #3 Staff Report and Resolution and provide comments for council agenda,

JUNE 3

Last Day for City to Publish Notice of Public Hearing

JUNE 15 - 7:30 pm

City Council Meeting #3 (Public Hearing)
City Council Chambers, 1424 Mission Street

MONTH OF JULY

Harris updates District database parcel changes and prepares levy files. Harris works with City Staff to gather required levy submittal documentation.

AUGUST 9

Harris submit levy to County Auditor-Controller for collection. Harris then researches levy rejects, if any, and provides resubmittal information to the County. Upon acceptance of final levy by County, Harris provides levy confirmation to City .

APRIL						
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JUNE						
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JULY						
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31						

AUGUST						
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21	22	23	24	25	26	27
28	29	30	31			





City Council Agenda Report

ITEM NO. 17

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *Ac*

PREPARED BY: Ted Gerber, Director of Public Works

SUBJECT: **Approve a Memorandum of Agreement with the San Gabriel Valley Council of Governments for the 626 Golden Streets Mission-to-Mission 2022 Event**

Recommendation

It is recommended that the City Council to approve a Memorandum of Agreement between with the San Gabriel Valley Council of Governments (SGVCOG) and the Cities of Alhambra, San Gabriel, and South Pasadena for the 626 Golden Streets Mission-to-Mission 2022 Event.

Background

On December 2, 2021, the Los Angeles County Metropolitan Transportation Authority (LACMTA) Board approved the Open Streets Grant Program Cycle Four; providing funds for one-day events that close the streets to automotive traffic and open them to people to walk or bike. Further, the LACMTA Board approved the SGVCOG to serve as the pass-through agency of the fund on behalf of its member cities. The SGVCOG was successful in securing \$396,000 in Proposition C funds during Cycle Four from the LACMTA county-wide "Open Streets Event" program to host the 626 Golden Streets Mission-to-Mission open streets event, including outreach, pre-event planning, and day of event staging costs.

Discussion/Analysis

On Sunday, May 1, 2022 from 9:00 am to 4:00 pm, the San Gabriel Valley's largest ciclovia or "open streets" event, 626 Golden Streets Mission-to-Mission, will return to the Cities of Alhambra, San Gabriel, and South Pasadena. The first 626 Golden Streets since Fall 2019, this event will provide attendees an opportunity to walk, bike, run, skate, scoot, dance, and play across five miles of car-free streets. A follow-up to the successful 2019 event, Mission-to-Mission will link the historic San Gabriel and South Pasadena Mission Districts through downtown Alhambra.

The Mission-to-Mission event is a free, family-friendly "ciclovia" that temporarily opens streets for people of all ages and backgrounds to enjoy in a healthy, fun, and novel fashion. Attendees can start and stop at any point along the route, at any time from 9:00 am to 4:00 pm. Activity zones in each participating community will host live music,

cultural performances, family-friendly games and activities, kids play zones, vendors, zero-emission demo zones, and more. The event also includes the “626 Run”, a family-friendly 5K Fun Run free to all youth 17 years of age and under, starting from the San Gabriel Hub. Participants are encouraged to enjoy the day by foot, bike, skate, skateboard, scooter, rollerblades, roller skates, tricycles, or any other type of human-powered vehicle.

The SGVCOG and the Cities have partnered together to host this event. The portion of the event in South Pasadena will begin at Mission Street and Meridian Avenue, and continue east to Marengo Avenue, where it will run south to the City of Alhambra. The streets will be closed from 6:00 am to 5:00 pm to motor vehicles, with event hub areas closing around 4:00 am. All driveways on the route will be blocked and inaccessible starting at 6:00 am on event day. No parking will be allowed along the event route from 12:00 am - 5:00 pm. There will be multiple street crossings for cars to pass freely across the event route, following normal signal times.

Fiscal Impact

The event programming requires a 20% (\$99,000) in-kind or local fund match of the total cost of the event (\$495,000) for the SGVCOG. The City’s portion of this match amount is \$22,500. The City is expected to submit one invoice to the SGVCOG in an amount not to exceed \$22,500, with supporting documentation evidencing those eligible expenses the City incurred and are eligible for reimbursement. At the same time the above invoice is submitted, the City will submit supporting documentation evidencing the City provided eligible in-kind services satisfying the in-kind match requirement of \$22,500.

Environmental Impact

This is the approval of an agreement to conduct a one-day event, that does not construct physical facilities or improvements. It is a minor use of land with no permanent effects on the environment for the use of the existing public right of way as bike lanes. Therefore, in accordance with California Code of Regulations, Title 14, Division 6, Chapter 3, Article 19, Section 15403(e) and (h) this activity is exempt from further CEQA analysis.

Attachment: Memorandum of Agreement

ATTACHMENT

Memorandum of Agreement (MOA) between the San Gabriel Valley Council of Governments and the Cities of Alhambra, San Gabriel, and South Pasadena to share resources and to plan and host the 626 Golden Streets Mission-to-Mission 2022 Event

MEMORANDUM OF AGREEMENT (MOA) BETWEEN THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS AND THE CITIES OF ALHAMBRA, SAN GABRIEL, AND SOUTH PASADENA TO SHARE RESOURCES AND TO PLAN AND HOST THE 626 GOLDEN STREETS MISSION-TO-MISSION 2022 EVENT

This Memorandum of Agreement (“MOA”) is dated for identification purposes as of January 26, 2022 by and between the City of Alhambra, a municipal corporation, the City of San Gabriel, a municipal corporation, the City of South Pasadena, a municipal corporation (referred to herein individually as a “City” and collectively as the “Cities”), and the San Gabriel Valley Council of Governments, a California joint powers authority (“SGVCOG”). Cities and SGVCOG may be referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS:

- A. On December 2, 2021, the Los Angeles County Metropolitan Transportation Authority (LACMTA) Board approved the Open Streets Grant Program Cycle Four providing Los Angeles County Proposition C 25% (“Proposition C”) Funds for one-day events that close the streets to automotive traffic and open them to people to walk or bike (“Open Street Event”). Further, the LACMTA Board approved the SGVCOG to serve as the pass-through agency of the Proposition C Funds with its member cities.
- B. The SGVCOG was successful in securing \$396,000 in Proposition C funds (the “Grant”) during Cycle Four from the LACMTA county-wide “Open Streets Event” program to host the 626 Golden Streets Mission-to-Mission Event (the “Event”), including outreach, pre-event planning, and day of event staging costs.
- C. The Event programming requires a 20% (\$99,000) in-kind or local fund match of the total cost of the event (\$495,000).
- D. The SGVCOG and the Cities have partnered together to host the Event as a 5-mile contiguous open street event on Sunday, May 1, 2022 from South Pasadena to San Gabriel.
- E. The SGVCOG and the Cities desire to work jointly and collaboratively to share monetary, staffing, and other resources in planning and hosting the Event, and desire to formalize their relationship through the creation of the “Mission-to-Mission Working Group” to coordinate their activities and in furtherance thereof agree as follows:

I. RECITALS

The above Recitals are made a substantive part of this MOA.

II. TERM:

The term of this MOA shall commence on the date executed by all Parties and

shall continue through the completion of all work contemplated under this MOA. The term of this MOA may be amended or extended by mutual written agreement of the Parties.

III. RESPONSIBILITIES OF THE PARTIES:

A. SGVCOG Responsibilities:

1. Designate a point-of-contact with name, title, and contact information who will serve as the SGVCOG's representative throughout the development of the Event. If the point-of-contact is reassigned or no longer with the SGVCOG, a new point-of-contact will be designated within fourteen (14) calendar days.
2. Contract with ActiveSGV to provide pre-planning, communication, permitting, implementation and volunteer coordination. SGVCOG shall require ActiveSGV to defend and indemnify the Cities in accordance with Section VI.C. of this MOA.
3. Contract with Right of Way to implement the traffic control plan shown in Exhibit B. SGVCOG shall require Right of Way to defend and indemnify the Cities in accordance with Section VI.C. of this MOA.
4. Coordinate invoicing and backup documentation to ensure Proposition C grant compliance.
5. Coordinate with the Cities and their consultant(s) as necessary throughout the development and implementation of the Event.
6. Timely respond to all communications from the Cities and their consultant(s) as they relate to the Event and attend meetings when needed.
7. Review and provide comments on draft communications and documents related to the Event.
8. Upon 30 days of receipt and approval of an invoice submitted by a City, reimburse the City for eligible costs in an amount not to exceed the City Allocation as outlined in Exhibit A.
9. It is understood that SGVCOG will not bear any responsibility for the Cities Responsibilities listed below.

B. Cities Responsibilities:

1. Each City shall designate a point-of-contact with name, title, and contact information who will serve as the City's representative throughout the development of the Event. If the point-of-contact is reassigned or no longer with the City, a new point-of-contact will be designated within fourteen (14) calendar days.
2. Each City will be responsible for public safety along the Event route - as identified in Exhibit B - in their respective jurisdictions including, without limitation, the provision of police, security, fire protection and emergency services. It is understood that each City will not bear any responsibility for activities or acts occurring in another City. It is further understood that each City will not bear any responsibility for the SGVCOG Responsibilities listed above.

3. Assist with sending out event information via City communication channels.
4. Coordinate with the SGVCOG and its consultant(s) as necessary throughout the development and implementation of the Event.
5. Timely respond to all communications and data requests from the SGVCOG and its consultant(s) that relate to the Event and attend meetings when needed.
6. Submit one invoice to the SGVCOG in an amount not to exceed the City's Funding Amounts as described in Exhibit A, with supporting documentation evidencing those eligible expenses the City incurred and are eligible for reimbursement.
7. At the same time the above invoice is submitted, submit supporting documentation evidencing the City provided eligible in-kind services satisfying the In-Kind Match Requirement as described in Exhibit A.

IV. PROJECT MANAGEMENT:

A. Project Managers.

1. For the purposes of this MOA, SGVCOG designates the following individual as its Project Manager: Sam Pedersen, Management Analyst, whose contact information is set forth below.
2. For the purposes of this MOA, the City of Alhambra designates the following individual as its representative: Mike Macias, Parks Director, whose contact information is set forth below.
3. For the purposes of this MOA, the City of San Gabriel designates the following individual as its representative: Nzhde Matevosyan, Assistant Civil Engineer, whose contact information is set forth below.
4. For the purposes of this MOA, the City of South Pasadena designates the following individual as its representative: Ted Gerber, Public Works Director, whose contact information is set forth below.

Any of the Parties may change the designations set forth herein upon written notice to the other Parties.

V. DEFAULT; REMEDIES:

- A. Default. A "Default" under this MOA is defined as any one or more of the following: (i) failure of any Party to comply with the terms and conditions contained in this MOA; and/or (ii) failure of any Party to perform its obligations set forth herein satisfactorily or make sufficient progress towards completion of the Event.
- B. Remedies. In the event of a Default by any Party, the non-defaulting Parties will provide a written notice of such Default to the defaulting Party. The defaulting Party shall have thirty (30) days from the date such written notice was mailed in accordance with this MOA to cure the Default

to the reasonable satisfaction of the non-defaulting Party. In the event the Default is of a nature that it cannot be cured within 30 days, the defaulting Party shall commit to and commence the cure within such 30-day period and act promptly to cure the Default to the reasonable satisfaction of the non-defaulting Parties, but in no event more than 60 days from the mailing of the notice of Default. If the defaulting Party fails to cure within 30 days of the Default notice or in the event the Default is not curable within 30 days to commit to and commence the cure of such Default within no more than 60 days, the non-defaulting Party may terminate this MOA. Such termination shall be effective immediately upon the mailing of written notice by the non-defaulting Party to the defaulting Party in accordance with this MOA. The remedies described herein are non-exclusive. In the event of a Default by any Party, the non-defaulting Parties shall have the right to seek any and all remedies available at law or in equity.

VI. INDEMNIFICATION:

- A. Each City agrees to defend, indemnify, and hold harmless the SGVCOG, its elected and appointed boards, officials, officers, agents, employees, members, and volunteers, and the other Cities, their elected officials, officers, agents, employees, and volunteers (collectively the "Indemnitees") at City's sole expense, from and against any and all claims, actions, suits, or other legal proceedings brought against the Indemnitees arising out of or relating to the acts or omissions of the City in connection with this MOA.
- B. SGVCOG agrees to defend, indemnify, and hold harmless the Cities, their elected officials, officers, agents, employees, and volunteers, at SGVCOG's sole expense, from and against any and all claims, actions, suits, or other legal proceedings brought against the Cities, their elected officials, officers, agents, employees, and volunteers arising out of or relating to the acts or omissions of SGVCOG in connection with this MOA.
- C. To the extent allowed by State law, SGVCOG and Cities shall require that the consultant(s) they retain for the Event defend and indemnify the Indemnitees from and against any and all claims, actions, suits, or other legal proceedings (collectively, "Claims") brought against either the City or the SGVCOG arising out of or relating to the acts or omissions of the consultant(s) in connection with the Event and add such Indemnitees as additional insureds on any general or automotive liability insurance policies required by any City of SGVCOG. Neither the Cities nor SGVCOG shall be liable to each other or any of their respective Indemnitees by way of agency or any other theory of liability for any such Claims.

VII. INSURANCE:

Cities and SGVCOG shall maintain and keep in full force and effect during the term of this MOA insurance or a program of self-insurance against claims for injuries to persons or damages to property which may arise in connection with Cities or SGVCOG's performance of its obligations hereunder.

VIII. OTHER TERMS AND CONDITIONS:

A. Notices. All notices required or permitted to be given under this MOA shall be in writing and shall be personally delivered, or sent by electronic mail or certified mail, postage prepaid and return receipt requested, addressed as follows:

To SGVCOG: Sam Pedersen
Management Analyst
1000 S. Fremont Avenue, Unit 42
Building A-10N, Suite 10-210
Alhambra, CA 91803
(626) 457-1800
spedersen@sgvcoq.org

with a copy to: Marisa Creter
Executive Director
1000 S. Fremont Avenue, Unit 42
Building A-10N, Suite 10-210
Alhambra, CA 91803
(626) 457-1800
mcreter@sgvcoq.org

To Alhambra: Mike Macias
Parks Director
111 S First Street
Alhambra, CA 91801
(626) 570-5044
mmacias@cityofalhambra.org

with a copy to: Jessica Binnquist
City Manager
111 S First Street
Alhambra, CA 91801
(626) 570-5010
jbinnquist@cityofalhambra.org

To San Gabriel: Nzhde Matevosyan
Assistant Civil Engineer
425 South Mission Drive

San Gabriel, CA 91776
(626) 308-2805
nmatevosyan@sgch.org

with a copy to: Mark Lazzaretto
City Manager
425 South Mission Drive
San Gabriel, CA 91776
(626) 308-2805
cconstantin@sandimasca.gov

To South Pasadena: Ted Gerber
Public Works Director
1414 Mission Street
South Pasadena, CA 91030
(626) 403-7240
tgerber@southpasadenaca.gov

with a copy to: Arminé Chaparyan
City Manager
1414 Mission Street
South Pasadena, CA 91030
(626) 403-7210
achaparyan@southpasadenaca.gov

- B. No Partnership. This MOA is not intended to be, and shall not be construed as, an agreement to form a partnership, agency relationship, or a joint venture between the Parties. Except as otherwise specifically provided in the MOA, neither Party shall be authorized to act as an agent of or otherwise to represent the other Party.
- C. Entire MOA. This MOA constitutes the entire understanding between the Parties with respect to the subject matter herein and supersedes any and all other prior writings and oral negotiations. This MOA may be modified only in writing and signed by the Parties in interest at the time of such modification.
- D. Governing Law. This MOA shall be governed by and construed under California law and any applicable federal law without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this MOA, the Parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Los Angeles County, California.
- E. Excusable Delays. No Party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of

God, floods, earthquakes, fires, acts of a public enemy, pandemic, epidemic, and government acts beyond the control and without fault or negligence of the affected Party. Each Party hereto shall give notice promptly to the others of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this MOA.

- F. Waiver. Waiver by any Party to this MOA of any term, condition, or covenant of this MOA shall not constitute a waiver of any other term, condition, or covenant. No waiver of any provision of this MOA shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought.
- G. Headings. The section headings contained in this MOA are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.
- H. Assignment. No Party may assign its interest in this MOA, or any part thereof, without the prior written consent of the other Parties. Any assignment without consent shall be void and unenforceable.
- I. Severability. If any provision of this MOA is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.
- J. Authority to Execute. The person executing this MOA on behalf of a Party warrants that they are duly authorized to execute this MOA on behalf of said Party, and that by doing so said Party is formally bound to the provisions of this MOA.
- K. Counterparts. This MOA may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.
- L. Electronic Signatures. This MOA may be executed with electronic signatures in accordance with Government Code Section 16.5. Such electronic signatures will be treated in all respects as having the same effect as an original signature.

IN WITNESS WHEREOF, the Parties hereto have caused this MOA to be executed and to be effective on the date it has been fully executed by the Parties as set forth below.

FOR THE CITY OF ALHAMBRA:

Approved as to form:

By: _____
Jessica Binnquist
City Manager

By: _____
Joseph Montes
City Attorney

Date: _____

FOR THE CITY OF SAN GABRIEL:

Approved as to form:

By: _____
Mark Lazzaretto
City Manager

By: _____
Keith Lemieux
City Attorney

Date: _____

FOR THE CITY OF SOUTH PASADENA:

Approved as to form:

By: _____
Arminé Chaparyan
City Manager

By: _____
Andrew L. Jared
City Attorney

Date: _____

FOR THE SAN GABRIEL VALLEY
COUNCIL OF GOVERNMENTS:

Approved as to form:

By: _____
Marisa Creter
Executive Director

By: _____
David DeBerry
General Counsel

Date: _____

Exhibit A:

Grant Funding and In-Kind Match by City

	Funding Amounts	In-Kind Match Requirement
Alhambra	\$22,500.00	\$22,500.00
San Gabriel	\$15,000.00	\$15,000.00
South Pasadena	\$22,500.00	\$22,500.00
Total	\$60,000.00	\$60,000.00

Exhibit B

The Traffic Control Plan



City Council Agenda Report

ITEM NO. 18

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Brian Solinsky, Police Chief
Alison Wehrle, Management Analyst

SUBJECT: **First Reading and Introduction of an Ordinance Amending Chapter 18, Article VI of the South Pasadena Municipal Code to Prohibit the Sale of All Tobacco Products and Electronic Smoking Devices**

Recommendation

It is recommended that the City Council:

1. Select the version of the proposed ordinance for introduction; and
2. Read by title only for first reading, waiving further reading, and introduce an ordinance to amend Chapter 18, Article VI of the South Pasadena Municipal Code to Prohibit the Sale of All Tobacco Products and Electronic Smoking Devices.

Executive Summary

At the July 21, 2021 regular 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 draft ordinance would repeal the existing Tobacco Retailer Permit Ordinance (SPMC 18.101, et seq.) and replace such with a prohibition of tobacco sales citywide.

Background

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 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:

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

First Reading of an Ordinance to Prohibit the Sale of Tobacco Products

April 6, 2022

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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.

The California Department of Public Health's California Tobacco Control Program (CTCP) states that 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.

Restricting the sale of tobacco products differs from restricting smoking activity:

- 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 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) currently 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 tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; and any product or formulation of matter containing

First Reading of an Ordinance to Prohibit the Sale of Tobacco Products

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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.

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.

At the January 10, 2022 Public Safety Commission Regular Meeting, the Commission reviewed an updated a draft ordinance, incorporating suggestions of both the Commission and the City Attorney. With five of seven Commissioners in attendance, the Commissioners voted 4-1 in favor of supporting an endorsement of the updated draft ordinance (Attachment 1) as written.

Legal Review

Ahead of the January 10, 2022 Public Safety Commission regular meeting, the City Attorney provided guidance and made updates to the original draft ordinance, incorporating 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 and the addition of a recommended effective date of June 30, 2023.

Two drafts are presented for consideration. Both versions have updated text regarding operative dates of the ordinance relative to second reading (April 22 for cutoff of permit applications), and the effective date of the ordinance (30 days after passage for operative date of ordinance). Both limit the additional information provided by staff at hardship appeals hearings to information relevant for consideration. Both amend the department responsible for compliance as the Community Development Department, and typographic errors.

The first draft ordinance (Attachment 1) is updated from the version presented to the Public Safety Commission and previously circulated to the Council on March 2, 2022. It 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. Under this version, current permits will be allowed to run or extend through November 20, 2022. Also included in the first draft ordinance are new sections regarding ban enforcement, requirements for a single hardship exemption application, and the hearing procedure for a requested hardship exemption. Hardship exemptions could be applied for through June 16, 2022. The City Attorney has opined that only allowing small

businesses to apply for a hardship exemption be omitted, and is not included in this attached updated draft ordinance.

After the March 2, 2022 City Council meeting, staff conducted additional research, and received input regarding changes to the draft ordinance. A second draft ordinance (Attachment 2) was created for consideration. The second draft ordinance extends the current permit renewal timeframe and ordinance effective date. Current permits would be allowed to be extended through June 30, 2023. This version allows the existing cigar shop to change ownership. It also allows for the cigar shop to reopen after ceasing operations in the event of a natural disaster. The second draft ordinance also extended the hardship exemption application period through September 30, 2022, and removed Section 18.104(e)(10) regarding hardship exemption criteria.

Business Impact Mitigation Update

Several of the tobacco retailers contacted, including gas stations, convenience stores, and a 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. The 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 owners. There are also a large variety of hosted webinars, workshops, and interactive online training modules available for businesses to participate in.

A representative from the SBDC at Pasadena City College provided a presentation at the December 7, 2021 Chamber of Commerce ShopTalk meeting. The representative presented on the organization and the variety of services and consulting that are available to all types of businesses, including business planning, legal and accounting, loan advice, sales and marketing, product diversification, and more. Additional information about the offerings of the SBDC can be found in Attachment 8. The

recording 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.

Tobacco Retailers in South Pasadena

There are currently 11 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 indoors. Other retailers include three grocery stores, four gas stations, two convenience stores, and one convenience store/pharmacy.

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 has not been shown to be a significant portion of revenue.

The cigar lounge at issue has tobacco sales as the primary source of revenue, and an amortization period is more difficult to calculate and address. Therefore, a sufficient time for implementing such an ordinance should be evaluated. Here, the impacts regarding youth exposure are minimized due to the lounge/club arrangement of the business.

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 has worked well for the Cities of 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.

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 June 30, 2023 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 address any takings challenges, in order to allow tobacco retailers a reasonable time to amortize the value of remaining tobacco products that cannot be used after the prohibition takes effect.

The ordinances will become effective 30 days after adoption by City Council. However, the ordinance includes an implementation period to allow the City to notify tobacco retailers in South Pasadena. This will provide 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:

- April 6, 2022: First Reading and Introduction of Ordinance
- April 20, 2022: Second Reading and Adoption of Ordinance
- May 20, 2022: Ordinance Takes Effect
- June 30, 2023: Enforcement Takes Effect

Fiscal Impact

Should City Council choose to adopt a ban on the sales of all tobacco products, a direct fiscal impact to the City would be the elimination of revenue from issuing the Tobacco Retailer Permits. The current fee for the permit is \$120, paid annually by each retailer. Since there are currently eleven retailers in the City, staff estimates the immediate loss of permit revenue to be approximately \$1,320 annually. 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. Total fiscal impact is difficult to quantify due to the fact that tobacco is not taxed at the retail level and retailers are not required to report sales data to the City.

Alternatives Considered

1. Consideration of a potential ban on the sale of only flavored tobacco products.
2. Consideration of a potential ban on the sale of only vaping products.
3. Decline to enact a ban on the sale of tobacco products.

Community Outreach

Staff has notified retailers multiple times through in-person visits, mail, email, and telephone regarding upcoming meetings and discussions. The City's website has been updated with the latest meeting 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 –In-person outreach at all retail establishments that sell tobacco products in the City
- September 27, 2021— Mailed and emailed outreach to retailers
- October 7, 2021 – Police Department staff provided additional in-person outreach reminder for October 18th special meeting
- October 18, 2021 – Public Safety Commission (PSC) Special Meeting review
- December 7, 2021 – Small Business Development Center (“SBDC”) Pasadena City College presentation at Chamber of Commerce Meeting
- December 30, 2021 – In-person, mailed, and emailed outreach regarding the continued PSC discussion on January 10th
- January 5, 2022 – In-person and emailed outreach update to advise that the PSC Regular Meeting on January 10th would be held remotely via Zoom
- January 10, 2022 Public Safety Commission Regular Meeting review
- February 17, 2022 - In-person, mailed, and emailed outreach for City Council March 2, 2022 review
- February 18, 2022 – Notice of Public Hearing for March 2nd City Council review published in the South Pasadena Review
- February 28, 2022 – Reminder email sent to retailers with email addresses on file for March 2nd City Council Review
- March 18, 2022 – Notice of Public Hearing for April 6th City Council review published in the South Pasadena Review
- March 24, 2022 – In-person, mailed, and emailed outreach for City Council April 6th review

Environmental Analysis

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.

Commission Review and Recommendation

This matter was reviewed by the Public Safety Commission. On January 10, 2022, the Commission recommended in a 4-1 vote that the City Council support the draft ordinance as written (Attachment 1).

Public Noticing

A Public Hearing Notice was published March 18, 2022 in the South Pasadena Review.

Attachments:

1. Draft Ordinance Amending SPMC Chapter 18 Article VI
2. Draft Ordinance Option 2 Amending SPMC Chapter 18 Article VI
3. CDC Fast Facts
4. Findings from the California Tobacco Program Media Campaign Evaluation
Endgame Questions
5. Ordinance 2184 – Tobacco Retail Fee - 2009
6. Not for Sale: The State Authority to End Cigarette Sales
7. South Pasadena Climate Action Plan Link
8. Small Business Development Center (“SBDC”) Flyer

ATTACHMENT 1

Draft Ordinance Option with Public Safety
Commission and City Attorney Edits (includes SPMC
Article VI Chapter 18 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 ~~strike through~~, to become effective thirty days after final approval:

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 April 22, 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 ~~strike through~~, to become effective thirty days after final approval:

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 April 22, 2022 shall be renewed only through November 20, 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 ~~strike through~~, to become effective November 20, 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.

~~(c)–~~“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 April 22, 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 April 22, 2022;

(4) is in compliance with State law;

(5) has not changed ownership after April 22, 2022;

(6) has not expanded in size or changed its location after April 22, 2022;

and

(7) has not closed for more than 60 consecutive days after April 22, 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 (c)(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 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 to Chapter 1A of this Code.

(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 November 20, 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 April 22, 2022, that finds it necessary to sell tobacco products on or after November 20, 2022, may apply for one hardship exemption. A tobacco retailer must submit a complete application for a hardship exemption at any time between April 22 and June 16, 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) Relevant information submitted by City staff.

(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.

PASSED, APPROVED AND ADOPTED on this ___th day of April, 2022.

Michael A. Cacciotti, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Muñoz, Deputy City
Clerk

Andrew L. Jared, City Attorney

ATTACHMENT 2

Draft Ordinance Option Two with Addition of
Councilmember Edits (includes SPMC Article VI
Chapter 18 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 thirty days after final approval:

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 April 22, 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 thirty days after final approval:

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 April 22, 2022 shall be renewed only through June 30, 2023.

(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 ~~strike through~~, to become effective June 30, 2023:

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.

~~(c)~~—“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 April 22, 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 April 22, 2022;

(4) is in compliance with State law;

(5) has not expanded in size or changed its location after April 22, 2022;

and

(6) has not ceased operation for more than 60 consecutive days after April 22, 2022 unless such cessation is due to unforeseeable circumstances outside the retailer's control, such as a natural disaster or an Act of God.

~~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 (c)(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 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 to Chapter 1A of this Code.

(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 June 30, 2023, 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 April 22, 2022, that finds it necessary to sell tobacco products on or after June 30, 2023, may apply for one hardship exemption. A tobacco retailer must submit a complete application for a hardship exemption at any time between April 22, 2022 and September 30, 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 [REDACTED], 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) Relevant information submitted by City staff.

(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.

PASSED, APPROVED AND ADOPTED on this ____th day of April, 2022.

Michael A. Cacciotti, Mayor

ATTEST:

APPROVED AS TO FORM:

Christina Muñoz, Deputy City
Clerk

Andrew L. Jared, City Attorney

ATTACHMENT 3
CDC Fast Facts

Fast Facts

Diseases and Death

Smoking leads to disease and disability and harms nearly every organ of the body.¹

- More than 16 million Americans are living with a disease caused by smoking.
- For every person who dies because of smoking, at least 30 people live with a serious smoking-related illness.
- Smoking causes cancer, heart disease, stroke, lung diseases, diabetes, and chronic obstructive pulmonary disease (COPD), which includes emphysema and chronic bronchitis.
- Smoking also increases risk for tuberculosis, certain eye diseases, and problems of the immune system, including rheumatoid arthritis.
- Smoking is a known cause of erectile dysfunction in males.

Smoking is the leading cause of preventable death.

- Worldwide, tobacco use causes more than 7 million deaths per year.² If the pattern of smoking all over the globe doesn't change, more than 8 million people a year will die from diseases related to tobacco use by 2030.³
- Cigarette smoking is responsible for more than 480,000 deaths per year in the United States, including more than 41,000 deaths resulting from secondhand smoke exposure. This is about one in five deaths annually, or 1,300 deaths every day.¹
- On average, smokers die 10 years earlier than nonsmokers.⁴
- If smoking continues at the current rate among U.S. youth, 5.6 million of today's Americans younger than 18 years of age are expected to die prematurely from a smoking-related illness. This represents about one in every 13 Americans aged 17 years or younger who are alive today.¹

Costs and Expenditures

Smoking costs the United States billions of dollars each year.^{1,7}

- Total economic cost of smoking is more than \$300 billion a year, including
 - More than \$225 billion in direct medical care for adults⁵
 - More than \$156 billion in lost productivity due to premature death and exposure to secondhand smoke¹

The tobacco industry spends billions of dollars each year on cigarette and smokeless tobacco advertising and promotions.^{6,7}

- \$8.2 billion was spent on advertising and promotion of cigarettes and smokeless tobacco combined—about \$22.5 million every day, and nearly \$1 million every hour. Smokeless tobacco products include dry snuff, moist snuff, plug/twist, loose-leaf chewing tobacco, snus, and dissolvable products.
- Price discounts to retailers account for 74.7% of all cigarette marketing (about \$5.7 billion). These are discounts paid in order to reduce the price of cigarettes to consumers.

State spending on tobacco prevention and control does not meet CDC-recommended levels.^{1,8,9}

- States have billions of dollars from the taxes they put on tobacco products and money from lawsuits against cigarette companies that they can use to prevent smoking and help smokers quit. Right now, though, the states only use a very small amount of that money to prevent and control tobacco use.
- In fiscal year 2020, states will collect \$27.2 billion from tobacco taxes and settlements in court, but will only spend \$740 million in the same year. That's only 2.7% of it spent on programs that can stop young people from becoming smokers and help current smokers quit.⁸
- Right now, not a single state out of 50 funds these programs at CDC's "recommended" level. Only three states (Alaska, California, and Maine) give even 70% of the full recommended amount. Twenty-eight states and the District of Columbia spend less than 20 percent of what the CDC recommends. One state, Connecticut, gives no state funds for prevention and quit-smoking programs.⁸
- Spending 12% (about \$3.3 billion) of the \$27.2 billion would fund every state's tobacco control program at CDC-recommended levels.⁸

Cigarette Smoking in the US

Percentage of U.S. adults aged 18 years or older who were current cigarette smokers in 2018:¹⁰

- 13.7% of all adults (34.2 million people): 15.6% of men, 12.0% of women
 - About 19 of every 100 people with mixed-race heritage (non-Hispanic) (19.1%)
 - Nearly 23 of every 100 non-Hispanic American Indians/Alaska Natives (22.6%)
 - Nearly 15 of every 100 non-Hispanic Blacks (14.6%)
 - About 15 of every 100 non-Hispanic Whites (15.0%)
 - Nearly 10 of every 100 Hispanics (9.8%)
 - About 7 of every 100 non-Hispanic Asians (7.1%)

Note: Current cigarette smokers are defined as people who reported smoking at least 100 cigarettes during their lifetime and who, at the time they participated in a survey about this topic, reported smoking every day or some days.

Thousands of young people start smoking cigarettes every day.¹¹


- Each day, about 2000 people younger than 18 years smoke their first cigarette.
- Each day, over 300 people younger than 18 years become daily cigarette smokers.

Many adult cigarette smokers want to quit smoking.

- In 2015, nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking.
- In 2018, more than half (55.1%) adult cigarette smokers had made a quit attempt in the past year.
- In 2018, more than 7 out of every 100 (7.5%) people who tried to quit succeeded.
- From 2012–2018, the *Tips From Former Smokers*[®] campaign has motivated approximately one million tobacco smokers to quit for good.¹³

Note: "Made a quit attempt" refers to smokers who reported that they stopped smoking for more than 1 day in the past 12 months because they were trying to quit smoking. See CDC's *Smoking Cessation: Fast Facts* fact sheet for more information.

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2. World Health Organization. *WHO Report on the Global Tobacco Epidemic, 2017*  . Geneva: World Health Organization, 2017 [accessed 2018 Jan 31].

Organization, 2017 [accessed 2019 Jan 31].

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10. Creamer MR, Wang TW, Babb S, et al. Tobacco Product Use and Cessation Indicators Among Adults – United States, 2018. *Morbidity and Mortality Weekly Report* 2019;68(45):1013–1019 [accessed 2019 Nov 18].
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13. Centers for Disease Control and Prevention. Tips Impact and Results [last updated 2020 Mar 23; accessed 2020 Apr 15].

Page last reviewed: June 2, 2021

ATTACHMENT 4

Findings from the California Tobacco Program Media Campaign Evaluation Endgame Questions

Findings from the California Tobacco Control Program Media Campaign Evaluation Endgame Questions

Data request for South Pasadena

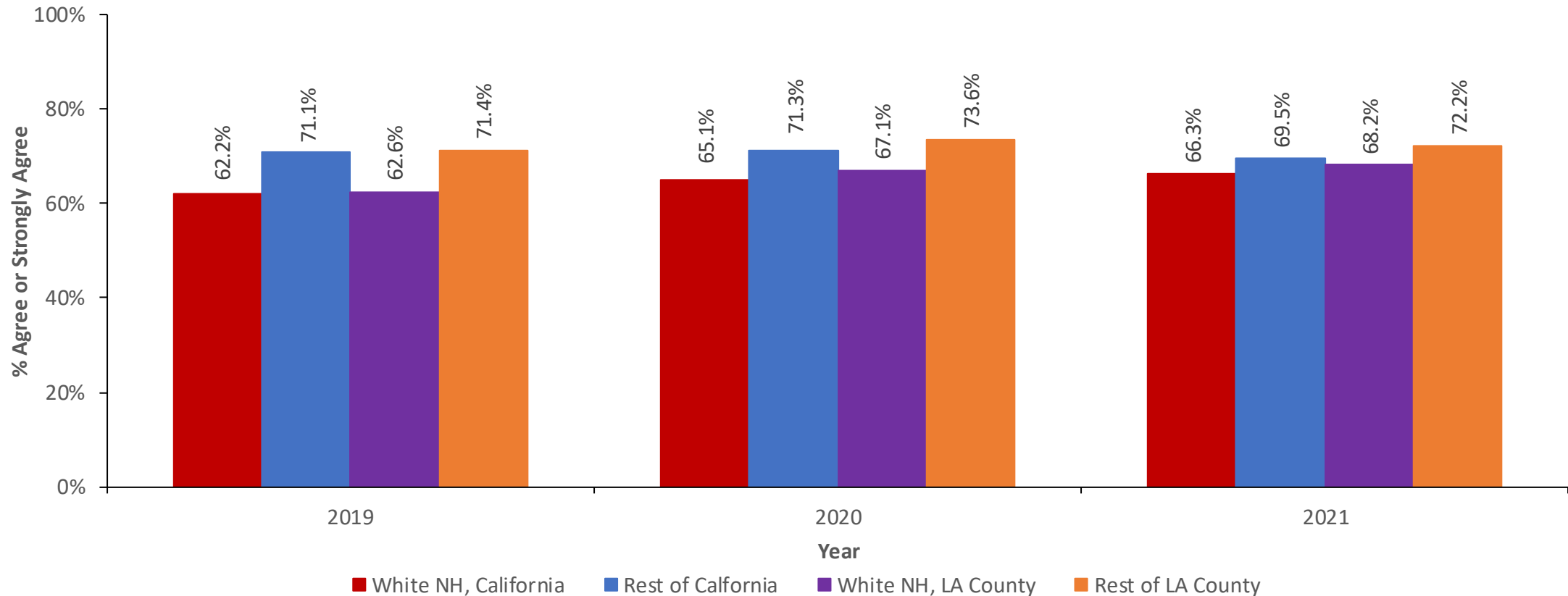
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Methods

- The California Tobacco Control Program's (CTCP) Media Campaign Evaluation Survey is a panel, non-probability-based online survey conducted monthly
- Monthly sample sizes include about 3,000 Californians and 1,500 people in the rest of the United States (US), to compare Californians who are exposed to CTCP's campaigns with those living outside of California, who have not been exposed
 - Data presented in these slides are for California residents only
 - Sample size was sufficient enough to provide breakouts for Los Angeles County residents
- Respondents are between 18-55 years old
- The survey asks respondents about their attitudes, beliefs, and knowledge related to tobacco use and policies, and awareness, recall, and opinions of California's tobacco media campaigns
- Results presented in subsequent slides contain percentages pooled by year and weighted to be representative of both the California and Los Angeles County residents between ages 18 and 55
- Data were collected between August 14, 2019 and April 23, 2021
- All slides with significant trend over time include p-values (p-value considered significant if $p < .05$)
- Due to small sample size, data on Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and multiracial (two or more races) respondents are combined in the presentation as "other"
- Since the sample was sufficient, we also provide data on ethnic Chinese respondents

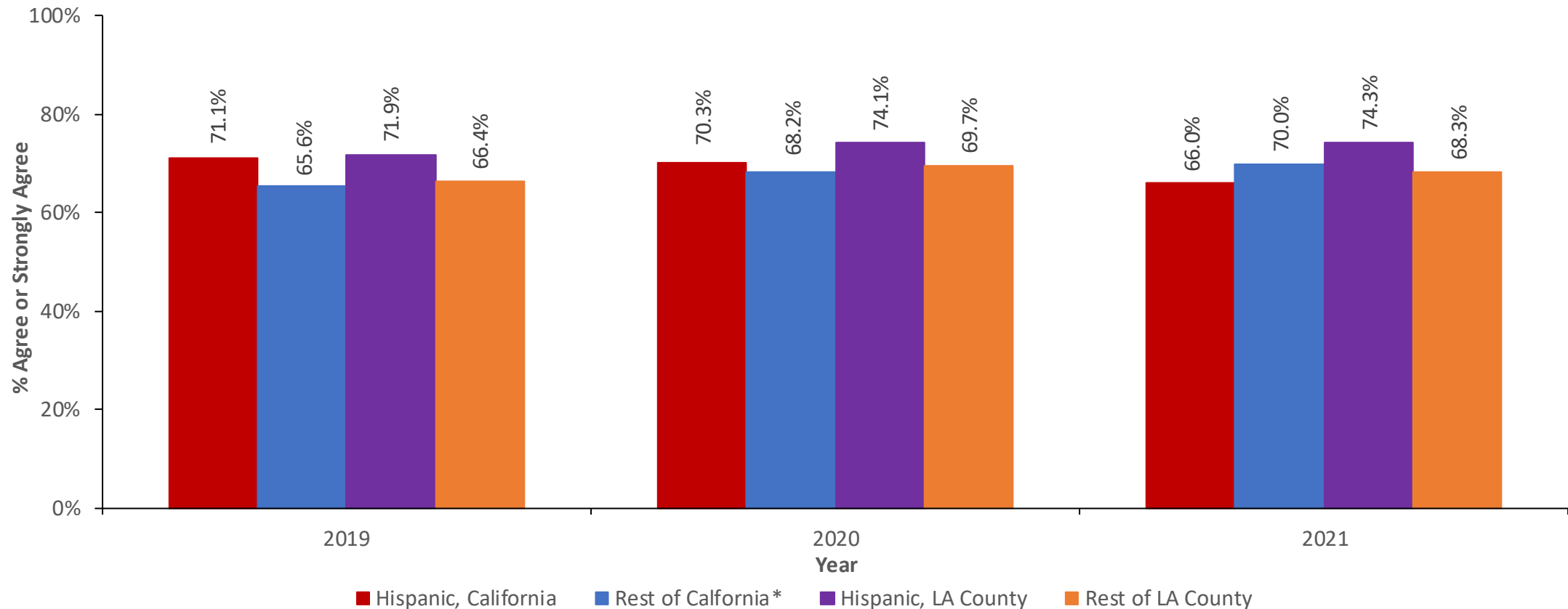
Percentage of respondents who agreed/strongly agreed with the following statement: “Cigarette sales should be phased out completely over the next 5 years.”

Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among non-Hispanic Whites by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



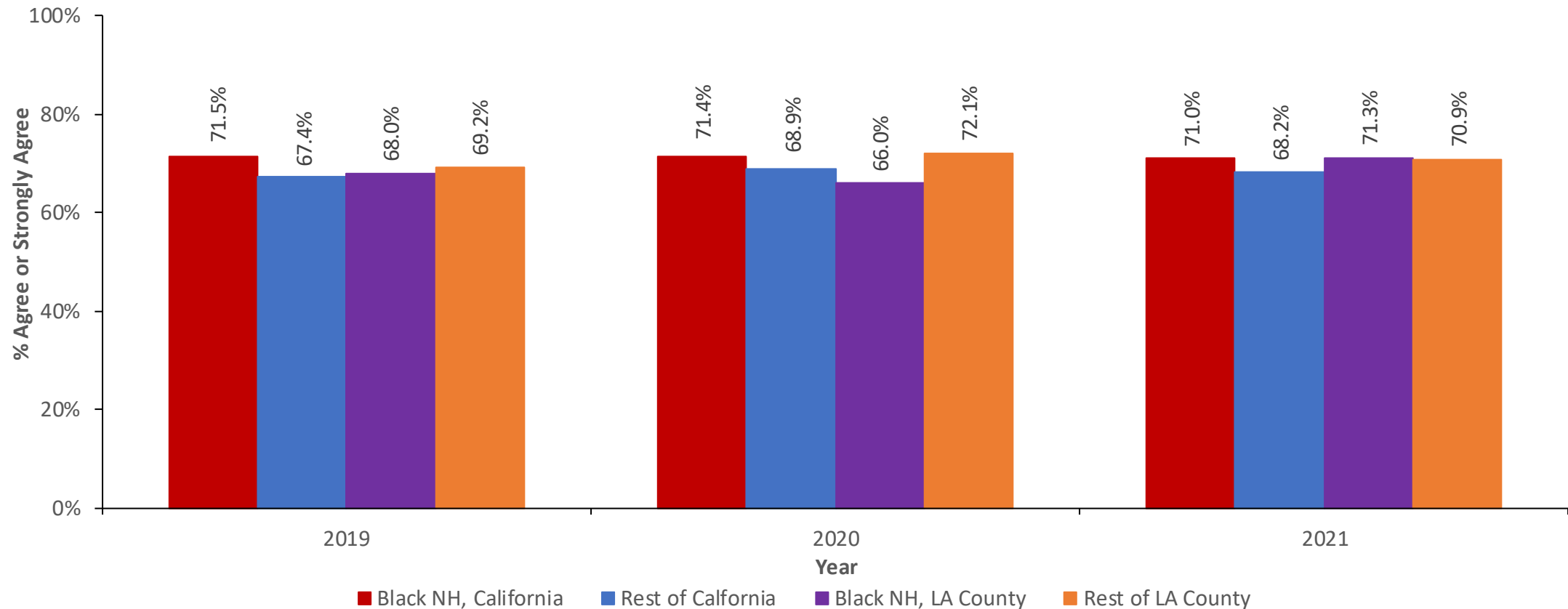
Notes. NH = Non-Hispanic. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "Cigarette sales should be phased out completely over the next 5 years." Rest-of-California respondents include non-Los Angeles County residents. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



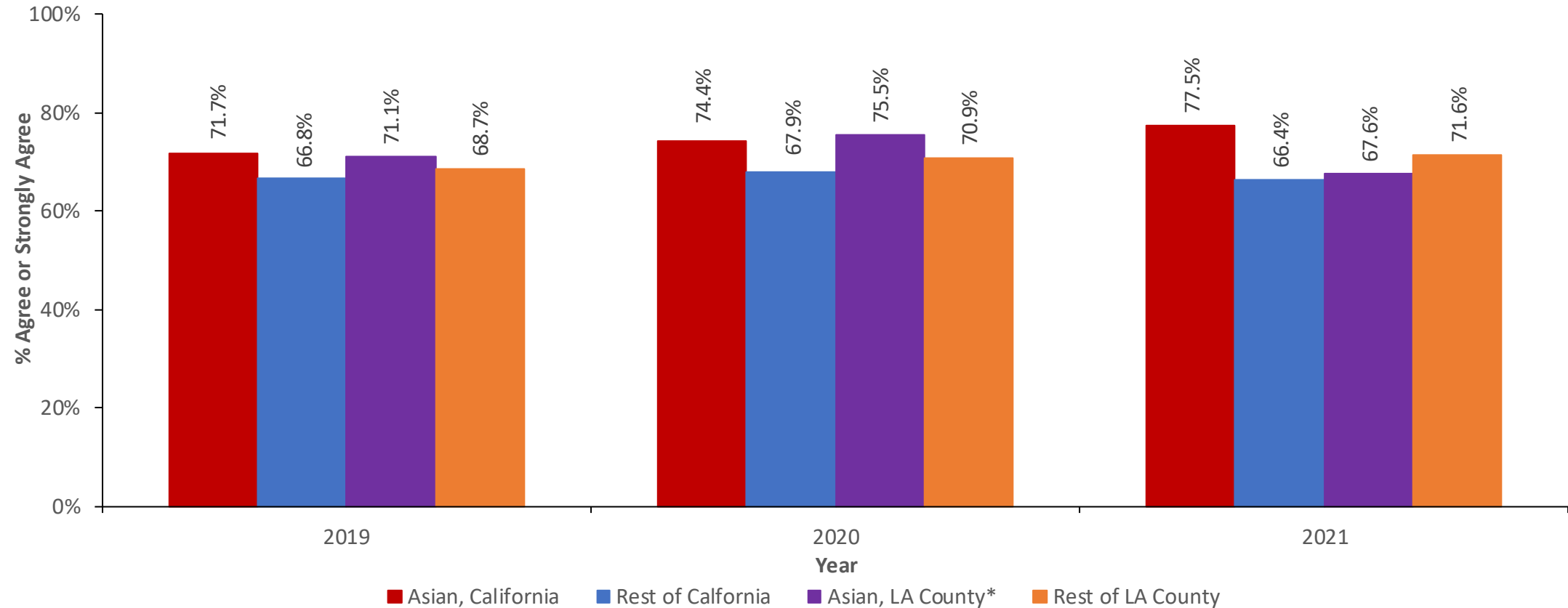
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Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among Black non-Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



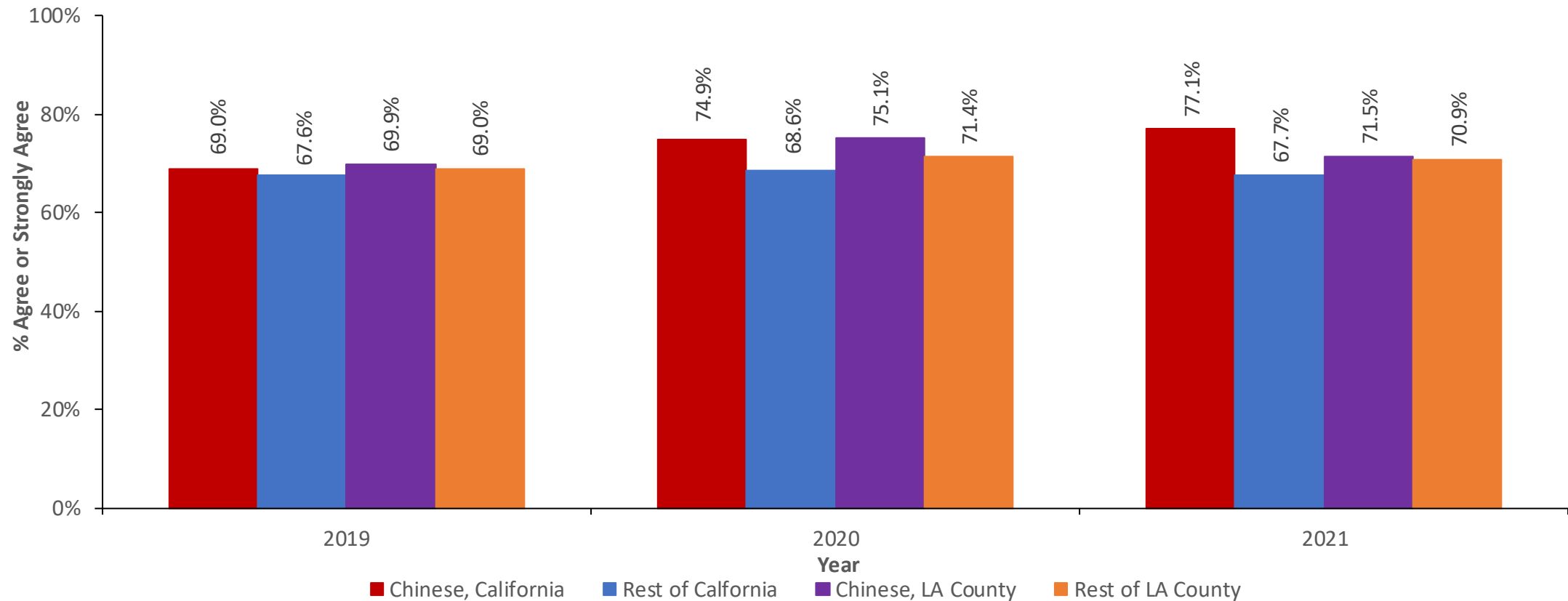
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Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among Asians by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



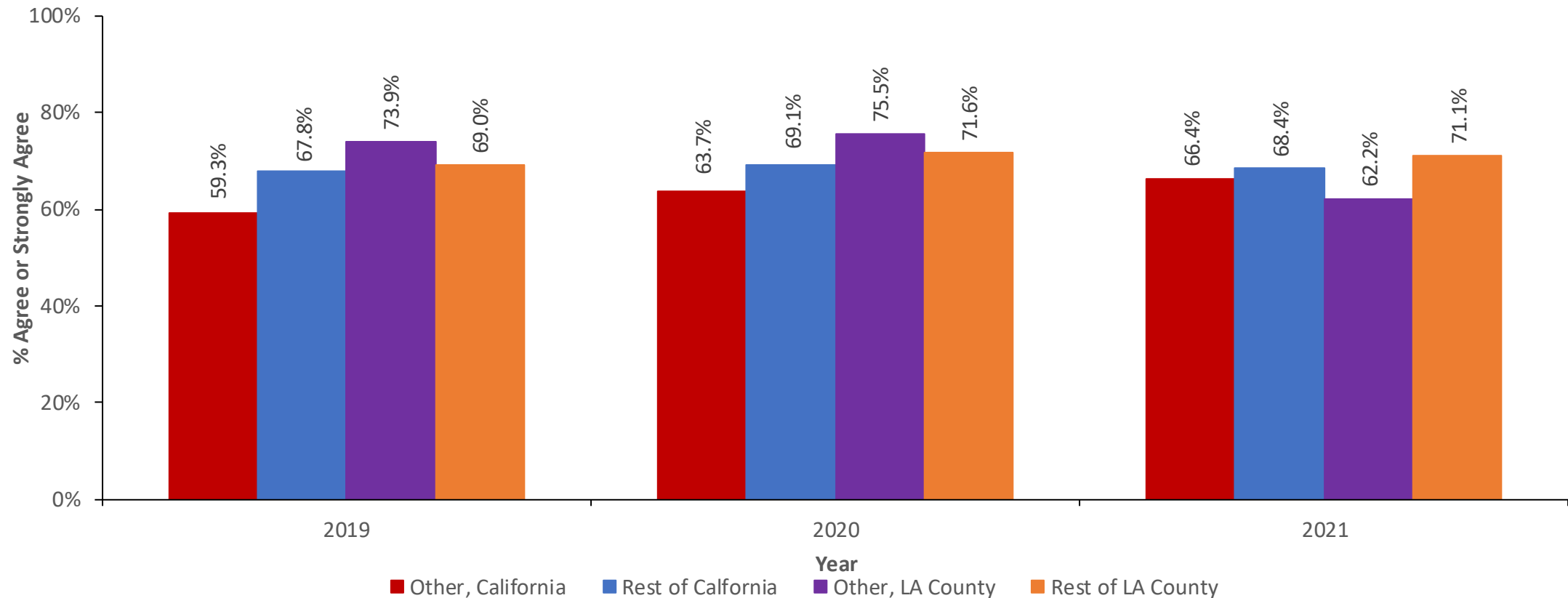
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Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among Chinese California Residents and Chinese Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "Cigarette sales should be phased out completely over the next 5 years." Rest-of-California respondents include non-Los Angeles County residents. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

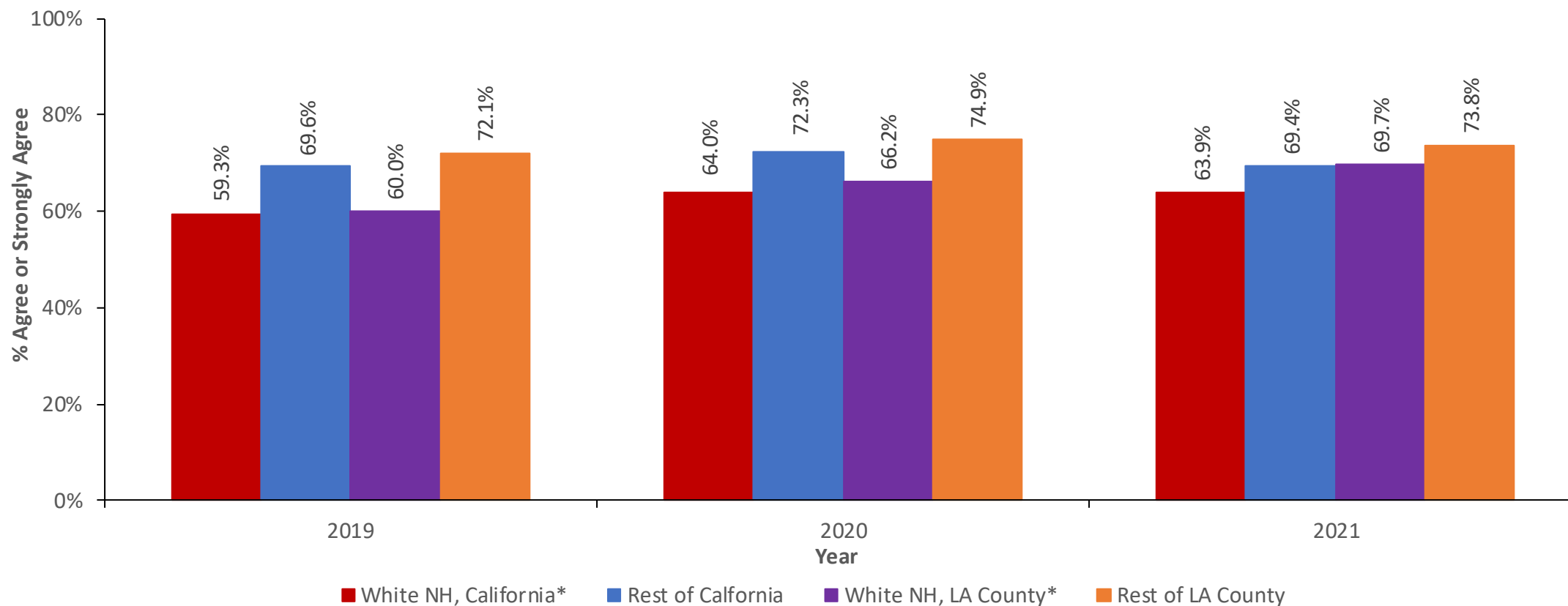
Support for Cigarette Sales to be Phased Out Completely Over the Next 5 Years among Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and Multiracial (Other) California and Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. "Other" combines Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and multiracial (two or more races) respondents due small sample sizes. Percentage of respondents who agreed/strongly agreed with the following statement: "Cigarette sales should be phased out completely over the next 5 years." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

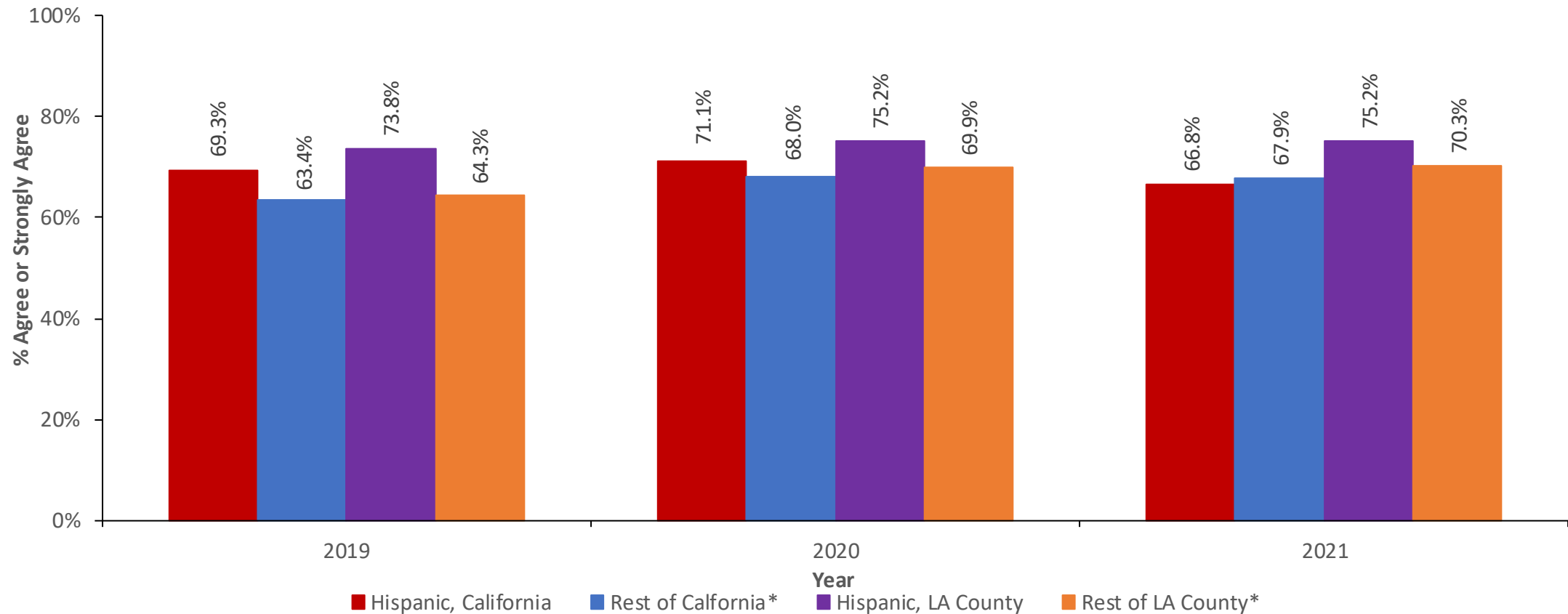
Percentage of respondents who agreed/strongly agreed with the following statement: “The sale of products that contain nicotine should not be allowed, except for aids that help smokers quit, such as nicotine gum and patches.”

Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among non-Hispanic Whites by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



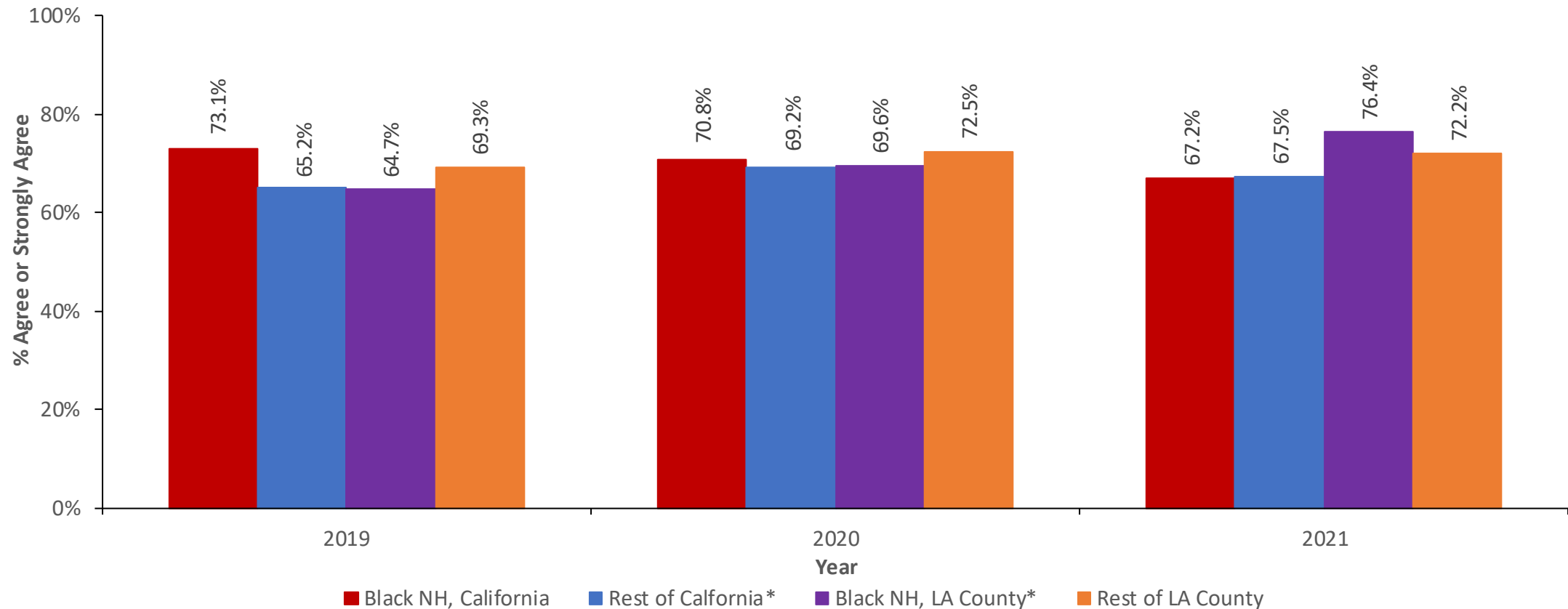
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Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



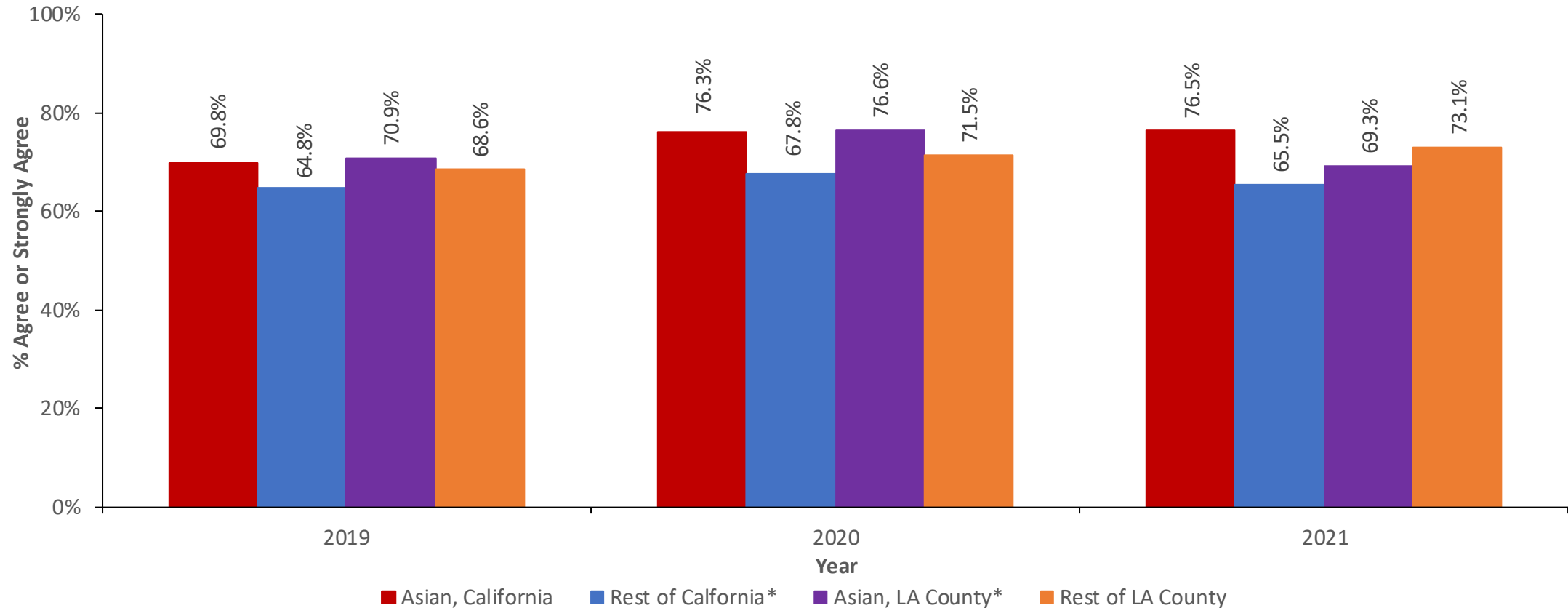
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Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among Black non-Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



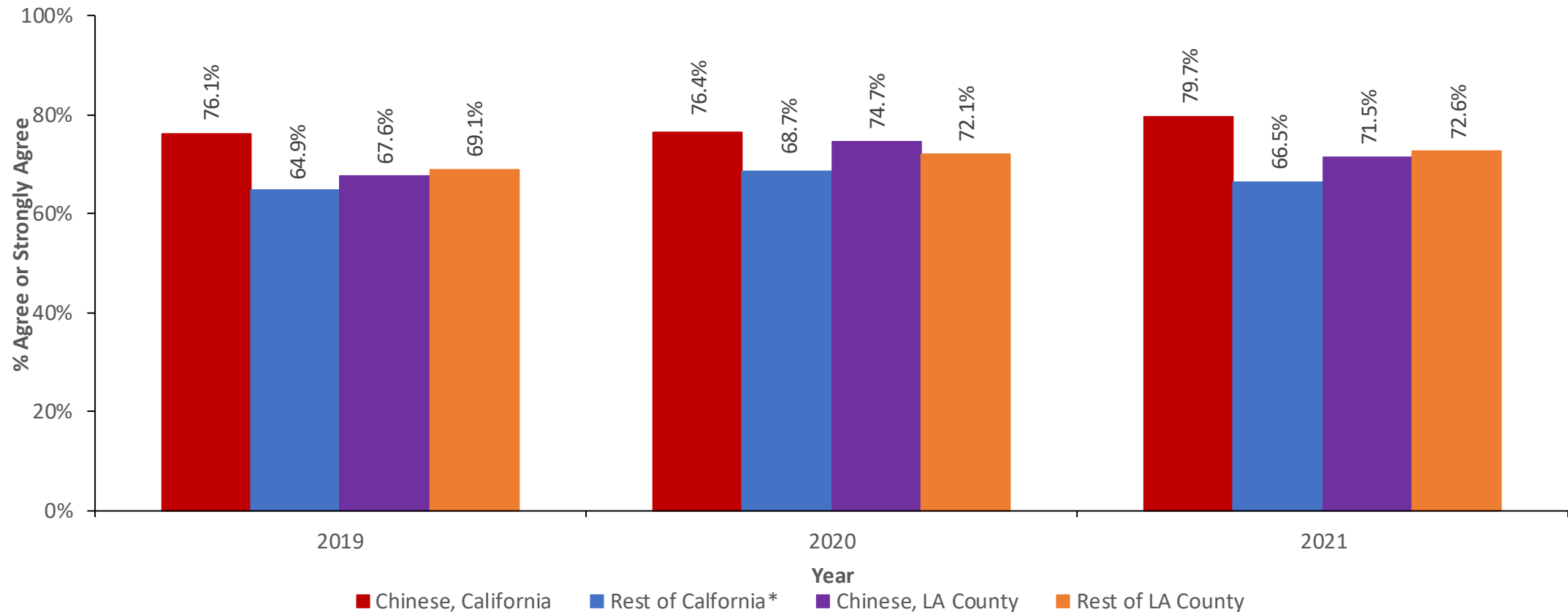
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Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among Asians by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



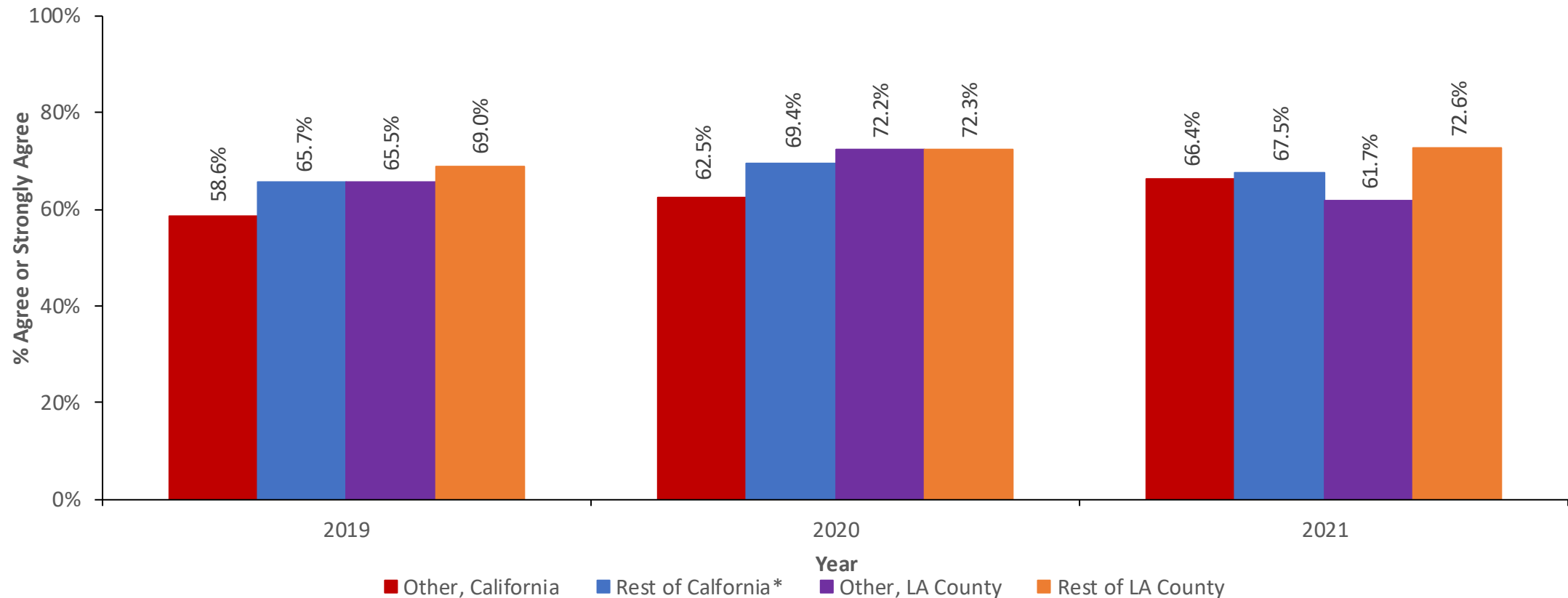
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Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among Chinese California Residents and Chinese Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of products that contain nicotine should not be allowed, except for aids that help smokers quit, such as nicotine gum and patches." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

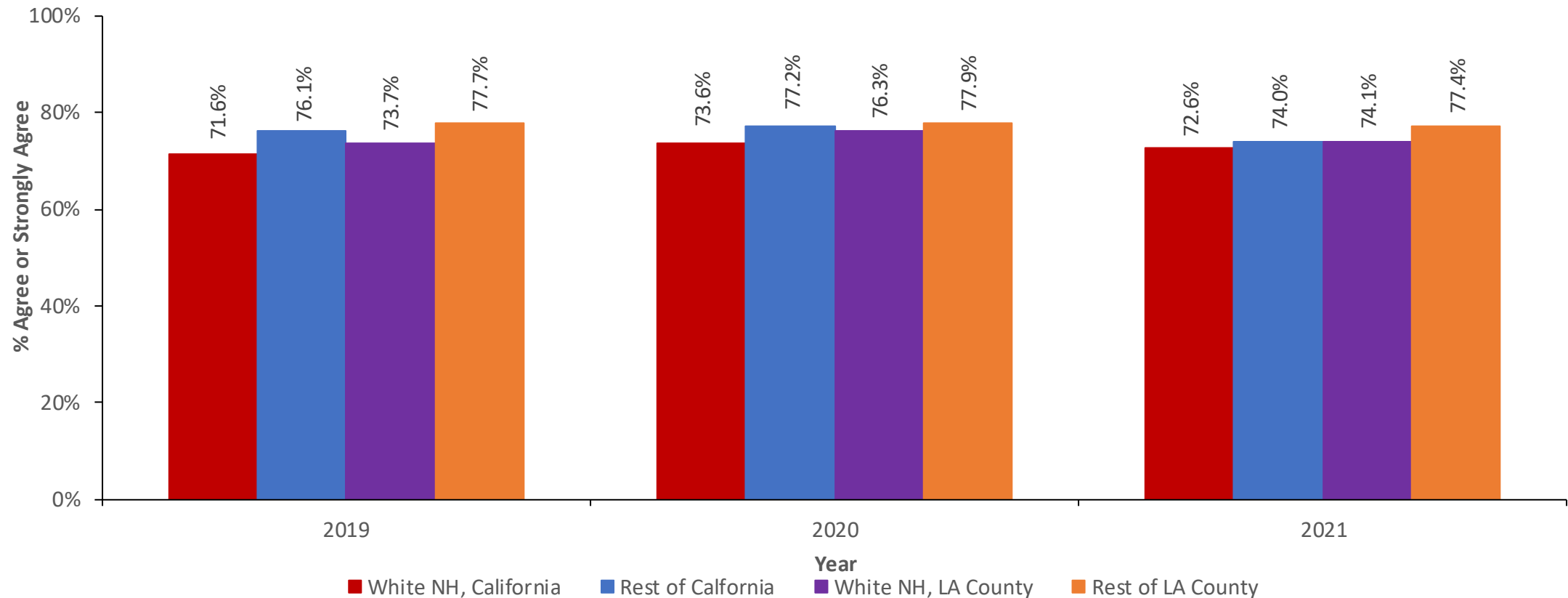
Support for Restriction of Sale of Nicotine Products (Except Nicotine Replacement Therapy) among Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and Multiracial (Other) California and Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. "Other" combines Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and multiracial (two or more races) respondents due small sample sizes. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of products that contain nicotine should not be allowed, except for aids that help smokers quit, such as nicotine gum and patches." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

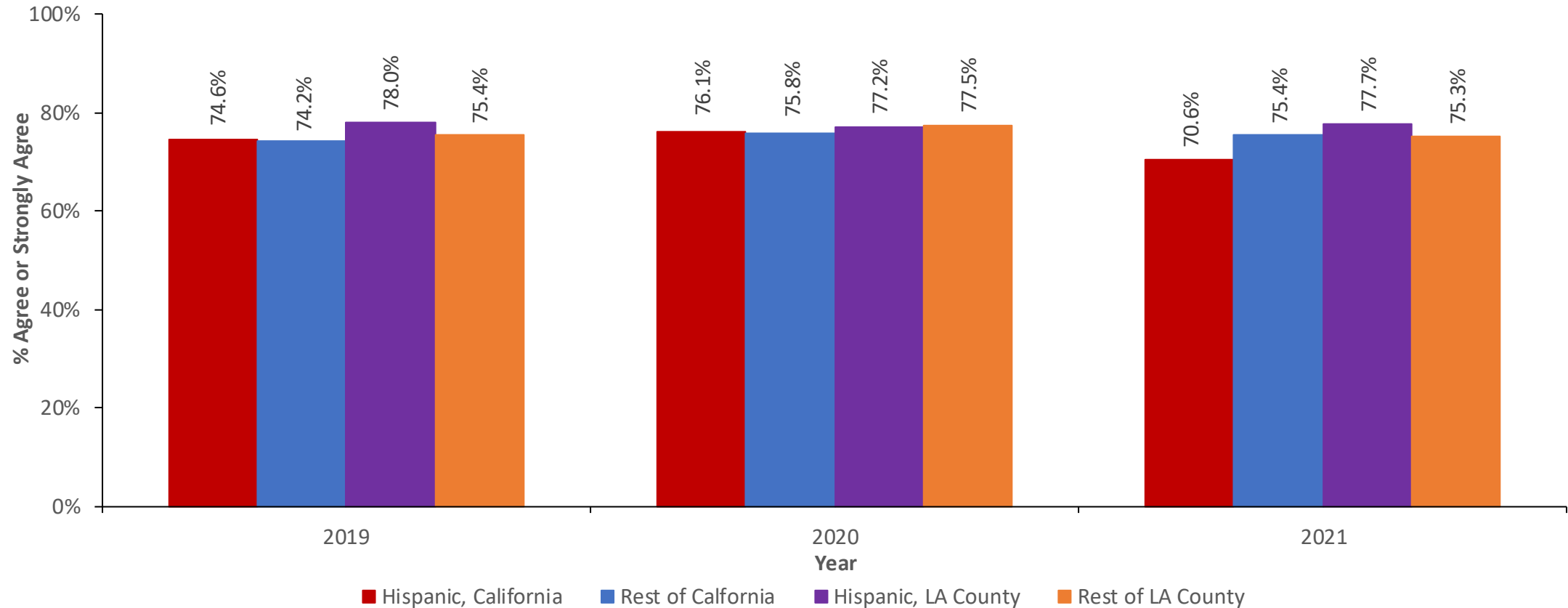
Percentage of respondents who agreed/strongly agreed with the following statement: “I’d support regulation to ban or restrict sale of flavored tobacco products, including e-cigarette and vape products.”

Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among non-Hispanic Whites by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



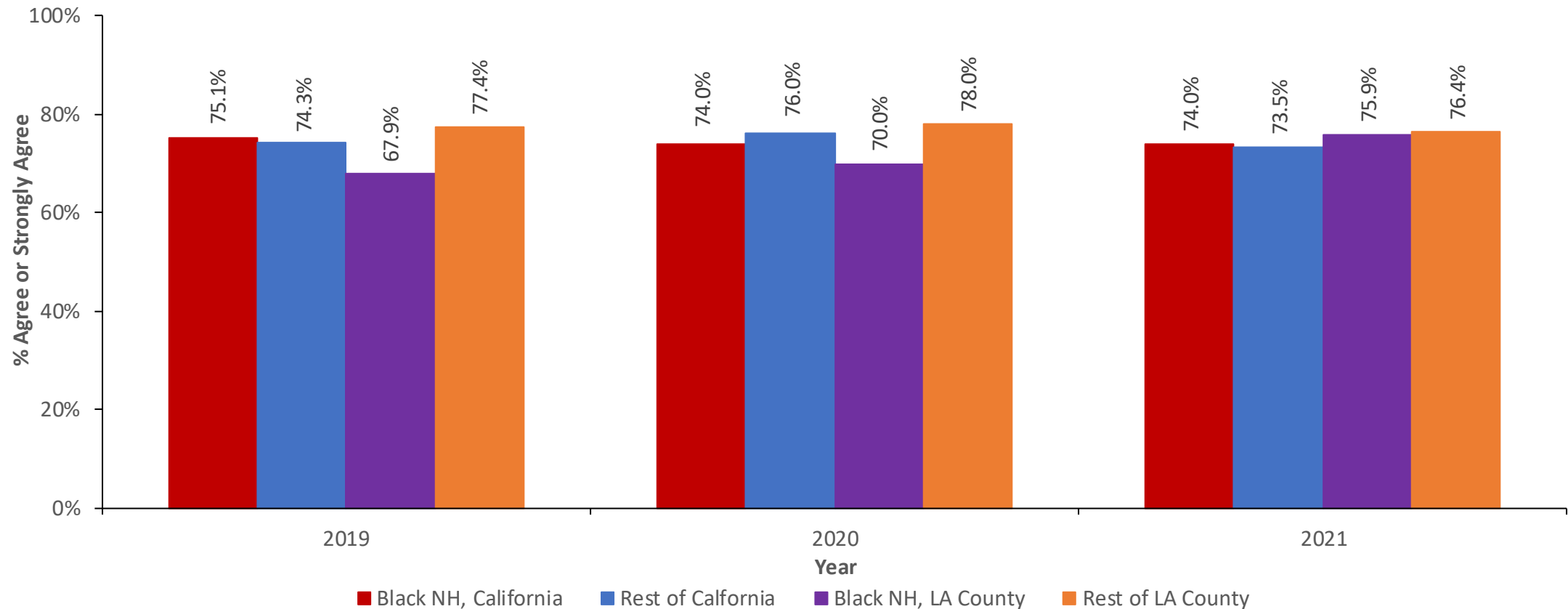
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Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



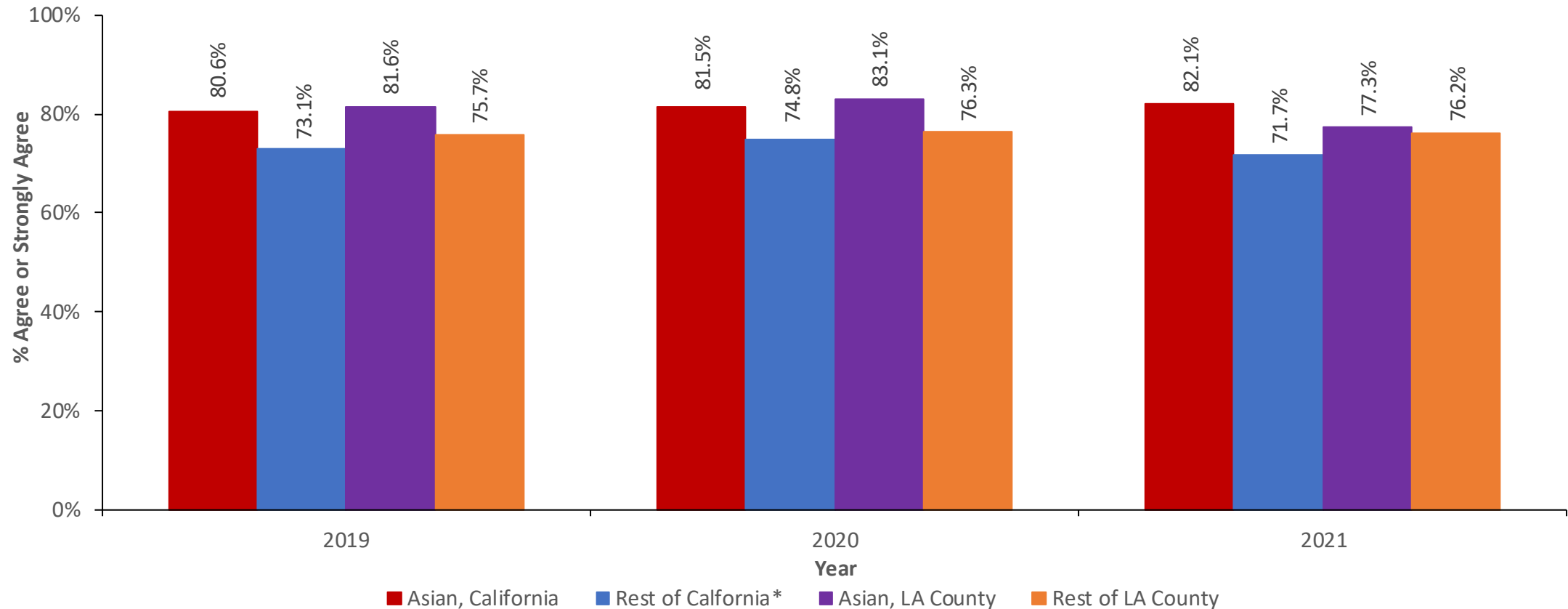
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Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among Black non-Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



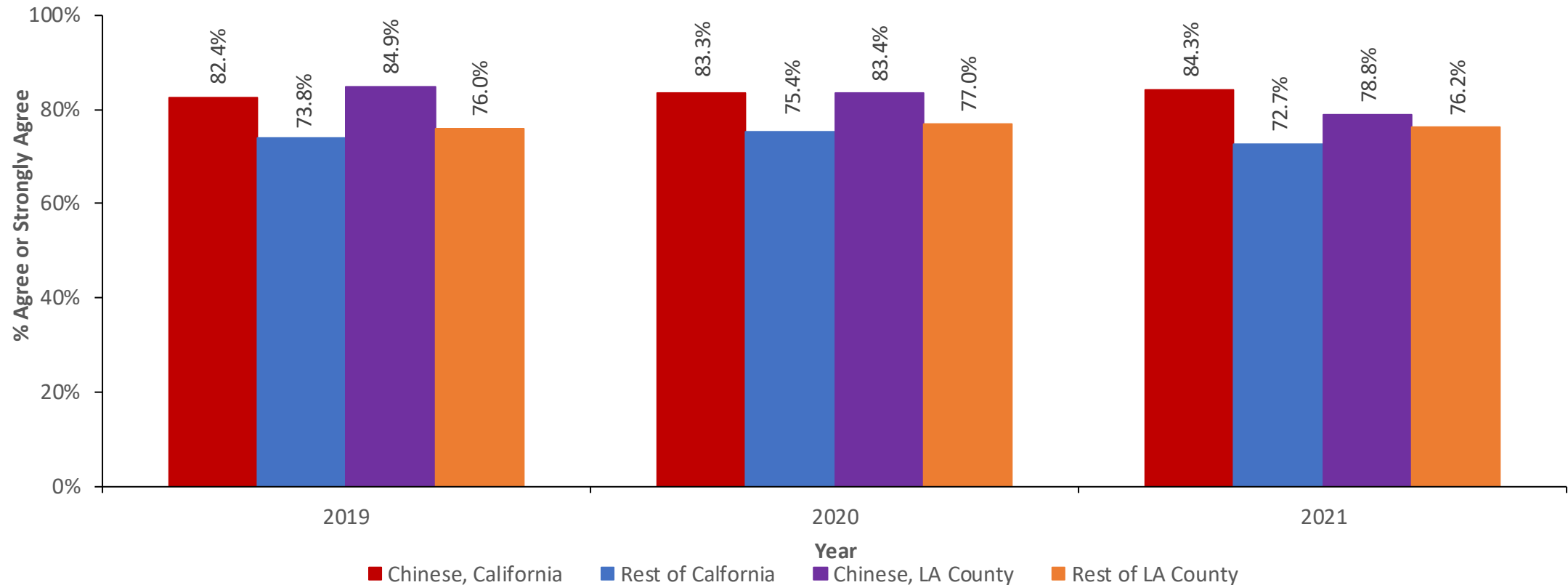
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Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among Asians by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



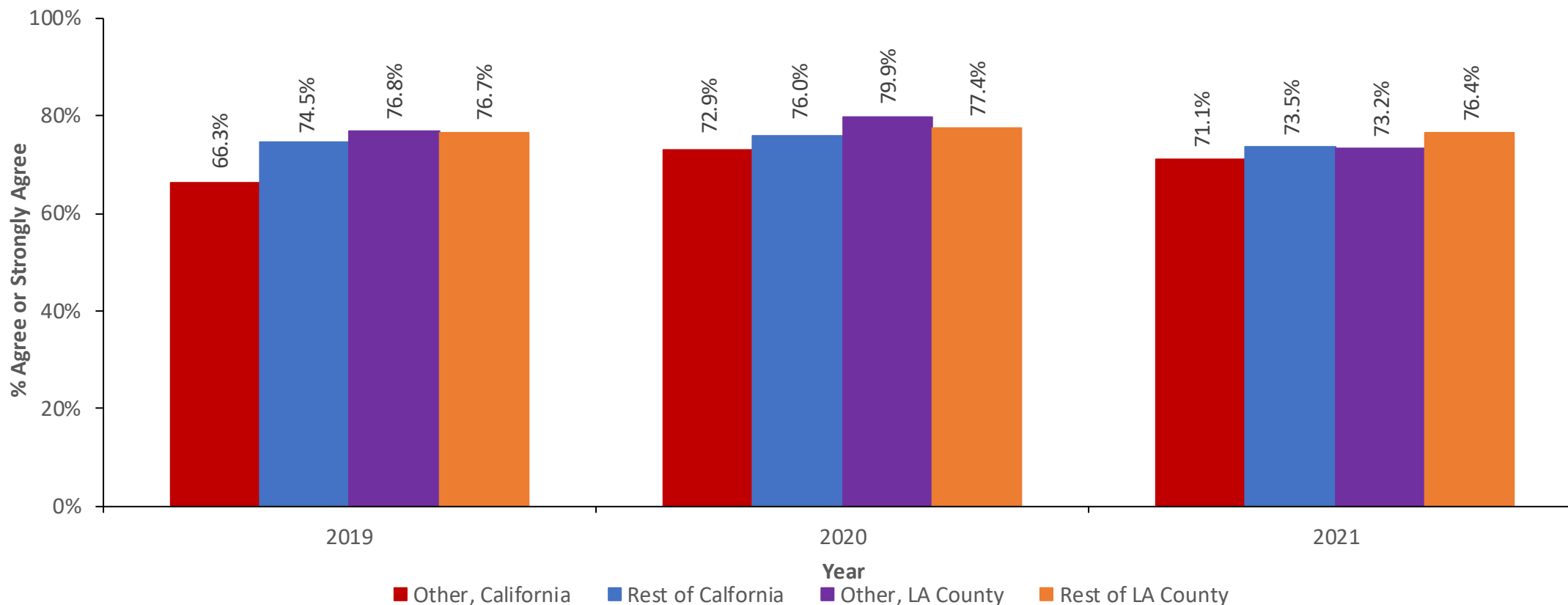
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 *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among Chinese California Residents and Chinese Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "I'd support regulation to ban or restrict sale of flavored tobacco products, including e-cigarette and vape products." Rest-of-California respondents include non-Los Angeles County residents. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Regulation to Ban or Restrict Sale of Flavored Tobacco Products among Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and Multiracial (Other) California and Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021

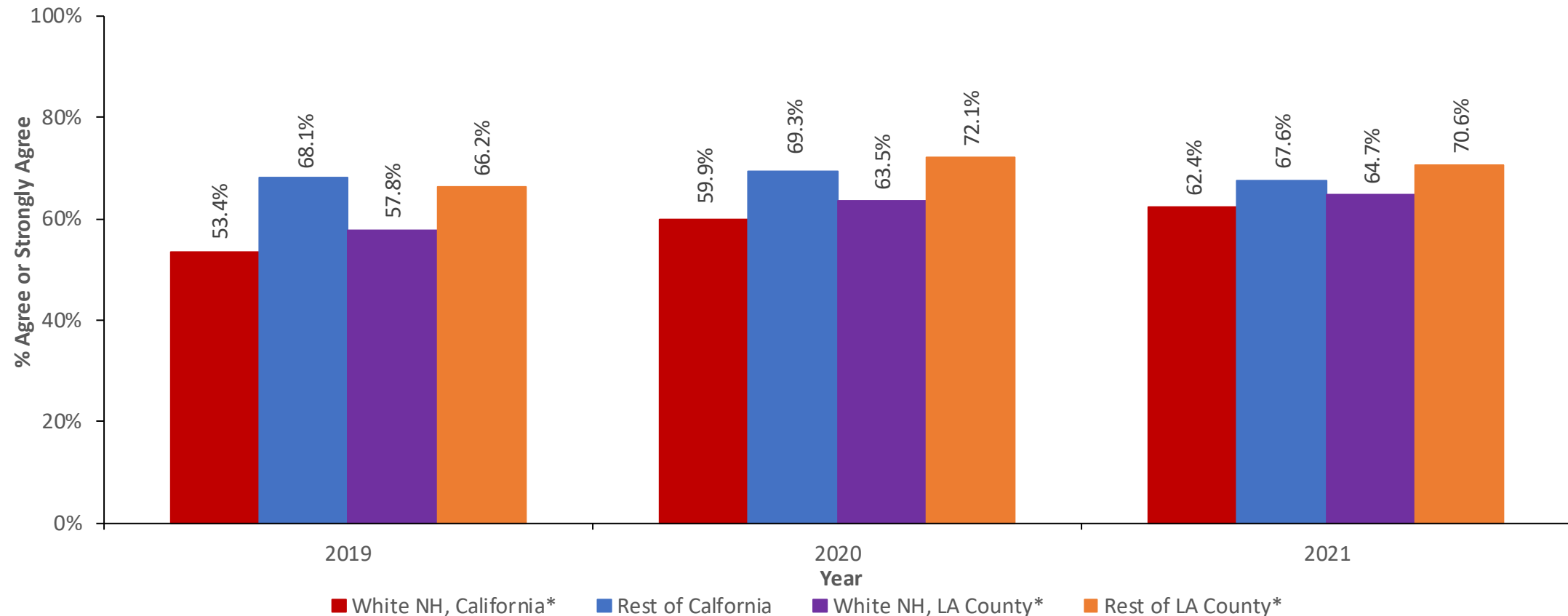


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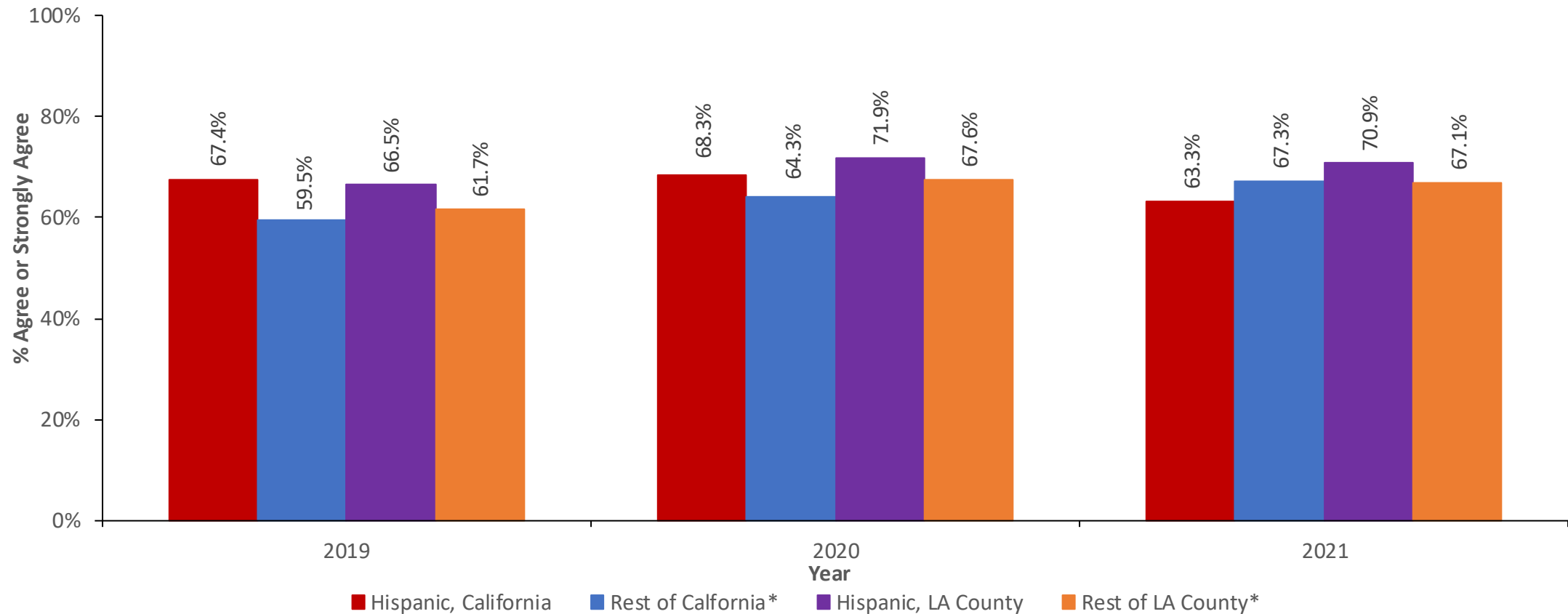
Percentage of respondents who agreed/strongly agreed with the following statement: “The sale of menthol cigarettes should not be allowed.”

Support for Ending the Sale of Menthol Cigarettes among non-Hispanic Whites by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



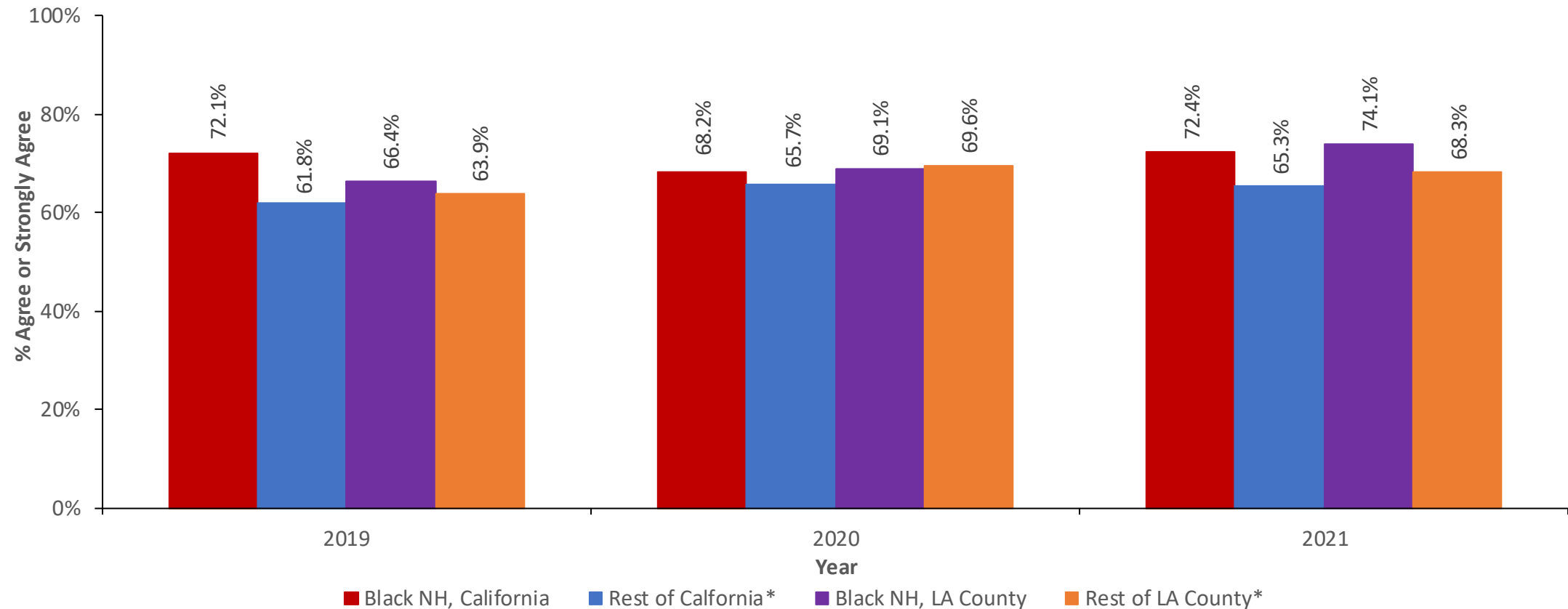
Notes. NH = Non-Hispanic. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of menthol cigarettes should not be allowed." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Ending the Sale of Menthol Cigarettes among Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



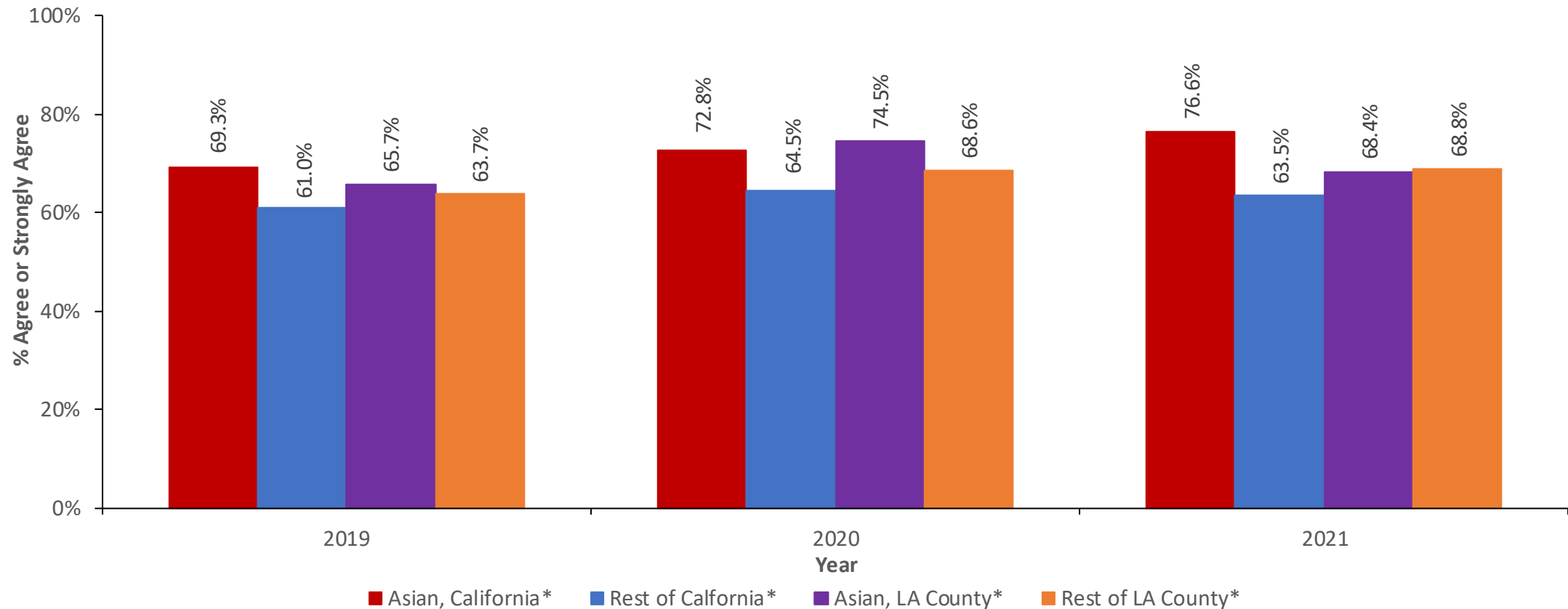
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Support for Ending the Sale of Menthol Cigarettes among Black non-Hispanics by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



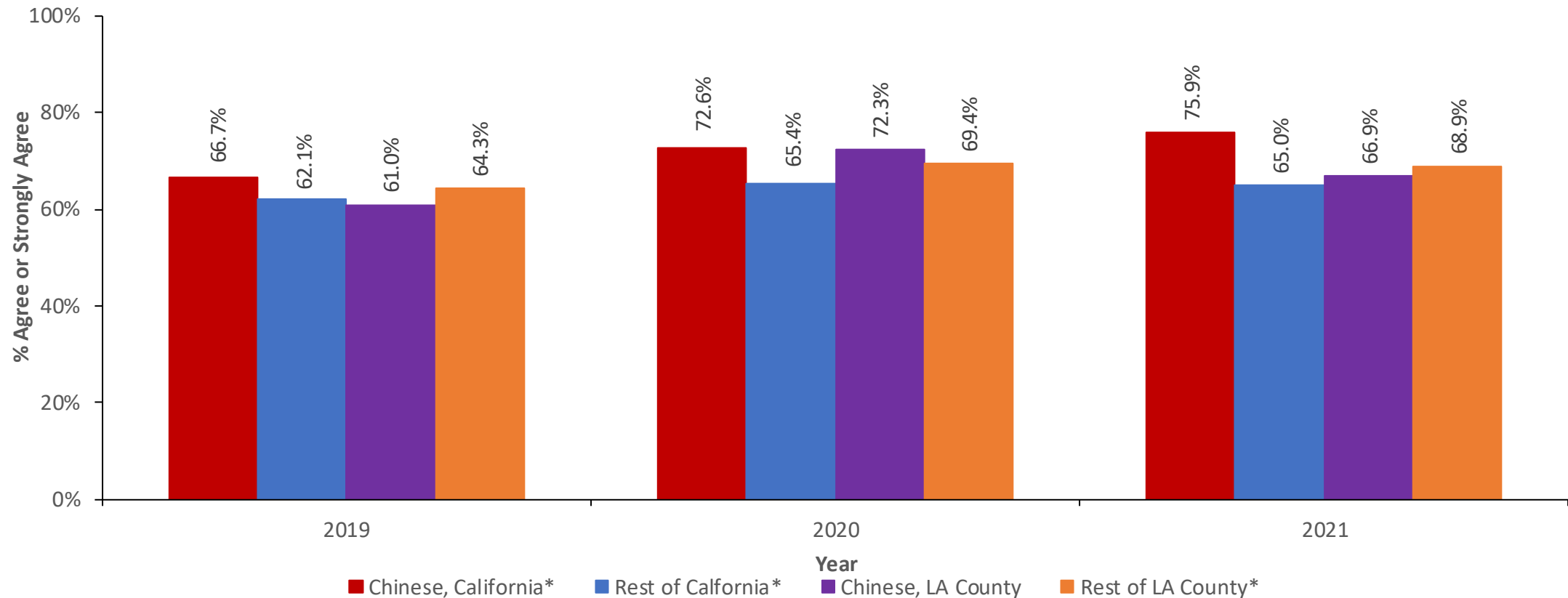
Notes. NH = Non-Hispanic. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of menthol cigarettes should not be allowed." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Ending the Sale of Menthol Cigarettes among Asians by California and Los Angeles County Residency vs. Remaining Racial/Ethnic Groups, 2019-2021



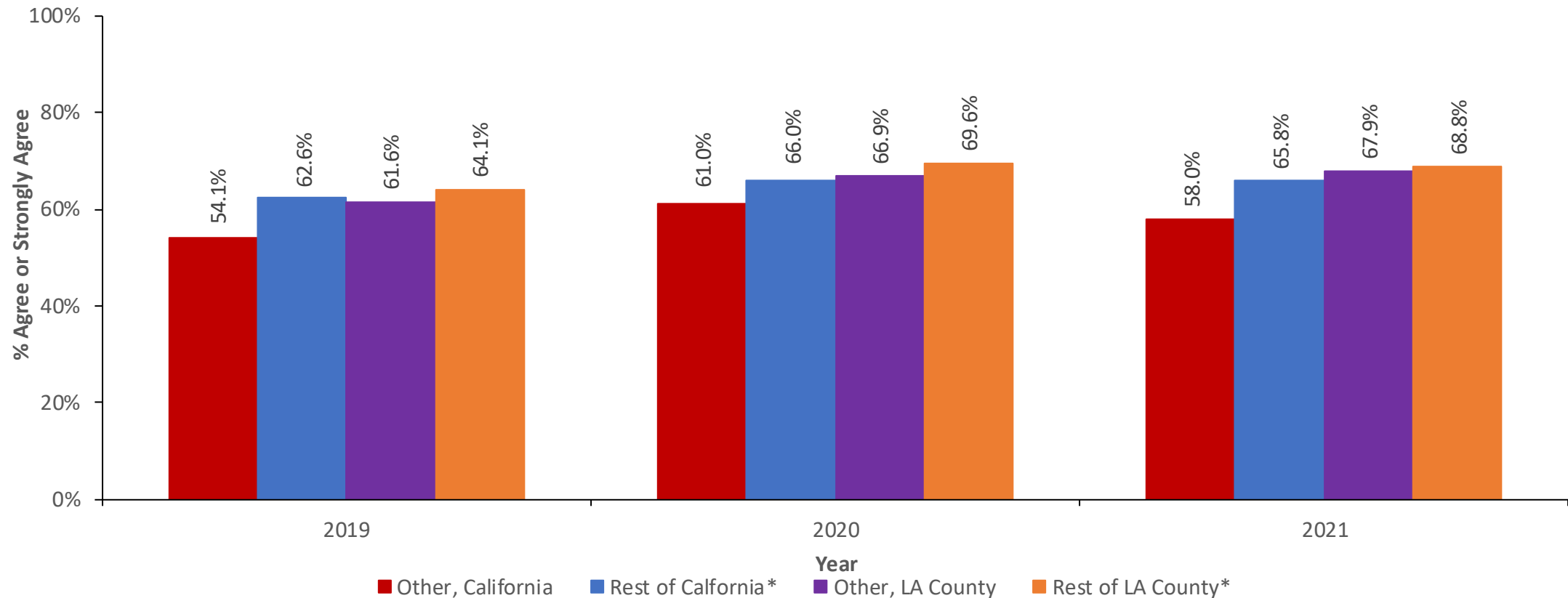
Notes. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of menthol cigarettes should not be allowed." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Ending the Sale of Menthol Cigarettes among Chinese California Residents and Chinese Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of menthol cigarettes should not be allowed." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

Support for Ending the Sale of Menthol Cigarettes among Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and Multiracial (Other) California and Los Angeles County Residents vs. Remaining Racial/Ethnic Groups, 2019-2021



Notes. LA = Los Angeles. "Other" combines Native Hawaiian/Pacific Islander, American Indian/Alaska Native, and multiracial (two or more races) respondents due small sample sizes. Percentage of respondents who agreed/strongly agreed with the following statement: "The sale of menthol cigarettes should not be allowed." Rest-of-California respondents include non-Los Angeles County residents. *p for trend < .05. Source: California Tobacco Control Program Media Evaluation Survey, conducted by Research Triangle Institute (RTI) International, Waves 1-23. Data collected from 8/14/2019-4/23/2021.

ATTACHMENT 5
Ordinance 2184

ORDINANCE NO. 2184**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,
AMENDING CHAPTER 18 (BUSINESS, PROFESSIONS AND TRADES)
WITH THE ADDITION OF PART 6 – (TOBACCO RETAILER PERMIT),
OF THE SOUTH PASADENA MUNICIPAL CODE AND
ESTABLISHING A TOBACCO RETAIL PERMIT FEE**

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

WHEREAS, the City Council finds that a local permitting system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the City, to protect the health, safety, and welfare of our residents; and

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

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

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

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

onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);

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

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

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

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

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

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

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

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

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

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

WHEREAS, seventy-eight cities and counties in California have passed tobacco retailer licensing/permitting ordinances in an effort to stop minors from smoking; and

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

- Nearly 11% of all tobacco retailers unlawfully sold to minors in 2007;
- Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2007 at a much higher rate than the statewide average, as high as 16%;
- Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined);

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

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

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

SECTION 1. The City Council is enacting this ordinance, to ensure compliance with the business standards and practices of the City and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalties provided therein.

SECTION 2. Chapter 18 (Business, Professions and Trades) of the South Pasadena Municipal Code is hereby amended with the addition of Part 6 (Tobacco Retailer Permit) to read as follows:

PART 6 -TOBACCO RETAILER PERMIT

18.101 Definitions.

The following words and phrases, whenever used in this Part, 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 Part is not an Arm's Length Transaction.

(b) "Department" means Finance Department and any agency or Person designated by the Department to enforce or administer the provisions of this Part.

(c) "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 (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.

(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 or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.

(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).

(h) "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.

(i) "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, Tobacco Products or Tobacco Paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

18.102 Requirements and Prohibitions.

(a) TOBACCO RETAILER PERMIT REQUIRED. It shall be 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 Part 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.

(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 Part 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 (27) 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 who's 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.

18.103. Limits on Eligibility For a Tobacco Retailer Permit.

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.

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.

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 laws applicable to Tobacco Retailing. A permit issued contrary to this Part, 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 Part. Nothing in this Part 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.

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 Part. If an Authorized Address is not supplied, each Proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.

(4) Proof that the location for which a Tobacco Retailer 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 Part and, if so, the dates and locations of all such violations within the previous five years.

(6) Such other information as the Department deems necessary for the administration or enforcement of this Part as specified on the application form required by this section.

(b) 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 (10) business days of a change.

(c) 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.

18.105 Issuance of Permit.

Upon the receipt of a complete application for a Tobacco Retailer Permit and the Permit fee required by this Part, 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 Part.

(b) The application seeks authorization for Tobacco Retailing at a location for which this Part prohibits issuance of Tobacco Retailer Permits. However, this subparagraph 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 Part prohibits a Permit to be issued.

(d) The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this Part (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.

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 (30) 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 subparagraph (a), the Proprietor must:

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

(2) Submit a signed affidavit affirming that the Proprietor:

(i) 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

(ii) has waited the appropriate ineligibility period established for Tobacco Retailing without a Permit, as set forth in Section 18.112 (a) of this Part, before seeking renewal of the permit.

18.107 Permits Nontransferable.

(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 Proprietor(s).

(b) Notwithstanding any other provision of this Part, 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 fully transferred to a new Proprietor or fully transferred to entirely new Proprietors; and

(2) the new Proprietor(s) provide the City with clear and convincing evidence that the new Proprietor(s) have acquired or is acquiring the location in an Arm's Length Transaction.

18.108 Permit Conveys a Limited, Conditional Privilege.

Nothing in this Part 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 in the City identified on the face of the Permit. For example, nothing in this Part shall be construed to render inapplicable, supercede, 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.

18.109 Fee For Permit.

The initial fee to issue or to renew a Tobacco Retailer permit is hereby established at one hundred and twenty dollars (\$120.00). The fee shall be calculated so as to recover the cost of administration and enforcement of this Part, 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 Part. 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.

18.110 Compliance Monitoring.

(a) Compliance with this Part shall be monitored by the Finance Department. In addition, any peace officer may enforce the penal provisions of this Part. The City may designate any number of additional Persons to monitor compliance with this Part.

(b) The Department or other Person designated to enforce the provisions of this Part shall check the compliance of each Tobacco Retailer at least one (1) time per twelve (12) 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 paragraph 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 Part;

(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 Departments and/or Pasadena Health Department; or

(4) the Youth Decoy has an immunity letter from the District Attorney's Office.

18.111 Suspension/Revocation 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 Part or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 18.102 above. 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 Part.

(b) TOBACCO RETAILER PERMIT SUSPENSION/REVOCAION

(1) After suspension for a first violation of this Part at a location within any twelve-month (12) period, no Person may engage in Tobacco Retailing at the location until Fifteen (15) days have passed from the date of suspension.

(2) After suspension for a second violation of this Part at a location within any twenty-four (24) month, no Person may engage in Tobacco Retailing at the location until thirty (30) days have passed from the date of suspension.

(3) After suspension for a third violation of this Part at a location within any thirty-six (36) month period, no Person may engage in Tobacco Retailing at the location until ninety (90) days have passed from the date of suspension.

(4) After revocation for four or more violations of this Part at a location within any forty-eight (48) month period, no new Permit may issue for the location until one year (1) has passed from the date of revocation.

(c) **APPEAL OF SUSPENSION/REVOCAION.** A decision of the Department to suspend or revoke a permit is appealable to City Manager and/or his/her designee and must be filed with the City Clerk or 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 or designee is not available for a suspension or revocation made pursuant to subsection (d) below.

(d) **REVOCATION OF PERMIT WRONGLY ISSUED.** A Tobacco Retailer Permit shall be revoked if the Department finds, after the Permit 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.

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 (60) 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 (30) days have passed from the date of the violation.

(2) After a second violation of this section at a location within any sixty-month (60) 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 (90) days have passed from the date of the violation.

(3) After of a third or subsequent violation of this section at a location within any sixty-month (60) 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 (5) 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 is 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 Part. 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 lawsuit or, if such a suit is filed, after judgment in that suit becomes final.

(c) For the purposes of the civil remedies provided in this Part:

(1) each day on which a Tobacco Product or Tobacco Paraphernalia is offered for sale in violation of this Part; 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 Part;

shall constitute a separate violation of this Part.

18.113 Enforcement.

(a) The remedies provided by this Part are cumulative and in addition to any other remedies available at law or in equity.

(b) Whenever evidence of a violation of this Part is obtained in any part through the participation of a Person under the age of eighteen (18) years old, such a Person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this Part and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(c) Violations of this Part 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 (\$250) and not exceeding one thousand dollars (\$1,000) per violation.

(d) Violations of this Part may, in the discretion of the City Prosecutor be prosecuted as infractions or misdemeanors when the interests of justice so require.

(e) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Part shall also constitute a violation of this Part.

(f) Violations of this Part are hereby declared to be public nuisances.


(g) In addition to other remedies provided by this Part or by other law, any violation of this Part 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.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or

circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of South Pasadena hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

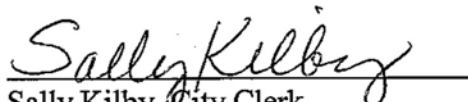
SECTION 4. This ordinance shall take effect thirty (30) days after its final passage and within (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

PASSED, APPROVED AND ADOPTED ON this 18th day of February, 2009.



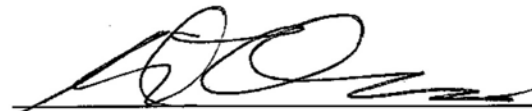
David Sifuentes, Mayor

ATTEST:



Sally Kilby, City Clerk

APPROVED AS TO FORM:



Richard L. Adams II, City Attorney

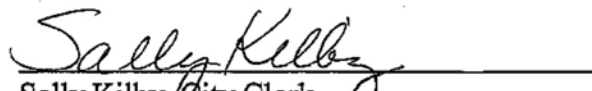
I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena at a regular meeting held on the 18th day of February, 2009, by the following vote:

AYES: Cacciotti, Putnam, Schneider, Ten and Mayor Sifuentes

NOES: None

ABSENT: None

ABSTAINED: Noe



Sally Kilby, City Clerk

ATTACHMENT 6

Not for Sale: The State Authority to End Cigarette Sales

NOT FOR SALE: STATE AUTHORITY TO END CIGARETTE SALES

Joelle Lester[†] & Mark Meaney^{††}

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I. INTRODUCTION

Cigarette smoking continues to be a public health problem of staggering dimensions, killing more than 480,000 Americans each year and leaving millions more to suffer from chronic disease.¹ Through multiple biochemical mechanisms, tobacco smoke damages every organ in the body and causes a wide array of devastating illnesses, including cardiovascular disease, multiple

[†] Joelle M. Lester is the Director of Tobacco Control Legal Consortium, a program of the Public Health Law Center.

^{††} Mark Meaney is the Lead Senior Staff Attorney for Technical Assistance at the Tobacco Control Legal Consortium, a program of the Public Health Law Center. The authors wish to thank Leslie Zellers and Maggie Mahoney for their research contributions and Michael Freiberg for his editorial assistance.

1. See *Health Effects of Cigarette Smoking*, CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/index.htm [https://perma.cc/7NRE-GEAB] (last updated May 15, 2017).

forms of cancer, and reproductive issues.² Additionally, the economic impact of smoking is enormous, approaching \$300 billion annually.³ Smoking causes \$150 billion per year in lost productivity and at least \$130 billion per year in healthcare costs.⁴ While policy interventions such as smoke-free laws and cigarette taxes have reduced the prevalence of smoking, the risk of dying from cigarette smoking has increased over the last fifty years in the United States.⁵

One concern is the continuing problem of underage and young adult smoking. Each day 3,200 adolescents try smoking for the first time.⁶ An additional 2,100 adolescents will become daily smokers.⁷ While adolescent smoking rates declined from 1997-2003, the decline has subsequently slowed, stalling among certain sub-populations.⁸

Also alarming is the phenomenon of disproportionate tobacco-related health effects among minority subpopulations.⁹ While overall smoking rates have declined in recent years, health disparities related to tobacco use have increased.¹⁰ Racial and ethnic minorities, particularly African Americans and certain Native American populations, bear a disproportionate burden of tobacco-related disease.¹¹ For example, African American men have higher rates of

2. See *id.*

3. See *The Health Consequences of Smoking-50 Years of Progress: A Report of the Surgeon General*, U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/fact-sheet.html> [https://perma.cc/M A7K-GHBT] (last visited June 21, 2018).

4. See *id.*

5. See *id.*

6. See *Youth and Tobacco Use*, CTRS. FOR DISEASE CONTROL & PREVENTION, https://www.cdc.gov/tobacco/data_statistics/fact_sheets/youth_data/tobacco_use/index.htm [https://perma.cc/3V2Y-2G5E] (last updated Sept. 20, 2017).

7. See *id.*

8. See *Cigarette Use Among High School Students-United States 1991-2009*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm5926a1.htm> [https://perma.cc/3DQ9-9MNR] (last updated July 9, 2010) (noting that after declines from the late 1990s to 2003, current cigarette use remained stable from 2003--2009 among male students overall, white students overall, white male students, Hispanic female students, Hispanic male students, and eleventh and twelfth grade students).

9. See *Tobacco-Related Disparities*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/tobacco/disparities/index.htm> [https://perma.cc/S38R-B3CK] (last updated Dec. 1, 2016).

10. See *id.*

11. See Wendy Max et al., *The Disproportionate Cost of Smoking for African Americans in California*, AM. J. PUB. HEALTH, Jan. 2010, at 152-58.

smoking-attributable lung cancer than any other group.¹² In addition, multiple studies have found that lesbian, gay, bisexual, and transgender (LGBT) individuals are 1.5 to 2.5 times more likely to smoke than their non-LGBT counterparts.¹³ Such statistics are especially disturbing given that racial and sexual minorities are generally less likely to access tobacco cessation treatments and health care services.¹⁴

Strikingly, this death and disease along with the associated economic costs are preventable. In fact, the U.S. Centers for Disease Control and Prevention has characterized the reduction of tobacco use as a public health priority, or "Winnable Battle." In other words, a significant progress can be made in a relatively short time, thus meriting continued investment in innovative policy interventions by national, state, and local governments.¹⁵ While the federal government has enacted legislation in recent years,¹⁶ most of the regulation of tobacco products occurs at the state and local levels.¹⁷ With congressional paralysis and recent executive actions,¹⁸ it seems likely that state and local governments will continue to drive most tobacco control policy.¹⁹

12. *See id.*

13. *See* TRUTH INITIATIVE ET AL., *ACHIEVING HEALTH EQUITY IN TOBACCO CONTROL* 1, 12 (2015), <https://truthinitiative.org/sites/default/files/Achieving%20Health%20Equity%20in%20Tobacco%20Control%20-%20Version%201.pdf> [https://perma.cc/9NYA-GDMR].

14. *See id.* at 5.

15. *See Winnable Battles*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/winnablebattles/report/tobacco.html> [https://perma.cc/A9L-HH6B] (last updated Dec. 14, 2017).

16. *See id.*

17. *See, e.g.*, Family Smoking Prevention and Tobacco Control Act of 2009, Pub. L. No. 111-31, 123 Stat. 1776 (2009) (codified at 21 U.S.C. § 387a (2012)).

18. *See, e.g.*, Sam Schaust, *Plymouth Becomes Fourth MN City to Raise Tobacco Sales Age to 21*, TWIN CITIES BUS. (Nov. 30, 2017), <http://tcbmag.com/news/articles/2017/november/plymouth-becomes-fourth-mn-city-to-raise-tobacco-s> [https://perma.cc/GYF5-D8JL].

19. *See, e.g.*, Exec. Order No. 13,771, 82 Fed. Reg. 9,339 (Jan. 30, 2017) (establishing a federal policy requiring that two regulations be identified for elimination for each new regulation issued).

20. *See* Scott Gottlieb, *Remarks by Dr. Gottlieb on New Strategies for Tobacco Policy and Therapeutic Nicotine & Placement*, U.S. FOOD & DRUG ADMIN. (Dec. 12, 2017), <https://www.fda.gov/NewsEvents/Speeches/ucm588661.htm> [https://perma.cc/JV7U-LGC7].

Given the overwhelming evidence of harm to individual health caused by tobacco use, as well as the impact on health care costs and the economy, public health advocates are looking for additional policy interventions to further reduce the toll of disease and death from smoking.²¹ The biggest public health gains may be realized by focusing policy interventions on reducing access to the most harmful tobacco products.²²

Cigarettes are the most harmful tobacco product.²³ The 2014 Surgeon General's report, *The Health Consequences of Smoking-50 Years of Progress*,²⁴ includes two key conclusions related to combusted tobacco products, their role in the tobacco epidemic, and the potential for greater restrictions on the sale of these products on improving public health. First, "[t]he burden of death and disease from tobacco use in the United States is overwhelmingly caused by cigarettes and other combusted tobacco products; rapid elimination of their use will dramatically reduce this burden."²⁵ Second, "[n]ew 'end game' strategies have been proposed with the goal of eliminating tobacco smoking. Some of these strategies may prove useful for the United States, particularly reduction of the nicotine content of tobacco products and greater restrictions on sales (including bans on entire categories of tobacco products)."²⁶

Preventing youth from smoking is critical to reducing tobacco-related death and disease, given the vast majority of smokers start before the age of eight years,²⁷ and the lifetime risk of many tobacco-related diseases is linked to the duration of smoking.²⁸ Policies to

21. See, e.g., OFFICE OF THE SURGEON GEN., U.S. DEPT OF HEALTH & HUMAN SERVICES, *THE HEALTH CONSEQUENCES OF SMOKING 50 YEARS OF PROGRESS: A REPORT OF THE SURGEON GENERAL* (2014), <https://www.surgeongeneral.gov/library/reports/50-years-of-progress/full-report.pdf> [<https://perma.cc/XG-JSGC>]; *Institute for Global Tobacco Control*, JOHNS HOPKINS UNIV., <https://www.jhsph.edu/research/centers-and-institutes/institute-for-global-tobacco-control/index.html> [<https://perma.cc/7BSB-CKT3>] (last visited June 21, 2018).

22. See, e.g., Gottlieb, *supra* note 20.

23. See Scott Gottlieb, *Remarks by Dr. Gottlieb*, U.S. FOOD & DRUG ADMIN. July 28, 2017), <https://www.fda.gov/NewsEvents/Speeches/ucm569024.htm> [<https://perma.cc/D8Y6-ALGY>].

24. OFFICE OF THE SURGEON GEN., *supra* note 21.

25. *Id.* at 7.

26. *Id.* at 13.

27. See *Youth and Tobacco Use*, *supra* note 6.

28. See Niloufar Taghizadeh, *Lifetime Smoking History and Cause-Specific Mortality in a Cohort Study with 43 Years of Follow-Up*, PLOS (Apr. 7, 2016), <http://journals.plos.org/plosone/article?id=10.1371/journal.pone.0153310>

reduce youth access to tobacco products, especially cigarettes, may be one of the most effective means to decrease the long-term health effects of tobacco use.²⁹

There are many existing policy interventions from all levels of government focused on reducing youth access to tobacco products.³⁰ These efforts include establishing a minimum legal age to purchase tobacco products, restricting sales locations, increasing the minimum price, and confining the sale of certain product classes by location or type of retailer.³¹

To date, however, no jurisdiction in the United States has taken the next step and prohibited the sale of an entire class of tobacco products. This inaction is mainly due to the political challenges of adopting, implementing, and enforcing such a bold policy option.³² Any jurisdiction pursuing such bold sales restrictions on tobacco products will need to marshal significant community education and advocacy resources, conduct careful drafting to address the legal issues laid out in this Article, and should expect vocal opposition to their efforts.³³

A prohibition against the sale of the most harmful tobacco products would have the greatest potential for a significant public health impact.³⁴ This is due to the fact that cigarettes and other combustible tobacco products cause the vast majority of illness and

[<https://perma.cc/BJ5R-KT4P>].

29. See OFFICE OF THE SURGEON GEN., *supra* note 21.

30. See, e.g., Paula M. Lantz, *Youth Smoking Prevention Policy: Lessons Learned and Continuing Challenges*, NCBI (2004), <https://www.ncbi.nlm.nih.gov/books/NBK37608/> [<https://perma.cc/AGL5-7HDQ>].

31. See *id.*

32. See, e.g., Lisa Kroon, *Characterization of Public Opinion on the Ban of Tobacco Sales in San Francisco Pharmacies*, UCSF CTR. FOR TOBACCO CONTROL RES. & EDUC., <https://tobacco.ucsf.edu/research/characterization-public-opinion-ban-tobacco-sales-san-francisco-pharmacies> [<https://perma.cc/83V5-TS94>] (last visited June 21, 2018).

33. An example of the need for community education and outreach as well as vocal opposition to prohibiting the sale of all tobacco products can be found in the story of Westminister, Massachusetts. See Katharine Q. Seelye, *Massachusetts Town Votes to End Bid for Tobacco Ban*, N.Y. TIMES (Nov. 19, 2014), <https://www.nytimes.com/2014/11/20/us/westminster-votes-to-end-bid-for-tobacco-ban.html> [<https://perma.cc/3HKA-R4AB>].

34. See OFFICE OF THE SURGEON GEN., note 21, at 853 (citing ROBERT N. PROCTOR, *GOLDEN HOLOCAUST: ORIGINS OF THE CIGARETTE CATASTROPHE AND THE CASE FOR ABOLITION* 556 (2012)); then citing Richard A. Daynard, *Doing the Unthinkable (and Saving Millions of Lives)*, 18 TOBACCO CONTROL 1, 2-3 (2009).

death associated with tobacco products.³⁵ A less dramatic variation on this policy would be to prohibit the sale of all flavored tobacco products, including menthol flavored products.³⁶ This approach would address the youth appeal of flavors,³⁷ especially with regard to electronic cigarettes;³⁸ and the disproportionate harm that menthol cigarettes inflict on African Americans,³⁹ women, youth, and the LGBT community.⁴⁰ San Francisco, California, is moving in this direction: the Board of Supervisors for the city adopted a ban on the sale of flavored tobacco products that will be subject to a voter referendum in June 2018.⁴¹ Either approach could face a legal challenge, most likely under the theory that such a policy is preempted by federal law.⁴² However, we conclude that a well-drafted policy prohibiting the sale of a class of tobacco products would probably survive a federal preemption challenge in court.

This Article begins with an overview of general preemption principles.⁴³ The focus of this Article is on the scope, and limitations, of federal preemption of state and local tobacco control laws

35. See OFFICE OF THE SURGEON GEN., *supra* note 21, at 7.

36. See Family Smoking Prevention and Tobacco Control Act of 2009, Pub. L. No. 111-31, 123 Stat. 1799 (2009) (codified at 21 U.S.C. § 387g (2012)) (banning certain flavors from cigarettes).

37. See Charles Courtemanche et al., *Influence of the Flavored Cigarette Ban on Adolescent Tobacco Use*, 52 AM. J. OF PREVENTIVE MEDICINE 139 (2017).

38. See GINNA KOSTYGINA ET AL., UCSF CTR. FOR TOBACCO CONTROL RES. & EDUC., FDA SHOULD PROHIBIT FLAVORS IN ALL TOBACCO PRODUCTS IN THE CURRENT RULE MAKING (2014), <https://tobacco.ucsf.edu/sites/tobacco.ucsf.edu/files/u9/FDA-comment-deeming%20rule%20flavor%20comment%20June3AAA-ljy-8c-hl-vs81.pdf> [https://perma.cc/U74R-UQCD].

39. See LaTrisha Vetaw, *Why We Have to Curb the Targeting of Menthol Tobacco Products to African-Americans*, MINNPOST (Aug. 14, 2015), <https://www.minnpost.com/community-voices/2015/08/why-we-have-curb-targeting-menthol-tobacco-products-african-americans> [https://perma.cc/QH4A-FDPP].

40. See TOBACCO CONTROL LEGAL CONSORTIUM, CHICAGO'S REGULATION OF MENTHOL FLAVORED TOBACCO PRODUCTS: A CASE STUDY 1 (2016), <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-fs-Chicago-Regulation-of-Menthhol-Case-Study-Update-2016.pdf> [https://perma.cc/W9X8-2T6E].

41. See, e.g., Angelica LaVito, *San Francisco, Big Tobacco Set for a Showdown over Flavored Products*, CNBC (Sept. 6, 2017), <https://www.cnbc.com/2017/09/06/san-francisco-big-tobacco-set-for-a-showdown-over-flavored-products.html> [https://perma.cc/TN8S-47S4].

42. See, e.g., U.S. Smokeless Tobacco Mfg. Co. v. City of New York, 708 F.3d 428, 430 (2d Cir. 2013) (holding the local ordinance governing flavored tobacco products is not preempted by federal law).

43. See *infra* Part II.

through a review of existing federal law.⁴⁴ Specifically, the analysis reviews arguments for preemption that the tobacco industry is likely to use against state and local efforts to restrict or prohibit the sale of a class of tobacco products.⁴⁵ The analysis also surveys the federal case law to assess the relative strength of any arguments the tobacco industry may advance.⁴⁶ Next, this Article considers other federal laws and legislation that could add to the preemption threat.⁴⁷ Lastly, this Article considers some additional obstacles local governments may face when attempting to restrict the sale of tobacco products.⁴⁸

II. GENERAL PREEMPTION PRINCIPLES

Preemption is a legal principle in which a higher level of government can restrict or eliminate the authority of a lower level of government to regulate a certain issue.⁴⁹ Article VI of the U.S. Constitution provides that the laws of the United States "shall be the supreme Law of the Land."⁵⁰ Thus, federal law prevails if there is a conflict with a state or local law.⁵¹ Preempted laws have no force or effect.⁵² Because local control is so integral to tobacco control, the tobacco industry and its allies have long used preemptive strategies to thwart local smoke-free laws, youth access restrictions, tobacco retailer licensing systems, advertising and promotion regulations, and similar policies.⁵³

For decades, the strongest and most innovative tobacco control policies have emerged at the local level—often after long and hard-fought grassroots community efforts—before ultimately being adopted at the state or federal level.⁵⁴ These grassroots campaigns

44. See *infra* Part III.

45. See *id.*

46. See *id.*

47. See *infra* Parts IV, V.

48. See *infra* Part VI.

49. See *Cipollone v. Liggett Grp.*, 505 U.S. 504, 516 (1992) ("[I]t has been settled that state law that conflicts with federal law is 'without effect.'"); NAT'L POLICY AND LEGAL ANALYSIS NETWORK TO PREVENT CHILDHOOD OBESITY (NPLAN) & PUB. HEALTH LAW CTR., THE CONSEQUENCES OF PREEMPTION FOR PUBLIC HEALTH ADVOCACY, (2010), <http://www.publichealthlawcenter.org/sites/default/files/resources/nplan-fs-consequences-2010.pdf> [<https://perma.cc/FS9A-W62N>].

50. U.S. CONST. art. VI, cl. 2.

51. See *Cipollone*, 505 U.S. at 516.

52. See *id.*

53. See NPLAN & PUB. HEALTH LAW CTR., *supra* note 49, at 2-3.

54. See, e.g., Andrew Hyland et al., *Smoke-free Air Policies: Past, Present and Future*,

increase local awareness of tobacco control issues, build community readiness and support, and foster public debate about the need for policy change and healthy social norms." A preemptive state or federal law can invalidate many local tobacco control policies that represent years of efforts at the local level."⁶

When determining whether a federal law preempts a state or local law, courts examine a variety of factors, including the plain language of the law and Congressional intent.⁷ As the United States Supreme Court explained, "the purpose of Congress is the ultimate touchstone" in every pre-emption analysis."⁸

The Supreme Court has held that an analysis to determine the scope of federal preemption begins with "the assumption that the historic police powers of the States were not to be superseded by the Federal [law] unless that was the clear and manifest purpose of Congress."⁹ Indeed, this presumption against preemption is heightened when a state or locality seeks to exercise its police powers to protect the health and safety of its citizens, as is the case with laws restricting access to tobacco products.⁶⁰

Analyzing the scope of a preemptive statute begins with the text of the law.⁶¹ When Congress includes a legislative provision explicitly addressing preemption, there is no need to infer congressional intent.⁶² With no explicit statement of preemptive intent, courts must consider the statute as a whole to determine whether Congress intended the federal law "to occupy the legislative field, or if there is an actual conflict between state and federal law."⁶³ "[I]f there is any ambiguity as to whether the local and federal laws can coexist, [a court] must uphold the ordinance."⁶⁴

TOBACCO CONTROL 154, 154-61 (2012).

55. See NPIAN & PUB. HEALTH LAW CTR., *supra* note 49.

56. See *id.*

57. See *id.* at 521.

58. *Id.* at 542 (quoting *Malone v. White Motor Corp.*, 435 U.S. 497, 504 (1978)).

59. *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947).

60. See *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996).

61. See *Cipollone v. Liggett Grp.*, 505 U.S. 504, 517 (1992).

62. See *id.*

63. *Altria Grp., Inc. v. Good*, 555 U.S. 70, 76-77 (2008).

64. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, 708 F.3d 428, 433 (2d Cir. 2013) (citing *Bates v. Dow Agrosciences LLC*, 544 U.S. 431, 449 (2005)); *N.Y. St. Rest. Ass'n v. N.Y. City Bd. of Health*, 556 F.3d 114, 123 (2d Cir. 2009)).

Similar principles apply with respect to state preemption of local laws, although in some states there may be different presumptions based on the type of locality involved or how the state delegates policy power authority.⁶⁵ This Article will not review the scope of local authority, which varies significantly from state to state. It will also not consider state preemption of local tobacco control laws. Instead, the focus is whether federal law preempts state or local governments from prohibiting the sale of classes of tobacco products.

III. TOBACCO CONTROL STATUTES

The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act)⁶⁶ and the Federal Cigarette Labeling and Advertising Act⁶⁷ are the two main federal tobacco laws relevant to this Article's analysis. Understanding the reach of each of these federal statutes is an essential starting point for determining the scope of state and local regulatory authority.

A. *Family Smoking Prevention and Tobacco Control Act*

The Tobacco Control Act provides the primary federal regulatory system for tobacco products.⁶⁸ It explicitly delineates the regulatory roles of federal, state, and local governments.⁶⁹ The Tobacco Control Act contains requirements related to the distribution, manufacturing, and marketing of tobacco products.⁷⁰ Some of the restrictions include requiring the buyer to show identification prior to the sale of tobacco products,⁷¹ limiting tobacco sponsorship of events,⁷² prohibiting the use of flavors other

65. See, e.g., *Mangold Midwest Co. v. Richfield*, 274 Minn. 347, 356, 143 N.W.2d 813, 819 (1966) ("[A] state law may fully occupy a particular field of legislation so that there is no room for local regulation).

66. Family Smoking Prevention and Tobacco Control Act of 2009, Pub. L. No. 111-31, 123 Stat. 1776 (2009) (codified as amended in scattered sections of 21 U.S.C. § 387 (2012)).

67. Federal Cigarette Labeling and Advertising Act of 1965, Pub. L. No. 89-92, 79 Stat. 282 (1965) (codified as amended at 15 U.S.C. §§ 1331-1340 (2012)).

68. See 21 U.S.C. § 387 (2012).

69. *Id.* §§ 387c, e, f-1, h, p.

70. *Id.* § 387.

71. *Id.* § 387e(e).

72. *Id.* § 387a-1.

than menthol or tobacco in cigarettes,⁷³ and requiring larger and more graphic warning labels.⁷⁴ The law also grants the United States Food and Drug Administration (FDA) authority to regulate tobacco products, including the power to set product standards, such as tar and nicotine levels, as deemed appropriate to protect the public health.⁷⁵

However, the FDA's power is not limitless. The law's tobacco product standards section notes that the FDA is prohibited from banning certain classes of tobacco products, such as all cigarettes; all smokeless tobacco products; all cigars, excepting little cigars; all pipe tobacco; and all roll-your-own tobacco products.⁷⁶ Furthermore, the **FDA** may neither prohibit face-to-face sales of any tobacco products in a specific category of retail outlets nor establish a minimum age over eighteen for the sale of these products.⁷⁷

Although the FDA's authority may be limited in some respects, state and local governments do not have the same restrictions. The Tobacco Control Act contains a specific section relating to the authority of state and local governments,⁷⁸ which is divided into three provisions: the preservation clause,⁷⁹ a preemption provision,⁸⁰ and a saving clause.⁸¹

The preservation clause explicitly preserves state and local authority for laws and regulations that are "in addition to, or more stringent than, requirements under this subchapter."⁸² Examples include laws and regulations "*relating to or prohibiting the sale, distribution, possession, exposure to, access to, advertising and promotion of, or use of tobacco products by individuals of any age, information reporting to the State, or measures relating to fire safety standards for tobacco products.*"⁸³ The preemption provision reserves power to the federal government for state and local requirements "relating to tobacco product standards, premarket

73. *Id.* § 387g(a) (1) (A).

74. *Id.* § 387c(a); Federal Food, Drug, and Cosmetics Act, 21 U.S.C. § 301 (2012).

75. 21 U.S.C. § 387g (2012).

76. *Id.*

77. *Id.* § 387f(d) (3) (A).

78. *Id.* § 387p(a).

79. *Id.* § 387p(a)(1).

80. *Id.* § 387p(a)(2).

81. *Id.* § 387p(a)(2)(B).

82. *Id.* § 387p(a)(1).

83. *Id.* § 387p(a) (1) (emphasis added).

review, adulteration, misbranding, labeling, registration, good manufacturing standards, or modified risk tobacco products."⁸⁴ Lastly, the saving clause explicitly allows state and local governments to establish requirements "relating to the sale, distribution, possession, information reporting to the State, exposure to, access to, the advertising and promotion of, or use of, tobacco products by individuals of any age, or relating to fire safety standards for tobacco products."⁸⁵ Collectively, these three provisions of the Tobacco Control Act give state and local governments broad authority to enact a wide range of tobacco product sales restrictions, including prohibiting the sale of a class of tobacco products.⁸⁶

The tobacco industry is likely to use three main arguments to support its assertion that the Tobacco Control Act preempts a state or local law prohibiting the sale of a class of tobacco products. First, banning a class of tobacco products "constitutes a 'tobacco product standard,' authority expressly reserved to the FDA."⁸⁷ Second, states and local governments cannot ban classes of tobacco products with sales regulations because the FDA is prohibited from banning classes of products.⁸⁸ Third, even if states and local governments have the power to *restrict* the sale of a certain class of tobacco products, they are barred from completely *prohibiting* the sale of such products.⁸⁹

Based on two recent court decisions upholding local laws that restrict the sale of flavored tobacco products,⁹⁰ the first two arguments can be overcome with little difficulty. Both cases support the conclusion that a state or local government sales restriction prohibiting the sale of a class of tobacco products is *not* a regulation of "tobacco product standards" under the Tobacco Control Act.⁹¹

84. *Id.* § 387p(a)(2)(A).

85. *Id.* § 387p(a)(2)(B) (emphasis added).

86. This issue was also discussed in two law review articles by Michael Freiberg. See Michael Freiberg, *The Minty Taste of Death: State and Local Options to Regulate Menthol in Tobacco Products*, 64 CATH. U. L. REV. 949 (2015); see also Michael Freiberg, *Options for State and Local Governments to Regulate Non-Cigarette Tobacco Products*, 21 ANNALSHEALTHL. 407 (2012).

87. Joelle M. Lester & Stacey Younger Gagosian, *Finished With Menthol: An Evidence-Based Policy Option That Will Save Lives*, 45 J. L. MED. & ETHICS 41, 43 (2017).

88. *See id.*

89. *See id.*

90. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, 708 F.3d 428, 428 (2d Cir. 2013); *Nat'l Ass'n of Tobacco Outlets v. City of Providence*, C.A. No. 12-96-ML, 2012 vVL 6128707, at *13 (D.R.I. Dec. 10, 2012).

91. *See U.S. Smokeless Tobacco*, 708 F.3d at 428; *Nat'l Ass'n of Tobacco Outlets*, 2012

The third argument will be the most challenging. Nevertheless, there is a strong argument that the Tobacco Control Act allows a state or local law to completely prohibit the sale of a class of tobacco products.

1. *Tobacco Product Standards*

In *U.S. Smokeless Tobacco Manufacturing Co. v. City of New York*, the United States Court of Appeals for the Second Circuit found that the Tobacco Control Act does not preempt New York City's ordinance prohibiting the sale of any flavored, non-cigarette tobacco product (except in tobacco bars).⁹² The court reasoned that the ordinance regulated the sale of a finished product rather than establishing a product standard.⁹³ The ordinance governed tobacco products based only on their characteristics as an end product,⁹⁴ not on whether the product was manufactured in a particular way or with particular ingredients.⁹⁵ The court of appeals further found that even if the ordinance was construed as establishing a tobacco product standard under the Tobacco Control Act, "it would not be preempted, because it also falls within that section's saving clause. The saving clause excepts from preemption local laws that establish 'requirements relating to the sale ... of ... tobacco products.'⁹⁶ The district court opinion in this case also stated that the tobacco companies' "theory-that a sales ban amounts to a manufacturing standard-is specious. How a thing is made and whether and where it can be sold are entirely different issues, in theory and as a matter of fact."⁹⁷

Similarly, in *National Ass'n of Tobacco Outlets v. City of Providence*,⁹⁸ a Rhode Island federal district court upheld the Providence ordinance prohibiting the sale of flavored non-cigarette tobacco products (except in smoking bars).⁹⁹ The court held that the Tobacco Control Act's preemption provision "relates to tobacco

WL 6128707, at *13.

92. See 708 F.3d 428,428.

93. See *id.*

94. N.Y.C., N.Y., AOMIN. CODE § 17-715 (2013).

95. *U.S. Smokeless Tobacco*, 708 F.3d at 434-35.

96. *Id.* at 435.

97. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, No. 09 Civ. 10511(CM), 2011 WL 5569431, at *5 (S.D.N.Y. Nov. 15, 2011).

98. See No. 12-96--ML, 2012 vVL 6128707, at *1 (D.R.I. Dec. 10, 2012).

99. See *id.*

product standards, not the sale and/or distribution of tobacco products."¹⁰⁰ The court also noted that the additional saving clause of the Tobacco Control Act "reaffirms that state or local regulations related to the sale and/or distribution of tobacco products are not preempted" by the Tobacco Control Act.¹⁰¹ On appeal, the First Circuit Court of Appeals ultimately ruled that neither federal nor state law preempted the ordinance.¹⁰²

Both the New York City and Providence decisions support the conclusion that restricting, and even prohibiting, the sale of tobacco products does not implicate tobacco product standards and therefore should not be preempted by the Tobacco Control Act. The tobacco industry, however, is likely to rely on a recent Supreme Court case to assert that a sales prohibition is an impermissible evasion of the Tobacco Control Act's preemption provisions. Even so, the facts in that case are distinguishable from the question at hand.

In *National Meat Association v. Harris*,¹⁰¹ the Supreme Court held the Federal Meat Inspection Act ("FMIA")¹⁰⁴ expressly preempted a California law prohibiting slaughterhouses from buying or selling meat from a "nonambulatory" animal.¹⁰⁵ The FMIA contains a broad preemption clause prohibiting states from imposing any "additional or different—even if non-conflicting—requirements that fall within the scope of the Act and concern a slaughterhouse's facilities or operations."¹⁰⁶ The Court found that the California law was preempted because it imposed "additional or different requirements on swine slaughterhouses" "at every turn."¹⁰⁷

The tobacco industry relied on *National Meat Association in U.S. Smokeless Tobacco*. There, the Second Circuit distinguished *National Meat Association* by stating that "to constitute a product standard subject to preemption, a local sales regulation must be 'something more than an incentive or motivator,' it must require manufacturers

100. *Id.* at *13.

101. *See id.*

102. *Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence*, 731 F.3d 71, 85 (1st Cir. 2013).

103. 565 U.S. 452 (2012).

104. Federal Meat Inspection Act, 21 U.S.C. § 601 (2012).

105. *Nat'l Meat Ass'n*, 565 U.S. at 468. A "nonambulatory" animal is unable to walk on its own. *Id.* at 457.

106. 21 U.S.C. § 678 (2012); *Nat'l Meat Ass'n*, 565 U.S. at 459-60.

107. *National Meat Ass'n*, 565 U.S. at 460.

to alter 'the construction, components, ingredients, additives, constituents ... and properties' of their products."¹⁰⁸ In contrast, the New York City ordinance restricting the sale of flavored tobacco products regulated only the sale of finished products based on characteristics such as flavor.¹⁰⁹ The court further distinguished the *National Meat Association* decision:

The City's regulation is therefore easily distinguishable from the California statute invalidated as a manufacturing standard in *National Meat Association*. That law expressly prohibited the sale of meat that was not produced in accordance with specific rules to be applied at the slaughterhouse with respect to the kinds of animals that were, according to the state, fit for butchering-rules that were in conflict with more forgiving federal standards. To be sold in the state, meat would have to be processed in a particular way. The ordinance at issue here does not concern itself with the mode of manufacturing, or with the ingredients that may be included in tobacco products. Rather, it prohibits the sale of a recognized category of tobacco products, characterized by their flavor and marketed as a distinct product. Plaintiffs' effort to characterize the ordinance as a manufacturing standard is tantamount to describing a ban on cigarettes as a manufacturing standard mandating that cigars be manufactured in minimum sizes and with tobacco-leaf rather than paper wrap pins.¹¹⁰

Despite this holding, tobacco companies will likely argue that the *National Meat Association* decision supports their view—a state or local tobacco sales restriction is merely a way to undermine the Tobacco Control Act's preemption provision. As the Court noted in *National Meat Association*: "[I]f the sales ban were to avoid the FMIA's preemption clause, then any State could impose any regulation on slaughterhouses just by framing it as a ban on the sale of meat produced in whatever way the State disapproved. That would make a mockery of the FMIA's preemption provision."¹¹¹

However, the *National Meat Association* decision is distinguishable from a regulation of a class of tobacco products for

108. U.S. Smokeless Tobacco Mfg. Co. v. City of New York, 708 F.3d 428, 434 (2d Cir. 2013) (internal citations omitted).

109. See *id.*

110. *Id.* at 435 n.2 (citation omitted).

111. *National Meat Ass'n*, 565 U.S. at 464.

several reasons. Foremost, the FMIA's preemption provision prohibits the imposition of an "additional or different requirement," which is a far broader restriction than the language of the Tobacco Control Act.¹¹² In contrast, the Tobacco Control Act's preservation clause explicitly allows for state or local laws that are "in addition to, or more stringent than, requirements under this subchapter," including laws and regulations "relating to or prohibiting the sale" of tobacco products.^m While the preemption provision in 21 U.S.C. § 387p(a) (2) (A) limits this clause, a prohibition on the sale of a type of tobacco product should not be considered a tobacco product standard. Further, the Tobacco Control Act contains the additional saving clause that explicitly allows state and local requirements "relating to the sale" of tobacco products.¹¹⁴

In sum, the decisions in *U.S. Smokeless Tobacco* and *National Meat Ass'n* support the argument that a state or local law prohibiting the sale of a class of tobacco products should not be deemed a "tobacco product standard" preempted by the Tobacco Control Act. Rather, like the flavored tobacco ordinances in New York and Providence, such a law regulates the sale of a particular *type* of tobacco product, rather than the manner in which the product is manufactured. To make it more likely that courts will reach this conclusion, laws regulating a class of tobacco products should prohibit only the products' end sale rather than specifying how such products are created.

While the New York City and Providence decisions are not binding outside of their federal circuits, they serve as persuasive authority to other courts ruling on related issues.¹¹⁵

112. 21 U.S.C. § 678 (2012).

113. *Id.* § 387p(a)(1).

114. *Id.* § 387p(a)(2)(B).

115. Although the courts in *U.S. Smokeless Tobacco* and *National Association of Tobacco Outlets* were unpersuaded by the tobacco companies' preemption arguments, these arguments are likely to recur if a state or local government restricts the sale of a class of tobacco products. These arguments include:

- (1) Preemption of tobacco product standards in the Tobacco Control Act is designed to create uniformity. Brief & Special Appendix of Plaintiffs-Appellants at 1, *U.S. Smokeless Tobacco Mfg. Co.*, 708 F.3d 428 (2d Cir. 2013) (**No.** 11-5167-cv). Characterizing an ordinance as a sales ban is just a way to undermine this uniformity and a clever drafting technique to hide the regulation of tobacco product standards. *Id.* at 2-3.
- (2) The distinction between sales and manufacturing is inconsistent with the language and structure of the Tobacco Control Act. *Id.* at 19.

2. *Eliminating Certain Tobacco Products*

The industry will likely raise a second argument to challenge a state or local sales prohibition: the Tobacco Control Act provision prohibiting the FDA from eliminating the sale of certain tobacco products also applies to state and local governments attempting to do the same.

As noted above, the Tobacco Control Act explicitly prohibits the **FDA** from "banning all cigarettes, all smokeless tobacco products, all little cigars, all cigars other than little cigars, all pipe tobacco, or all roll-your-own tobacco products."¹¹⁶ Furthermore, one of the Tobacco Control Act's stated purposes is "to continue to permit the sale of tobacco products to adults in conjunction with measures to ensure that they are not sold or accessible to underage purchasers."¹¹⁷

In *U.S. Smokeless Tobacco*, tobacco companies claimed that under the Tobacco Control Act "local governments 'may not make it impossible or impracticable for adults to purchase tobacco products whose contents comply with the federal standards.'"¹¹⁸ They further argued that such action "would undermine another express purpose of the Act—namely, 'to continue to permit the sale of tobacco products to adults.'"¹¹⁹ The Second Circuit disagreed, finding that while the Tobacco Control Act prohibits an FDA ban against entire categories of tobacco products, the law "nowhere extend[ed] that prohibition to state and local governments."¹²⁰ The court noted instead that the preservation clause of the Tobacco Control Act:

expressly *preserves* localities' traditional power to adopt any "measure relating to or prohibiting the sale" of tobacco products. That authority is limited only to the extent that a state or local regulation contravenes one of the specific

(3) Under the saving clause, state and local governments may regulate when, where, how, and to whom tobacco products may be sold, but they may not make it impossible or impracticable for adults to purchase tobacco products whose contents comply with the federal standards. *Id.* at 37.

116. 21 U.S.C. § 387g(d) (3) (A).

117. Family Smoking Prevention and Tobacco Control and Federal Retirement Reform, Pub. L. No. 111-31, § 3(7), 123 Stat. 1776, 1782 (2009).

118. *U.S. Smokeless Tobacco Mfg. Co.*, 708 F.3d 428 at 433 (2d Cir. 2013) (citing Brief & Special Appendix of Plaintiffs-Appellants at 37).

119. Brief and Special Appendix of Plaintiffs-Appellants at 27, *U.S. Smokeless Tobacco Mfg. Co.*, 708 F.3d 428 (2d Cir. 2013) (No. 11-5167--cv) (citing 21 U.S.C. § 387 (2009)).

120. *U.S. Smokeless Tobacco*, 708 F.3d at 433.

prohibitions of the preemption clause. The only prohibition relevant here forbids local governments to impose "any requirement ... relating to tobacco product standards." Even then, pursuant to the saving clause, local laws that would otherwise fall within the preemption clause are exempted if they constitute "requirements relating to the sale ... of ... tobacco products." In other words, [the preservation clause] . . . reserves regulation at the manufacturing stage exclusively to the federal government, but allows states and localities to continue to regulate sales and other consumer-related aspects of the industry in the absence of conflicting federal regulation.¹²¹

Similarly, the district court in *U.S. Smokeless Tobacco* held that because the preemption clause is "silent regarding sales prohibitions, it seems far more likely that prohibitions are preserved and never preempted, and therefore need never be saved."¹²² Based on the decision in *U.S. Smokeless Tobacco* and the language of the Tobacco Control Act, while the FDA is statutorily barred from banning a class of tobacco products, the limitation likely does not extend to a state or local government prohibiting the sale of cigarettes or flavored tobacco products.

3. Laws that Prohibit versus Laws that Restrict

If a court holds that a tobacco product prohibition is a restriction on the *sale* of tobacco products rather than a regulation of their *standards*, tobacco companies will still likely assert that a complete prohibition on a class of tobacco products is preempted. This distinction arises because the preservation clause of the Tobacco Control Act applies to laws and regulations "relating to or prohibiting the sale" of tobacco products.¹²¹ However, the saving clause refers only to laws "relating to the sale" of tobacco products—the word "prohibiting" is not used again.¹²⁴

The tobacco industry raised this argument in *U.S. Smokeless Tobacco*, but the appellate court did not resolve the issue for purposes

121. *Id.* at 433-34 (citations omitted) (citing 21 U.S.C. §§ 387p(a)(1), p(a)(2)(A)-(B) (2009)).

122. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, No. 09 Civ. 10511 (CM), 2011 WL 5569431, at *7 (S.D.N.Y. Nov. 15, 2011).

123. 21 U.S.C. § 387p(a) (1) (2012).

124. *Id.* § 387p(a)(2)(B).

of its decision.¹²⁵ This is in part because the New York City ordinance allows the sale of flavored tobacco products in "a tobacco bar."¹²⁶ At the time of the lawsuit, there were only eight tobacco bars in New York City, none of which sold flavored smokeless tobacco products.¹²⁷ Tobacco companies claimed that the ordinance constituted an "outright ban on the sale of flavored tobacco products"¹²⁸ and could not be rescued by the Tobacco Control Act's saving clause.

The appellate court refused to consider whether the tobacco companies' interpretation of the saving clause was correct, stating that "[w]hile the sales restriction imposed by the City's ordinance is severe, it does not constitute a complete ban, as it permits the limited sale of flavored tobacco products within New York City."¹²⁹ Further, the tobacco bar owners made a commercial decision not to sell flavored tobacco on their own.¹³⁰

However, the appellate court also stated that the flavored tobacco ordinance "regulates a niche product, not a broad category of products such as cigarettes or smokeless tobacco, and it allows that product to be sold within New York City, although to a limited extent."¹³¹ The court thus found New York City's ordinance advances the Tobacco Control Act's goal of reducing the use of harmful tobacco products, especially among young people, without impeding Congress' competing goal of keeping tobacco products generally available to adults.¹³²

The district court's decision to deny the tobacco companies' request for a preliminary injunction presents a more favorable analysis. The Southern District of New York held that the preservation clause "plainly contemplates local regulations restricting and/or banning the sale of subclasses of tobacco products (such as flavored tobacco products)-it explicitly refers broadly to all 'tobacco products.'"¹³³ The court found that the preservation

125. *U.S. Smokeless Tobacco*, 708 F.3d at 435.

126. See N.Y.C., N.Y., A.O. MIN. CODE § 17-715 (2013).

127. *U.S. Smokeless Tobacco*, 708 F.3d at 432.

128. *Id.* at 435.

129. *U.S. Smokeless Tobacco*, 708 F.3d at 435-36 (internal citation omitted).

130. *Id.* at 436 n.3.

131. *Id.* at 436; see also Freiberg, *The Minty Taste of Death*, *supra* note 86 (noting courts distinguish niche product regulation from category-wide regulation).

132. *U.S. Smokeless Tobacco*, 708 F.3d at 436.

133. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, 703 F. Supp. 2d 329, 343-44 (S.D.N.Y. 2010) (internal citation omitted).

clause barred any interpretation of the Act's provisions "as preventing a city from 'prohibiting' (or otherwise restricting) the 'sale' of tobacco products."¹³⁴

This distinction between laws "relating to" tobacco products and laws "relating to or prohibiting" the sale of tobacco products is likely to be raised again if jurisdictions prohibit the sale of a class of tobacco products.¹³⁵ In response, the jurisdiction can assert that

134. *Id.* at 344 (internal citation omitted).

135. In appealing the district court's decision, the parties each provided their own interpretation of the language of the saving clause. These arguments may be instructive in a future case. For example, the tobacco companies made the following arguments:

- (1) A saving clause should not be interpreted broadly. *See Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 870 (2000) (stating courts may *not* "give broad effect to saving clauses where doing so would upset the careful regulatory scheme established by federal law"); Brief and Special Appendix of Plaintiffs-Appellants at 25, *U.S. Smokeless Tobacco*, 780 F.3d 428 (No. 11-5167-cv).
- (2) The saving clause makes clear that state or local requirements "relating to," but *not prohibiting*, sales of tobacco products are saved. The saving clause thus comes into play where a state or locality establishes a requirement that does not prohibit altogether the sale of a tobacco product complying with federal standards, but merely regulates where, when, or to whom such products may be sold. Reply Brief and Addendum of Plaintiffs-Appellants at 3-5, *U.S. Smokeless Tobacco*, 780 F.3d 428 (No. 11-5167-cv), 2012 WL 2953441, at *3--5.
- (3) "[U]nder noscitur a sociis [a rule of statutory construction under which the questionable meaning of a doubtful word can be derived from its association with other words], the word 'sale' should be construed consistently with the rest of the series to refer to where, when, and to whom finished tobacco products may be sold, not whether they may be sold at all." *Id.* at 19.

In contrast, the City of New York dissected the language of the saving clause and argued that Congress intended the phrase "related to" to include a prohibition on the sale thereof. Appellee's Brief at 28, *U.S. Smokeless Tobacco*, 780 F.3d 428 (No. 11-5167-cv), 2012 WL 2366520, at *28. The city further argued that:

- (1) Failing to give meaning to the word "prohibiting" in the preservation clause would violate the canons of statutory construction to give effect to every clause and word of a statute. *Id.* at 25--26.
- (2) The entire preemption clause relates to tobacco product standards and the saving clause specifies the exceptions to the preemption clause. *See id.* at 26--27. Thus, the exceptions in the saving clause relate only to tobacco product standards. *Id.* Any law that does not relate to tobacco product standards is not preempted to begin with and is expressly authorized by the preservation clause. *Id.*
- (3) Congress understood that a "requirement relating to the sale" of tobacco

there is a general presumption against preemption, particularly if the police powers to protect health and safety are implicated.¹³⁶ The state or locality can also avail itself to the sweeping Tobacco Control Act provision that explicitly preserves state and local governments' authority to regulate tobacco sales.¹³⁷ Although the Tobacco Control Act provides some limits on the FDA's authority, this limitation does not extend to state or local governments.

Finally, state or local governments could parse both the structure and wording of the preservation and saving clauses to argue that the saving clause refers only to tobacco product *standards*, whereas the preservation clause applies more broadly to any state or local law "relating to or prohibiting the *sale*' of tobacco products.¹³⁸ Under this reading, state or local laws prohibiting the sale of a type of tobacco product are not preempted because they do not relate to tobacco product standards, and the laws are expressly authorized by the preservation clause.

B. *Federal Cigarette Labeling and Advertising Act*

The second key federal law that relates to tobacco control is the Federal Cigarette Labeling and Advertising Act (FCLAA), which requires warning labels on tobacco products and advertising.¹³⁹ The FCLAA should not present a barrier to a state or local law prohibiting the sale of cigarettes or flavored tobacco products. The law, however, contains a preemption provision that historically has been problematic for certain state and local activities, and therefore, it

products could potentially include a total ban. As evidence of this, the city points to the limitations on FDA authority (e.g., that the FDA may not prohibit the sale of tobacco products in face-to-face transactions in a specific category of retail outlet). 21 U.S.C.A. 387f(d); *id.* at 35.

- (4) These limitations on FDA authority demonstrate that "Congress considered and understood the ramifications of unqualified authority to restrict the sale and distribution of tobacco products, yet intentionally chose not to limit the powers of states and localities in those very same areas." *Id.*

136. See *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 475, 485 (1996) ("In all preemption cases ... we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest purpose of Congress." (internal quotations and citations omitted)).

137. 21 U.S.C. § 387p(a) (1) (2012).

138. *Id.* § 387p(a) (1) (emphasis added).

139. See Federal Cigarette Labeling and Advertising Act of 1965, Pub. L. No. 89-92, § 4, 79 Stat. 282,283 (codified as amended at 15 U.S.C. § 1331-41 (2012)).

warrants a review of potential legal implications.¹⁴⁰ While the FCLAA regulates the advertising and marketing of tobacco products, it is relevant in this context because the tobacco industry could argue that a sales prohibition is a de facto restriction on its ability to market its products. Thus far, courts have consistently distinguished allowable sales restrictions from preempted advertising and marketing restrictions.¹⁴¹

The FCLAA's preemption language, which was amended by the Tobacco Control Act, prohibits state and local governments from imposing any "requirement or prohibition based on smoking and health ... with respect to the advertising or promotion of any cigarettes the packages of which are labeled in conformity with the provisions of [the] chapter."¹⁴² But in 2009, after the passage in Tobacco Control Act, the restrictions were amended to allow state and local governments to impose "specific bans or restrictions on the time, place, and manner, but not the content, of the advertising or promotion of any cigarettes."¹⁴¹

The amended preemption provision of the FCLAA¹⁴⁴ was analyzed in two recent cases. While the decisions reinforce the distinction between advertising and marketing restrictions versus sales restrictions, the industry may still argue that a sales restriction impacts its promotional activities.

In *23-34 94th St. Grocery Corp. v. New York City Board of Health*,¹⁴⁵ the court found that New York City's resolution that requires graphic images at the point of sale to show the adverse effects of smoking was "preempted by the Labeling Act because it is a requirement 'with respect to the advertising or promotion' of cigarettes."¹⁴⁶ Due to the narrow scope of this decision, which reviewed local warning

140. See 15 U.S.C. § 1334. See generally TOBACCO CONTROL LEGAL CONSORTIUM, PREEMPTION: THE BIGGEST CHALLENGE TO TOBACCO CONTROL, <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-fs-preemption-tobacco-control-challenge-2014.pdf> [<https://perma.cc/EQA5-1:0GN>] (last visited June 21, 2018).

141. See, e.g., *23-34 94th St. Grocery Corp. v. N.Y.C. Bd. of Health*, 685 F.3d 174 (2d Cir. 2012) (distinguishing advertising and marketing restrictions versus sales restrictions).

142. 15 U.S.C. § 1334(b).

143. *Id.* § 1334(c).

144. *Id.*

145. 685 F.3d 174 (2d Cir. 2012).

146. *Id.* at 182.

requirements in light of the federal warning requirements, it seems unlikely to pose a barrier.

*National Association of Tobacco Outlets v. City of Providence*⁴⁷ involved a Providence ordinance that prohibited the redemption of tobacco coupons and multi-pack discounts.¹⁴⁸ The federal district court in Rhode Island found that Providence's pricing ordinance was not preempted by FCLAA because it regulates the "time, place, and manner" of how cigarettes may be purchased in the City of Providence, rather than controlling the content of promotional or advertising materials.¹⁴⁹ The court did focus on the time, place, and manner of how products may be purchased, versus the time, place, and manner of how products are advertised or promoted (the actual focus of the FCLAA).¹⁵⁰ Nevertheless, this decision makes clear that the FCLAA does not pose a barrier to sales restrictions.¹⁵¹

IV. OTHER FEDERAL LAWS

A state or local law prohibiting the sale of a class of tobacco products is designed to regulate the distribution of such products but has no effect on the communicative impact. Nevertheless, tobacco companies may attempt to argue that such a law violates their First Amendment rights. A handful of cases decided after the adoption of the Tobacco Control Act have addressed whether various tobacco control laws violate the First Amendment.^{1, 2} Although none of these cases specifically addressed preemption arguments, they are included here for reference.

In *Rf Reynolds Tobacco Co. v. Food & Drug Administration*,¹⁵² the United States Court of Appeals for the District of Columbia Circuit struck down the FDA's proposed graphic warning labels (as required

147. C.A. No. 12-96--ML, 2012 vVL 6128707, at *1 (D.R.I. Dec. 10, 2012).

148. *Id.* at *4.

149. *Id.* at *11.

150. *Id.*

151. The First Circuit agreed that a price regulation concerns the manner of promotion and is not preempted. *Nat'l Ass'n of Tobacco Outlets v. Providence*, 731 F.3d 71, 81 (1st Cir. 2013).

152. This Article does not address tobacco cases decided prior to the adoption of the 2009 Tobacco Control Act, such as *Lorillard Tobacco Co. v. Reilly*, 533 U.S. 525 (2001) or *Food & Drug Admin. v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120 (2000).

153. 696 F.3d 1205 (D.C. Cir. 2012).

by the Tobacco Control Act).¹⁵⁴ The court held that the warnings violate the First Amendment because the FDA could not prove that the labels directly advanced the government's goal of reducing smoking rates under the standards in *Central Hudson Gas & Electric Corp. v. Public Service Commission*.¹⁵⁵ Although the industry successfully argued that its speech rights were violated, this case involved requirements concerning packaging, not requirements related to the sale of products.¹⁵⁶

In *Discount Tobacco City & Lottery, Inc. v. United States*,¹⁵⁷ tobacco companies and retailers challenged the constitutionality of numerous Tobacco Control Act provisions.¹⁵⁸ The United States Court of Appeals for the Sixth Circuit upheld most elements of the Tobacco Control Act.¹⁵⁹ The court also found a few elements of the Tobacco Control Act unconstitutionally overbroad, such as the requirement for black and white textual advertising.¹⁶⁰ The opinion did not discuss a state or local government's authority to adopt laws that supplement or complement the Tobacco Control Act, and the opinion therefore should not have any bearing on a state or local tobacco product sales restriction.¹⁶¹

In addition to the FCLAA challenge, the plaintiffs in *National Association of Tobacco Outlets v. City of Providence*¹⁶² also argued that Providence's ordinance prohibiting the redemption of tobacco coupons and multi-pack discounts impermissibly restricted its ability to communicate with customers.¹⁶³ The court found that this "pricing" ordinance did not violate the First Amendment because it did not prohibit the *distribution* of coupons nor the *dissemination* of

154. *Id.* at 1221-22; Family Smoking Prevention and Tobacco Control Act of 2009, Pub. L. No. 111-31, 123 Stat. 1776 (2009) (codified as amended in scattered sections of 21 U.S.C.).

155. *See RJ. Reynolds*, 696 F.3d at 1222 (citing *Cent. Hudson Gas & Elec. Corp. v. Pub. Serv. Comm'n*, 447 U.S. 557 (1980)).

156. *See id.* at 1208.

157. 674 F.3d 509 (6th Cir. 2012).

158. *See id.* at 518.

159. *See id.* (affirming "the district court's decision to uphold the constitutionality of the color graphic and non-graphic warning label requirement, with Judge Clay dissenting on this issue").

160. *See id.* at 548.

161. *See id.* at 509.

162. C.A. No. 12-96-ML, 2012 vVL 6128707, at *1 (D.R.I. Dec. 10, 2012).

163. *See id.* at *1-2.

pncmg information.¹⁶⁴ Instead, the ordinance prohibits the "redemption of such coupons and the sale of cigarettes or tobacco products through multi-pack discounts. Therefore, the prohibited activity constitutes neither commercial speech nor expressive conduct and is not subject to First Amendment protection"¹⁶⁵ Like a restriction on the sale of products at a discounted rate, a restriction on the sale of a class of tobacco products should not be subject to First Amendment protections.¹⁶⁶

The tobacco industry might argue a tobacco product sales restriction imposed by state or local law violates the First Amendment because it limits information conveyed through product packaging. This type of argument was unsuccessful in a lawsuit challenging a prohibition on the sale of tobacco products at pharmacies in San Francisco.¹⁶⁷ The United States Court of Appeals for the Ninth Circuit stated that selling cigarettes "doesn't involve conduct with a significant expressive element. It doesn't even have an expressive component."¹⁶⁸ However, it is possible that the tobacco industry will raise it again. Such an argument was raised in *National Association of Tobacco Outlets*, where the tobacco industry argued that laws prohibiting the sale of flavored tobacco products will by necessity limit the companies' First Amendment rights to communicate the information normally conveyed on product packaging.¹⁶⁹ Like the San Francisco case, the Rhode Island court was not persuaded and found that the economic conduct regulated was neither commercial speech nor expressive conduct.¹⁷⁰

164. *Id.* at *5.

165. *Id.* at *6.

166. *See* 44 *Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 499 (1996) ("[T]he State retains less regulatory authority when its commercial speech restrictions strike at 'the substance of the information communicated' rather than the 'commercial aspect of [it]-with offerors communicating offers to offerees.'" (quoting *Linmark Assocs. v. Twp. of Willingboro*, 431 U.S. 85, 96-97 (1977))).

167. *Philip Morris USA, Inc. v. City & Cty. of S.F.*, 345 F. App'x 276, 277 (9th Cir. 2009) (upholding a city ordinance that limited where cigarettes may be sold but did not prevent the tobacco company from advertising in the city).

168. *Id.* (internal quotations and citations omitted). In *National Association of Tobacco Outlets*, the court found that "the prohibited activity [coupon redemption] constitutes neither commercial speech nor expressive conduct and is not subject to First Amendment protection under either the *Central Hudson* or the *O'Brien* standard." 2012 WL 6128707, at *6.

169. *Nat'l Ass'n of Tobacco Outlets*, 2012 vVL 6128707, at *4.

170. *Id.* at *7.

Though other federal laws also regulate tobacco products, none of those laws should preempt a state or local law from prohibiting the sale of a class of tobacco products because those laws primarily address different aspects of tobacco control. Examples of such statutes include: the federal tobacco tax;¹⁷¹ federal laws requiring smoke-free areas, such as airplanes and federally funded daycare;¹⁷² federal laws requiring the carrier to confirm the age and identity of the buyer upon delivery of cigarettes or smokeless tobacco, and requiring the recipient to be of the minimum legal age;¹⁷³ and the Affordable Care Act requirements regarding cessation coverage.¹⁷⁴

V.

ADDITIONAL PREEMPTION THREATS ON THE HORIZON

Existing federal law should not prevent a state from prohibiting the sale of a class of tobacco products, but new preemption threats loom. There has been a proliferation of recent state laws preempting local activity in a wide variety of policy areas.¹⁷⁵ While many focus on issues like employment and gun control, other state laws restrict local authority to regulate the sales of consumer goods, which could affect tobacco sales restrictions.¹⁷⁶

In addition to the efforts to preempt local tobacco control policy in statehouses around the country, threats also appear at the federal level on occasion. For example, in 2016, federal legislation was introduced that would have preempted local regulation of e-cigarettes.¹⁷⁷ New preemptive legislation at the state and federal level

171. 26 U.S.C. §§ 5701-04 (2012).

172. 49 U.S.C. § 41706 (2012); 20 U.S.C. § 6083 (2012).

173. 15 U.S.C. §§ 375, 376a (2012).

174. 42 U.S.C. §§ 300gg-13, 1396d (2012).

175. See, e.g., *Fighting Preemption: The Movement for Higher Wages Must Oppose State Efforts to Block Local Minimum Wage Laws*, NAT'L EMP. L. PROJECT (July 6, 2017), <http://www.nelp.org/publication/fighting-preemption-local-minimum-wage-laws/> [<https://perma.cc/GJ8P-9S2Y>] (discussing state preemption of minimum wage laws); Kriston Capps, *The Cities That Are Fighting Back Against State Intervention*, CrTYLAB.COM (Oct. 3, 2016), <https://www.citylab.com/equity/2016/10/cities-fighting-back-against-state-intervention/502232/> [<https://perma.cc/T9PG-Q49P>] (discussing the issue of state preemption laws for guns and employment); *Preemption of Local Laws*, GIFFORDS L. CTR., <http://lawcenter.giffords.org/gun-laws/policy-areas/other-laws-policies/preemption-of-local-laws/> (last visited June 21, 2018) [<https://perma.cc/9AVS-vVF4W>] (discussing state preemption of gun laws).

176. See, e.g., IOWA CODE § 331.301 (6) (a) (2018) (preventing counties from enacting less stringent regulations than those already imposed by state law).

177. See 21 C.F.R. §§ 1100, 1140, 1143 (2012); see also PUB. HEALTH LAW CTR.,

may be a threat to any jurisdiction that is considering a prohibition on the sale of a class of tobacco products.

VI. LOCAL AUTHORITY TO RESTRICT SALES IN MINNESOTA

Local authority to regulate tobacco products varies from state to state.¹⁷⁸ In some states, local jurisdictions have extensive authority to regulate and restrict the sale and use of tobacco products.¹⁷⁹ In others, state law prevents local jurisdictions from adopting smoke free laws,¹⁸⁰ youth access restrictions,¹⁸¹ or local retail licensure.¹⁸²

As demonstrated above, federal law does not preempt a sales restriction on a class of tobacco products.¹⁸¹ However, any local jurisdiction pursuing such a prohibition must consider authority issues arising under state law. This Article does not address what, if any, authority issues may present themselves in each state. But interested jurisdictions can generally expect the challenge to appear in one of two ways: (1) authority may be an issue where a local body has insufficient power to adopt a sales restriction on a class of

TOBACCO CONTROL LEGAL CONSORTIUM, REGULATING ELECTRONIC CIGARETTES & SIMILAR DEVICES 1-2 (2017), <http://www.publichealthlawcenter.org/sites/default/files/resources/tlc-guide-reg-ecigarettes-2016.pdf> [<https://perma.cc/X2H2-GESL>].

178. See *State Preemption of Local Tobacco Control Policies Restricting Smoking, Advertising, and Youth Access-United States, 2000-2010*, CTRS. FOR DISEASE CONTROL & PREVENTION (Aug. 26, 2011), <https://www.cdc.gov/mmwr/preview/mmwrhtml/mm6033a2.htm> [<https://perma.cc/K4P5-vVRCY>].

179. See *id.*

180. As of September 30, 2017, twelve states have laws in effect that explicitly preempt local ordinances from restricting smoking in government worksites, private worksites, restaurants, and/or bars. *STATE System Preemption Fact Sheet*, CTRS. FOR DISEASE CONTROL & PREVENTION (Nov. 21, 2017), <https://chronicdata.cdc.gov/Legislation/STATE-System-Preemption-Fact-Sheet/uu8y-j6ga> [<https://perma.cc/694H-C2C9>].

181. As of September 30, 2017, twenty-two states have laws preempting local ordinances related to youth access to tobacco. See *id.* Twenty states preempt local restrictions on selling tobacco products to young people, and nineteen states preempt local restriction on distributing tobacco products to youth. See *id.*

182. As of September 30, 2017, ten states have laws preempting localities from passing ordinances related to licensure of tobacco products-including both over-the-counter and vending machine sales of tobacco, while eight states preempt local restrictions on retail licenses for the over-the-counter sale of tobacco products only. See *id.*

183. *Supra* Parts III, IV.

tobacco products,¹⁸⁴ or (2) a state has prohibited a municipal body from regulating tobacco sales or from regulating certain types of tobacco products, and has reserved that power to the state.¹⁸⁵

The first scenario can arise if a body, such as a city council or local board of health, has insufficient authority to adopt a law or regulation prohibiting the sale of a particular type of product. For example, some local legislative bodies only have the power to address issues expressly provided for in a state statute under what is known as "Dillon's Rule."¹⁸⁶ In many states, local legislative bodies have broad authority, whereas administrative bodies, such as a local board of health, may have limited authority. As a recent example, the New York City Board of Health adopted a rule restricting the sale of large sugary sodas, known as the "Sugary Drinks Portion Cap Rule."¹⁸⁷ A recent appellate decision held that the Board of Health exceeded its authority to regulate public health and usurped the policy-making role of the New York City Council.¹⁸⁸ A local body considering a sales restriction on a class of tobacco products should ensure that it has the authority to adopt such a restriction and should be prepared to defend legal challenges to its authority.

In the second scenario, a preemption issue may arise if a state law or regulation prohibits a municipal body from regulating tobacco sales or types of tobacco products.¹⁸⁹ This preemption may

184. See *State Preemption of Local Tobacco Control Policies Restricting Smoking, Advertising, and Youth Access—United States, 2000-2010*, *supra* note 178 (recognizing the states that restrict local authority).

185. See *id.*

186. Dillon's Rule is the doctrine that a unit of local government may exercise only those powers that the state expressly grants to it, the powers necessarily and fairly implied from that grant, and the powers that are indispensable to the existence of the unit of local government. *Dillon's Rule*, BLACK'S LAW DICTIONARY (10th ed. 2014); see also NICOLE DUPUIS ET AL., NAT'L LEAGUE OF CITIES, CITY RIGHTS IN AN ERA OF PREEMPTION: A STATE-BY-STATE ANALYSIS 5 (2017), <https://www.nlc.org/sites/default/files/2017-03/NLC-SML%20Preemption%20Report%202017-pages.pdf> [<https://perma.cc/KGR2-ULBQ>] ("Dillon's Rule, which is derived from an 1868 court ruling, states that if there is a reasonable doubt whether a power has been conferred to a local government, then the power has not been conferred.").

187. N.Y.C. DEPT OF HEALTH & MENTAL HYGIENE, NOTICE OF ADOPTION OF AN AMENDMENT (§81.53) TO ARTICLE 81 OF THE NEW YORK CITY HEALTH CODE, <https://www1.nyc.gov/assets/doh/downloads/pdf/notice/2012/notice-adoption-amend-article81.pdf> [<https://perma.cc/27AN-SFEH>] (last visited June 21, 2018).

188. *N.Y. Statewide Coal. of Hispanic Chambers of Commerce v. N.Y.C. Dep't of Health & Mental Hygiene*, 970 N.Y.S.2d 200, 213 (N.Y. App. Div. 2013).

189. Cf. Freiberg, *Options for State and Local Governments*, *supra* note 86, at

be express or implied.¹⁹⁰ An expressly preemptive state law may specifically reserve the authority to regulate tobacco sales or products to the state.¹⁹¹ An impliedly preemptive state law may fully regulate the topic, leaving no room for local regulation.¹⁹²

In Minnesota, there is currently no preemption of local authority to regulate the sale of tobacco products. Many communities in Minnesota have enacted a wide range of tobacco control sales restrictions, including increasing the minimum legal sale age to twenty-one,¹⁹³ restricting the sale of flavored tobacco products to adult-only retail stores,¹⁹⁴ and implementing minimum pricing policies.¹⁹⁵ Like many other states, however, legislators have introduced preemption bills in recent sessions.¹⁹⁶ In 2017, the Minnesota legislature passed a bill that would have preempted local governments from establishing certain worker protections.¹⁹⁷ However, Governor Mark Dayton vetoed this bill.¹⁹⁸ While this particular law would not have preempted local tobacco sales restrictions, it seems likely that the Minnesota legislature will consider more preemptive laws in the future given the increase in broader preemptive laws around the country.¹⁹⁹ Currently, however, as long as a Minnesota community has sufficient statutory or home

424-26 (discussing various state-level efforts to regulate non-cigarette tobacco products and the role of local governments in these efforts).

190. See *Am. Fin. Servs. Ass'n v. City of Oakland*, 104 P.3d 813,820 (Cal. 2005).

191. See *id.*

192. For example, state law preempted an anti-predatory lending ordinance in Oakland, CA, because the state legislature "impliedly fully occupied the field of regulation of predatory practices in home mortgage lending." See *id.*

193. See, e.g., EDINA, MINN., MUN. CODE § 12-247 (2017).

194. See Jessie Van Berke!, *St. Paul Prohibits Flavored Tobacco at Most Stores*, STAR TRIB. (Jan. 6, 2016, 10:05 PM), <http://www.startribune.com/st-paul-prohibits-flavored-tobacco-at-most-stores/364455011/> [<https://perma.cc/8J-8V4P>].

195. See, e.g., MINNEAPOLIS, MINN., MUN. CODE § 281.45(g) (2017).

196. See generally Michael Freiberg, (*Don't*) See More Butts: Preemption and Local Regulation of Cigarette Litter; 37 HAMLIN L. REV. 205, 206--08 (2014) (giving an overview of various states' efforts to regulate various tobacco products).

197. See HF 180, 90th Leg., Reg. Sess. (Minn. 2017).

198. See *Veto Details, Minnesota Legislature*, MINN. LEGIS. REFERENCE LIBR., <https://www.leg.state.mn.us/lrl/vetoes/vetodetails?years=all> [<https://perma.cc/9BJK-97T8>] (last visited June 21, 2018).

199. Cf. Lynn M. Mueller, *MN's E-Cigarette Ban a Reminder to Review Smoking/Tobacco Policies*, MINN. EMP. L. LETTER, Sept. 2014, at 1 (discussing the Minnesota Legislature's recent efforts to regulate a new form of tobacco products: e-cigarettes).

rule authority to prohibit the sale of a class of tobacco products, such laws are not preempted by state or federal law.²⁰⁰

VII. CONCLUSION

A state law that prohibits the sale of a class of tobacco products would likely survive a litigation challenge on federal preemption grounds.²⁰¹ A local law of this nature would likely face federal, and possibly state, preemption challenges.²⁰² In addition, local laws often face challenges based on whether or not the jurisdiction has adequate authority.²⁰¹ Should such a challenge turn on federal law, the sales prohibition likely will be upheld. Challenges based on state law will have varying results depending on the relevant language in each state's constitution and statutes.²⁰⁴

The Tobacco Control Act is the most relevant federal statute, and its preservation, preemption, and saving provisions clearly allow state and local governments to adopt laws "relating to the sale of tobacco products."²⁰⁵ The tobacco industry may argue that such a prohibition is actually a regulation of tobacco product standards. This argument relies on the Tobacco Control Act's language that preempts state and local laws relating to tobacco product standards.²⁰⁶ However, *U.S. Smokeless Tobacco*²⁰⁷ and *National Association of Tobacco Outlets*²⁰⁸ support a finding that a restriction on the sale of a tobacco product is *not* a regulation of tobacco product standards. Opponents may also argue that state and local governments are barred from eliminating a particular class of tobacco products.²⁰⁹ Again, public health advocates can rely on *U.S. Smokeless Tobacco* to support the conclusion that the Tobacco Control

200. See Freiberg, *Options for State and Local Governments*, *supra* note 86, at 443.

201. See discussion *supra* Parts II, III.

202. See *supra* Parts I, II.

203. See *Dillon's Rule*, BLACK'S LAW DICTIONARY (10th ed. 2014).

204. See discussion *supra* Part II.

205. 21 U.S.C. § 387p(a) (1) (2012).

206. *Id.* § 387p(a) (2)(A).

207. *U.S. Smokeless Tobacco Mfg. Co. v. City of New York*, 708 F.3d 428, 433 (2d Cir. 2013).

208. *Nat'l Ass'n of Tobacco Outlets, Inc. v. City of Providence*, No. C.A. No. 12-96--ML, 2012 vVL 6128707 (D.R.I. Dec. 10, 2012).

209. See Freiberg, *Options for State and Local Governments*, *supra* note 86, at 444.

2018] STATE AUTHORITY TO END CIGARETTE SALES 97

Act's limits on the FDA's power to eliminate tobacco products does not extend to state and local governments.²¹⁰

The most challenging argument in favor of tobacco product restrictions will likely be that, although state and local governments are free to limit the sale of certain tobacco products, the restrictions are barred from completely prohibiting the sale of those products. This reasoning relies on the Tobacco Control Act's conflicting language in its preemption provision and saving clause.²¹¹ State and local governments can support a sales restriction via the general presumption against preemption, and the broad language of the preservation clause that explicitly allows laws "prohibiting" the sale of tobacco products. Proponents can make a strong case that failure to give effect to the word "prohibiting"²¹² would violate congressional intent, but an absence of precedent makes it unclear whether this would convince a court to rule in favor of a sales restriction on these grounds.

In sum, the tobacco industry will likely level preemption challenges against any jurisdiction that proposes to restrict the sale of a class of tobacco products. Although federal preemption claims would probably fail, public health advocates will have to investigate potential state preemption or general authority issues for a sales restriction at the local level.

210. *U.S. Smokeless Tobacco*, 708 F.3d at 433.

211. *See* 21 U.S.C. §§ 387p(a)(2), p(a)(2)(B) (2012).

212. Brief for Appellee at 26, *U.S. Smokeless Tobacco*, 780 F.3d 428 (No. 11-5167-cv).

ATTACHMENT 7

South Pasadena Climate Action Plan

Due to file size, the Executive Summary is attached in this report, and the full South Pasadena Climate Action Plan can be viewed here: <http://southpasadenacap.rinconconsultants.com>

South Pasadena CAP Executive Summary

Climate Action Vision

The effects of climate change are already felt and are projected to worsen over the next century without a concerted global effort to address the sources of greenhouse gas (GHG) emissions. South Pasadena’s Climate Action Plan (CAP) details a set of strategies for South Pasadena to reduce its emissions, prepare for and mitigate approaching risks, and chart the course towards a sustainable future. Key components of that future include:

- ✓ **Vibrant Communities**
- ✓ **Engaged Citizens**
- ✓ **Social Equity**
- ✓ **Resilient Economy**
- ✓ **Environmental Stewardship**
- ✓ **Regional Leader in Sustainability**

Background

The CAP is a long-range planning document that guides the City towards long-term

emissions reductions in accordance with State of California goals. The CAP analyzes emission sources within the City, forecasts future emissions, and establishes emission reduction targets (See The Playing Field and Appendix C). This CAP is the City of South Pasadena’s roadmap to achieving the City’s 2030 target and state mandated goal of 40% below 1990 levels by 2030 and demonstrates substantial progress towards achieving carbon neutrality by 2045. The CAP also establishes a framework for implementation and monitoring of reduction activities, and further promotes adaptation and preparedness actions. This CAP has been developed as a qualified GHG Reduction Plan and meets the requirements of CEQA 15183.5(b).

Potential Impacts to the Community

The City of South Pasadena may experience a variety of impacts due to climate change including an increase in average temperature and changes in precipitation, as outlined in Figure 1

Figure 1 Impacts of Climate Change in the City of South Pasadena (~2100)

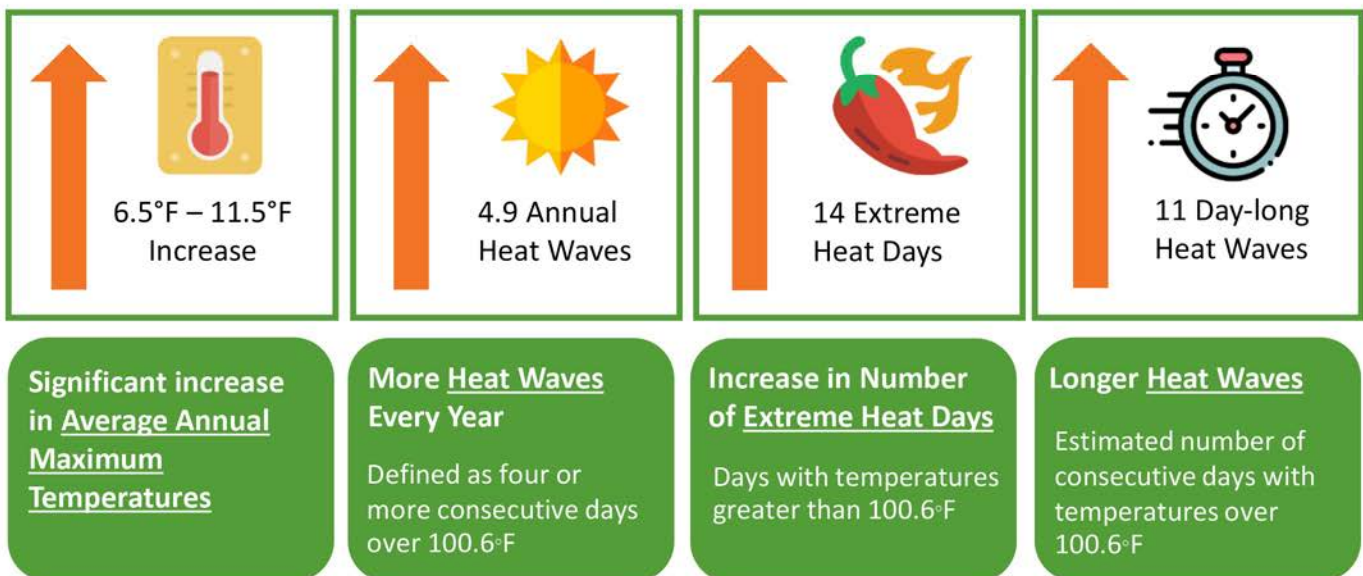
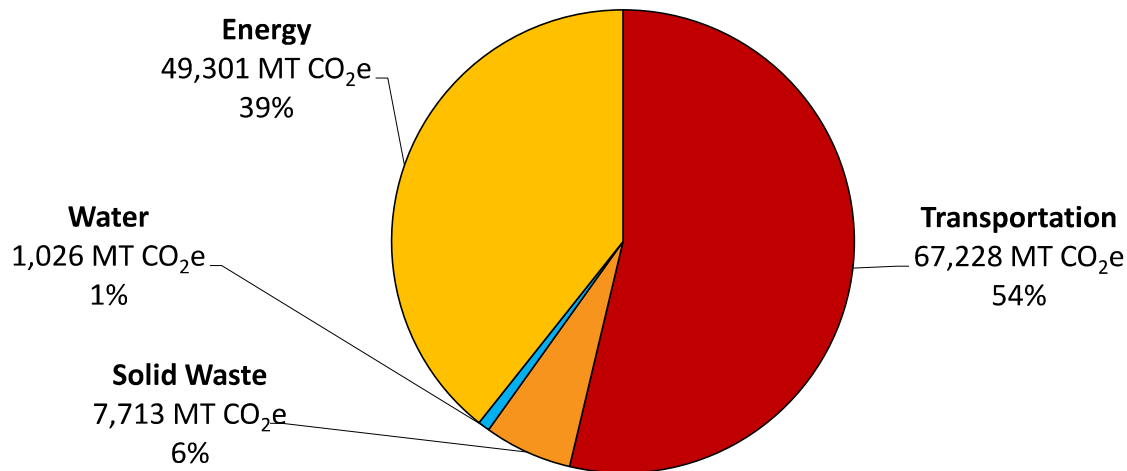


Figure 2 2016 Community-wide Emissions Summary by Sector



Baseline GHG Emissions

This CAP includes a 2016 baseline inventory of GHG emissions from municipal operations and community-wide activities within the City. It is important to note that the municipal operations inventory is a subset of the community inventory, meaning that the municipal emissions are included within the community-wide inventory. See Figure 2 for a per sector community emissions summary.

Emissions Forecast

Emissions forecasts (what we predict GHG emissions to be in the future) are generated from the 2016 baseline inventory to help identify actions that must be taken now in order to meet future targets. This CAP identifies GHG emissions reduction targets for the years 2020 (AB 32 target year), 2030 (SB 32 target year), 2040 (City of South Pasadena’s General Plan horizon year), and 2045 (EO B-55-18 target year).

Emissions Targets

After analyzing the City’s baseline inventory and forecast scenarios, emission targets were set to create quantitative goals that will further the City’s ability to measure emission reduction progress from the baseline scenarios. The 2016 baseline emissions were reduced by 40 percent to establish a 2030 target of 75,161 MT CO₂e for the City. In

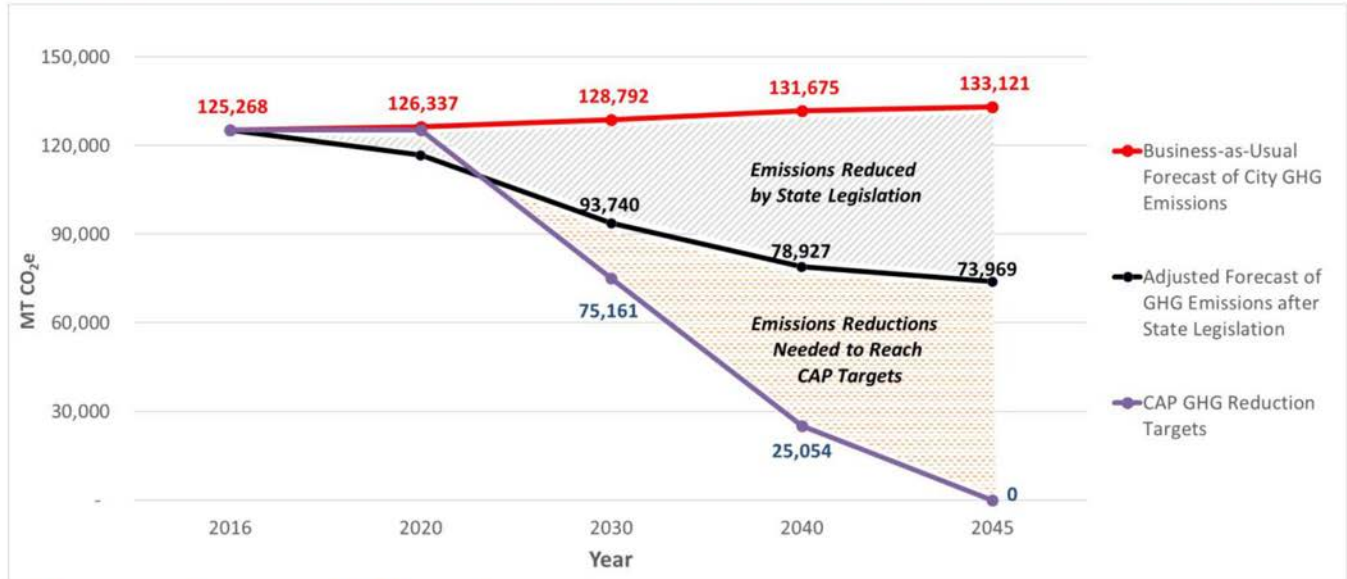
accordance with the new California Air Resource Board (CARB) methodology and the statewide goal established in SB 32, this absolute emissions target was then translated into a 2030 per capita emission target of 2.9 MT CO₂e per year by dividing the 2030 absolute target by South Pasadena’s projected population in 2030.

As shown in Figure 3, South Pasadena would require implementing local reduction measures to meet the state targets established for 2030 and 2045 even after accounting for reductions that will result from state regulations.

Reducing Emissions in South Pasadena

At its core, the CAP aims to reduce GHG emissions in the City through equitable, achievable, and implementable actions that benefit all South Pasadenans. The Plays (measures) and Moves (actions) included in the CAP were established and refined to meet the City’s GHG emission reduction target for 2030 and provide substantial progress towards meeting the longer-term target of carbon neutrality by 2045, which align with the state’s goals and is the City’s fair share towards achieving the state’s overall climate goals (see Table 1 for a summary of the Plays included in the CAP).

Figure 3 Community Emissions, Targets, and Reductions Needed to Meet Targets



Cornerstones of Climate Action Planning

The City of South Pasadena acknowledges that long-term sustainable change must occur to reduce our GHG emissions and limit our impact on climate change. This change will come from a collective commitment to reduce emissions through implementation of effective and equitable emission reduction strategies, such as the Plays and Moves outlined in this CAP. High-quality climate action planning is built on six essential components that result in implementable and effective GHG emission reduction strategies.

These six essential components, **education, structural change, GHG reductions, equity, connectivity, and economical design**, are the cornerstones that lay the foundation for transformational change and are essential to engage the community and fulfill the emissions reductions goals laid out in the Plan.

South Pasadena’s CAP includes 15 specific Plays designed to reduce GHG emissions associated with Energy, Transportation, Water, Waste, Sequestration, and Municipal Operations. Each Play is supported by Moves that were designed to incorporate the cornerstone components of climate action planning and create unique solutions to climate change, which are summarized in Table 1.

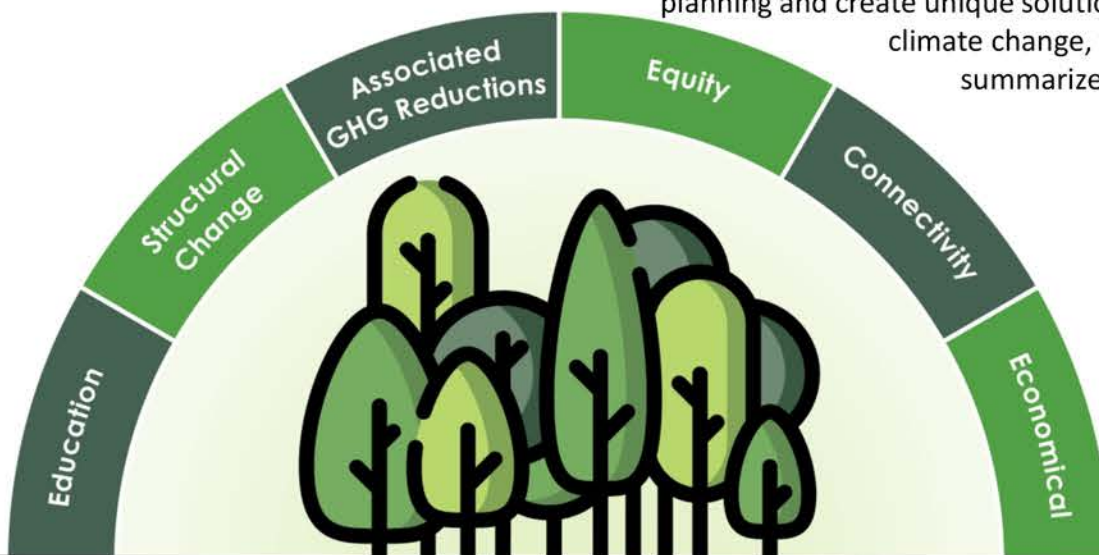


Table 1 Emission Reduction Plays and Moves Summary

Sector	Play	GHG Emissions Reduction Contribution
Cornerstone	C.1	Engage South Pasadena youth in climate change action and provide education on ways to live a sustainable lifestyle. 2030: 25 MT CO ₂ e 2045: 78 MT CO ₂ e
Energy	E.1	Maximize the usage of renewable power within the community, by continuing to achieve an opt-out rate lower than 4% for the Clean Power Alliance. 2030: 13,408 MT CO ₂ e 2045: 0 MT CO ₂ e
	E.2	Require electrification of 100% of newly constructed buildings. 2030: 240 MT CO ₂ e 2045: 984 MT CO ₂ e
	E.3	Electrify 5% of existing buildings by 2030 and 80% by 2045. 2030: 1,184 MT CO ₂ e 2045: 19,355 MT CO ₂ e
	E.4	Develop and promote reduced reliance on natural gas through increased clean energy systems that build off of renewable energy development, production, and storage. Supportive of 2030 and 2045 Goals
Transportation	T.1	Increase use of zero-emission vehicle and equipment 13% by 2030 and 25% by 2045. 2030: 3,774 MT CO ₂ e 2045: 6,629 MT CO ₂ e
	T.2	Implement programs for public and shared transit that decrease passenger car vehicle miles traveled 2% by 2030 and 4% by 2045. 2030: 807 MT CO ₂ e 2045: 1,399 MT CO ₂ e
	T.3	Develop and implement an Active Transportation Plan to shift 3% of passenger car vehicle miles traveled to active transportation by 2030, and 6% by 2045. 2030: 1,186 MT CO ₂ e 2045: 2,015 MT CO ₂ e
Water and Wastewater	W.1	Reduce per capita water consumption by 10% by 2030 and 35% by 2045. 2030: 414 MT CO ₂ e 2045: 0 MT CO ₂ e
Solid Waste	SW.1	Implement and enforce SB 1383 organics and recycling requirements to reduce landfilled organics waste emissions 50% by 2022 and 75% by 2025. 2030: 1,702 MT CO ₂ e 2045: 1,764 MT CO ₂ e
	SW.2	Reduce residential and commercial waste sent to landfills by 50% by 2030 and 100% by 2045. 2030: 415 MT CO ₂ e 2045: 859 MT CO ₂ e
Carbon Sequestration	CS.1	Increase carbon sequestration through increased tree planting and green space. 2030: 19 MT CO ₂ e 2045: 39 MT CO ₂ e
Municipal	M.1	Reduce carbon intensity of City operations. 2030: 188 MT CO ₂ e 2045: 188 MT CO ₂ e
	M.2	Electrify the municipal vehicle fleet and mobile equipment. 2030: 23 MT CO ₂ e 2045: 23 MT CO ₂ e
	M.3	Increase City's renewable energy production and energy resilience. Supportive of 2030 and 2045 Goals
Total		2030: 23,386 MT CO₂e 2045: 33,333 MT CO₂e

Note: South Pasadena would be required to reduce 18,578 MT CO₂e by 2030, 53,874 MT CO₂e by 2040, and 73,969 MT CO₂e by 2045 to meet the City's targets and state goals.

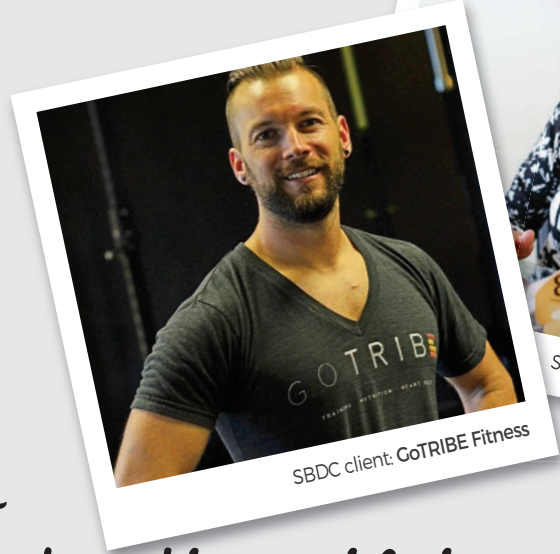
ATTACHMENT 8
Small Business Development Center (“SBDC”) Flyer



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**



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.

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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.





City Council Agenda Report

ITEM NO. 19

DATE: April 6, 2022

FROM: Arminé Chaparyan, City Manager *AC*

PREPARED BY: Domenica Megerdichian, Deputy City Manager
Mary Jerejian, Management Analyst

SUBJECT: **Direction on Citywide Commissions**

Recommendation

It is recommended that the City Council:

1. Dissolve the Animal Commission;
2. Consolidate the Youth, Senior Citizen and Park and Recreation Commissions' scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
3. Direct the City Manager and staff to implement an annual Animal Events Advisory Committee to focus on "Doggy Days" and "Be Kind to Animals Day" and other programming;
4. Change frequency of meetings for the Public Arts Commission to quarterly, or on an as-needed basis;
5. Change frequency of meetings for the Public Safety Commission to quarterly, or on an as-needed basis;
6. Dissolve the Finance Ad Hoc Committee;
7. Dissolve the Economic Development Ad Hoc Committee; and
8. Consider adding an engineering staff position to further support the Mobility and Transportation Infrastructure Commission in the Public Works Department.

Background

Following the discussion at the February 23, 2022 Commission Study Session, City Council directed staff to return with additional information:

- Solicit feedback from the Community to see if they have additional ideas or recommendations;
- Provide an analysis on the City's current administrative processes in the City Clerk's office in relation to Commission and Boards; and
- Provide alternatives to initial consolidation recommendations by exploring changes to administrative processes including meeting less frequently, hiring support specialists, or increasing staff capacity.

Community Input Follow Up

The City Manager's Office conducted a follow up online survey to solicit additional input on Commissions, which was hosted on the City's website between March 16, 2022 to March 21, 2022. The survey received 18 responses from community stakeholders on additional suggestions based on the previous information provided by staff regarding this matter. The results of the survey are provided as Attachment 2, and main takeaways include:

- 66.7% of respondents are part of a current Commission/Board.
- Of those that responded, 30.8% were from the Public Safety Commission, 15.4% were from the Cultural Heritage Commission, 15.4% were from the Parks and Recreation Commission, 7.7% from the Library Board of Trustees, 7.7% from the Finance Commission, 7.7% from the Planning Commission, and 7.7% from the Mobility and Transportation and Infrastructure Commission.
- The majority of respondents agree with the consolidation of Commissions as discussed.
- A couple of respondents expressed concerns with specific Commission consolidations.
- A couple of respondents expressed the need for increased trainings for both staff and Commissioners.

Current Administrative Processes for Commissions and Boards

The City Clerk's Office currently oversees all Commission related administrative processes. The current processes include:

- Maintaining all applications for two years
- Checking for residency and voter registration status
- In compliance with Government Code Section 54972 (Maddy Act) posting the annual appointments list which includes membership and terms for all board, commission, and committee appointments by City Council
- Noticing of unanticipated vacancies due to resignation by posting on social media, the City's website, and through press releases
- With a new Mayoral term, the City Clerk's office works with the incoming Mayor to determine commissioner appointments and reappointments. The list of proposed appointments appears on an open session agenda for consensus by the City Council
- Administering Oath of Office and providing welcome packet to commissioners which includes Parliamentary procedures, Robert's Rules of Order, Brown Act information, FPPC required filings, meeting schedule, and contact information for their specific commission
- Maintaining a directory of Commissioners and a list of absences
- Coordinating Commissioners Congress which includes annual reporting of Commission activities and work plans
- Preparing certificates of appreciation for outgoing Commissioners

Direction on Citywide Commissions

April 6, 2022

Page 3 of 5

As discussed previously, the Commission Analysis exercise revealed opportunities to improve upon staff liaison and commissioner onboarding, training and resources, including handbooks, ethics and Brown Act training. The City Clerk's Office will also be expanding community outreach efforts in soliciting commission applications, and will bolster the application process to include a requirement that commissioners be in "good standing" with the City to be considered for the position, and ensuring that the applicants considered have no outstanding code enforcement or public safety violations.

Moving forward and in an effort to increase and approve staff and commissioner training and support, staff will be:

- Working with their respective advisory boards to align work plans with Strategic Plan and Budget, which will help to align efforts with community priorities and resources;
- Re-establishing an annual Commissioner's Congress at a Special City Council meeting in the form of a reception, where a holistic review and update of advisory groups and efforts to Council and community will be presented. This will provide an opportunity to provide updates to the City Council, and to recognize the City's Commissioners for their time and efforts. The tentative date is June 22, 2022;
- Scheduling Council liaison and commissioner appointments as needed and following City Council direction; and
- Creating staff liaison support policies, protocols, trainings, and onboarding processes, as well as establishing a point of contact for appointed individuals.

Analysis

The City Manager's Office conducted assessments agency-wide to identify effectiveness of current practices and efficiencies in furthering the service provided to the community.

The amount of time that each Commission meets for varies depending on their scope of work, and the substance of respective meeting agendas:

- The Public Works Commission meets for one hour to one hour and a half on average based on the 2021-2022 meeting minutes.
- The average meeting time of the Mobility and Infrastructure Transportation Commission is two hours.
- The Public Works Commission meetings tend to focus on updates from the Public Works department while the Mobility and Infrastructure Transportation Commission agendas focus on transportation matters in the City.
- The Public Art Commission meets for one hour on average, and the meeting minutes throughout 2021 and 2022 show that meetings were necessary when discussing projects such as k-rail art implementation and the proposed Black Lives Matter Mural. The staff liaison communicated that the Commission has a fairly light load and may benefit from meeting on a quarterly basis. The Commission met 7 times in 2019, 7 times in 2020, 9 times in 2021, and only 1

time so far in 2022. When analyzing the agendas throughout the years, staff found that agendas include two to three items on average.

- While not discussed at the February 23, 2022 Commission Study Session, a review of the Public Safety Commission workload and a discussion with the staff liaisons revealed an opportunity to make an impact for our Police and Fire related liaisons, who often times find that they are producing meetings due to their meeting frequency requirements rather than the actual need to meet to discuss pertinent topics on their agendas. Staff has included a recommendation in this item for Council's consideration to reduce the frequency of meetings for the Public Safety Commission to quarterly or on an as-needed basis.

The following alternatives were also discussed and considered:

- Consolidation of the Public Arts Commission into the Design Review Board
- Consolidation of the Public Works Commission into the Mobility and Transportation Infrastructure Commission

The Public Works Department assessment completed and presented to City Council in October 2021 suggested that there were too many commissions under the department's purview, and recommended that the number of commissions be reduced. As part of the Public Works Department reorganization presented to you in another staff report tonight, Public Works staff is exploring the feasibility of adding an Engineering position to focus on traffic and transportation projects, largely in response to the discussion around the Public Works Department's three (3) commissions, and the emphasized need to enhance the Department's transportation projects throughput, and further support the Mobility and Transportation Infrastructure Commission.

Cities of similar size to South Pasadena have an average of 6-7 Commissions while larger cities typically have about 13 Commissions. In other cities surrounding South Pasadena including Alhambra, San Gabriel, Rosemead, and Pasadena, there is one staff liaison to each Commission. Although South Pasadena also has one staff liaison per Commission, other cities in similar size to have more full-time staff members. While 'commission specialist' positions do not exist, full-time staff members are trained to manage and run public meetings.

Implementation Strategy and Timeline

Staff has already begun working on staff and commission onboarding and training efforts, as well as soliciting community member interest and applications in serving as commissioners. Staff liaisons have shared the strategic plan with their respective commissions, and the efforts to align work plans with strategic plan priorities and budgets is underway. A tentative date for the return of the annual Commission Congress is set for June 2022, and this will provide an opportunity for each commission to present on their work plans and focus, receive City Council feedback, and be recognized for their efforts.

Upon receiving City Council's direction tonight, staff will return with an item to codify any municipal code changes to the commission makeup and frequency of meetings, and with commission appointments.

Recommendations

It is recommended that the City Council:

1. Dissolve the Animal Commission;
2. Consolidate the Youth, Senior Citizen and Park and Recreation Commission scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
3. Direct the City Manager and staff to implement an annual Animal Events Advisory Committee to focus on "Doggy Days" and "Be Kind to Animals Day" and other programming;
4. Change frequency of meetings for the Public Arts Commission to quarterly, or on an as-needed basis;
5. Change frequency of meetings for the Public Safety Commission to quarterly, or on an as-needed basis;
6. Dissolve the Finance Ad Hoc Committee;
7. Dissolve the Economic Development Ad Hoc Committee; and
8. Consider adding an engineering staff position to further support the Mobility and Transportation Infrastructure Commission in the Public Works Department.

Upon receiving City Council's direction tonight, staff will return with an item to codify any municipal code changes to the commission makeup and frequency of meetings, and with commission appointments.

Fiscal Impact

Any Council direction that affects the number of public meetings has direct fiscal impact. The recommended motions will serve to promote greater efficiency/effectiveness in the use of staff time and City resources.

Community Outreach

Outreach for the online surveys and input opportunities were shared with Women Involved in South Pasadena Political Activism (WISPPA), Woman's Club of South Pasadena, YMCA South Pasadena, Kiwanis Club South Pasadena, Oneonta Club, Chamber of Commerce, Chinese-American Club, Dads Uniting Dads in Education, the South Pasadenan, Pasadena Now, Nexus Plex, San Marino Tribune, Outlook Newspapers, and the SoCal News Group. The follow-up online survey available from March 16 – March 21, 2022 received 18 responses (Attachment 1).

Attachments:

1. Follow-Up Online Survey Results from March 2022
2. Commission Study Session Agenda Item- February 23, 2022

ATTACHMENT 1
Commission Study Session Agenda Item –
February 23, 2022



City Council Agenda Report

ITEM NO. 1

DATE: February 23, 2022

FROM: Arminé Chaparyan, City Manager *DM for AC*
Domenica Megerdichian, Deputy City Manager
Mary Jerejian, Management Analyst

SUBJECT: **Commission Analysis Study Session**

Recommendation

It is recommended that the City Council:

1. Consolidate the Public Works and the Mobility and Transportation Infrastructure Commissions to a seven-member Mobility, Transportation and Infrastructure Commission;
2. Dissolve the Animal Commission;
3. Dissolve the Youth Commission;
4. Consolidate the Animal, Youth, Senior Citizen and Park and Recreation Commission scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
5. Create an annual Animal Events Steering Committee within the Community Services Commission to focus on “Doggy Days” and “Be Kind to Animals Day” and other programming;
6. Absorb the Public Art Commission into the existing Planning Commission;
7. Dissolve the Finance Ad Hoc Committee; and
8. Dissolve the Economic Development Ad Hoc Committee.

Commission Review and Recommendation

This matter has not been reviewed by City Commissions, however, input on this matter was solicited by City Commissioners and community members through an online survey and virtual community listening session held on January 26, 2022.

Executive Summary

The City of South Pasadena currently has 14 Commissions, nine (9) Ad Hoc Committees, and two (2) steering committees. The Office of the City Manager has conducted an analysis to capture the current state of these advisory bodies, identify the effectiveness and efficiencies in furthering City Council and community priorities, while managing workload and capacity issues with staff. The City Manager’s Office has solicited staff liaison, Commissioner and community feedback and input in forming short and long term goals in better managing priorities, work flows, advisory board management and output, and enhancing City processes as it pertains to

staff, Commissions, and City Council in serving the community.

Community Outreach

As a part of this analysis, the City Manager's office strategically conducted outreach to ensure that feedback was solicited from all stakeholders, including staff, Commissioners, and residents. Outreach efforts included announcing this effort at City Council meetings, hosting an online survey that became accessible on January 20, 2022 and closed on January 28, 2022 with twenty-five (25) responses, and a Community Input Discussion that was held virtually via Zoom on January 26, 2022 from 6:00 pm to 8:00 pm that had twenty-seven (27) attendees. Outreach for all of these feedback opportunities were posted across the City's social media platforms including Instagram, Facebook, the City Hall Scoop. In addition, a designated page was created on our City's website titled "Community Input on Commissions," displaying the various ways to solicit feedback. Staff also received phone calls and correspondence from any community members unable to participate virtually, so that we could capture and include their input and suggestions on this matter.

Background

The City Council has established various Commissions, Boards, Ad Hoc Committees, and other advisory bodies to provide input and recommendations on issues that they are either subject matter experts on or passionate about. Advisory bodies are formed to address the evolving needs of a City, and to provide opportunities to vet issues and provide recommendations for City Council's consideration. The City of South Pasadena is unique in many ways, one of which is the level of involvement from residents in local government, and the pride in serving the various advisory bodies that support the City Council and community.

These various advisory bodies are defined by the following terms:

- **Commission:** Commissions and Boards are interchangeable terms. They serve as an advisory role to help direct policy by making suggestions and recommendations to their local elected policymakers and government management.
- **Ad Hoc Committee:** A committee appointed as the need arises, to carry out a specific task, at the completion of which-that is, on presentation of its final report to the assembly-it automatically ceases to exist. A special committee may not be appointed to perform a task that falls within the assigned function of an existing standing committee.
- **Standing Committee:** A legislative body which has either (1) a continuing subject matter jurisdiction, or (2) a meeting schedule fixed by the charter, ordinance, resolution, or formal action of the City Council. Even if comprised of less than a quorum of the governing body, a standing subcommittee is subject to the Brown Act.
- **Steering Committee:** A committee with the role to provide advice, ensure delivery of the project outputs and the achievement of project outcomes. The steering committee provides support, guidance, and oversight of progress.

The current advisory bodies in South Pasadena include the following:

City Council Commissions Boards Committees Liaison Assignments	
January 2021 to December 2021	
Commissions, Boards, & Committees	Appointed Liaisons
Animal Commission	N/A Pending Review
Cultural Heritage Commission	Zneimer
Design Review Board	Mahmud
Finance Commission	Donovan
Mobility and Transportation Infrastructure Commission	Primuth
Library Board of Trustees	Mahmud
Natural Resources and Environmental Commission	Cacciotti
Parks and Recreation Commission	Donovan
Planning Commission	Mahmud
Public Arts Commission	Cacciotti
Public Safety Commission	Primuth
Public Works Commission	Zneimer
Senior Citizen Commission	Cacciotti
Youth Commission	Donovan
Fourth of July – Festival of Balloons Committee	Primuth
South Pasadena Tournament of Roses Committee	Zneimer

City Council Ad Hoc Committees Liaison Assignments		
January 2021 to December 2021		
City Ad Hoc Committees	Appointed Liaison(s)	Staff Liaison
Ad Hoc Committee: City Council and South Pasadena Unified School District	Primuth and Zneimer	Arminè Chaparyan, City Manager
Ad Hoc Committee: Finance	Primuth and Donovan	Ken Louie, Interim Finance Director
Ad Hoc Committee: Mission-Meridian Village Subcommittee (08/14/2013)	Donovan and Zneimer	Margaret Lin, Deputy Director of Community Development
Ad Hoc Committee: Implementation, Caltrans Surplus Properties Disposition Replaced “Leg” & “non-leg” committees by council action on Dec, 1, 2021	Donovan and Primuth	Angelica Frausto-Lupo, Director of Community Development Margaret Lin, Deputy Director of Community Development

Ad Hoc Committee: Recreation leased facilities	Donovan and Cacciotti	Sheila Pautsch, Community Service Director
Ad Hoc Committee: South Pasadena Chamber of Commerce – Legislative	Mahmud	Tamara Binns, Assistant to the City Manager
Ad Hoc Committee: South Pasadena Chamber of Commerce – Economic Development	Primuth and Donovan	Domenica Megerdichian, Deputy City Manager
Ad Hoc Committee: South Pasadena Chamber of Commerce – Chamber Board	City Manager/Deputy City Manager	
Ad Hoc Committee: Economic Development	N/A Pending Review	N/A Pending Review

Furthermore, the table below shows a breakdown of which Departments have purview over each of the Commissions and advisory bodies.

Department	Commissions	Committees	# of Commissions/Boards
Police Department	Animal Commission, Public Safety Commission	None.	2 Commissions
Fire Department	Public Safety Commission	None.	1 Commission
Community Development Department	Cultural Heritage Commission, Design and Review Board, Planning Commission, Public Arts Commission	Ad Hoc Committee: Mission-Meridian Village Subcommittee, Ad Hoc Committee: Implementation, Caltrans Surplus Properties	4 Commissions, 2 Ad Hoc Committees
Public Works Department	Mobility and Transportation Infrastructure Commission, Natural Resources and Environmental Commission, Public Works Commission	None.	3 Commissions
Community Services Department	Parks and Recreation Commission, Youth Commission, Senior Citizen Commission	Ad Hoc Committee: Recreation leased facilities	3 Commissions, 1 Ad Hoc Committee
Library	Library Board of Trustees	None.	1 Commission
Finance Department	Finance Commission	Ad Hoc Committee: Finance	1 Commission, 1 Ad Hoc Committee

Commission Summaries

- **Animal Commission:**
 - The Animal Commission was founded in the 1980's, and has served as an advisory body regarding all animal related issues in the City. In the late 90's to early 2000's, the City developed a contract with the Pasadena Humane Society to oversee all animal related issues. The most recent staff liaison to the Animal Commission was Lieutenant Thomas Jacobs while Michael Cacciotti served as the Council Liaison. In 2014, the Commission began focusing on creating ordinances, including issues related to birds, although these efforts did not continue in prior years. The Animal Commission has also led annual events including "Doggy Days," and "Be Kind to Animal Day." These events were received positively both by staff and the community. In March of 2021, the City Council considered abolishing the Animal Commission; although the Commission remains active, a meeting has not been held for over two years.

- **Cultural Heritage Commission:**
 - The Cultural Heritage Commission began in 1971, and is under the purview of the Community Development Department and is responsible for all issues relating to identification, retention, and preservation of landmarks and historic districts. The Commission's responsibilities include reviewing various projects and recommending to the City Council whether those projects be designated as historical landmarks. Planning Manager Matt Chang is the current staff liaison to this Commission, and Councilmember Zneimer serves as the Council liaison.

- **Design and Review Board:**
 - The Design and Review Board is under the purview of the Community Development Department. This board serves as an advisory to the Planning Commission and represents the professions of architecture, landscape architecture, interior design, graphics, or related fields. The current staff liaison for the Design and Review board is Planning Manager, Matt Chang, and Councilmember Mahmud serves at the Council liaison.

- **Finance Commission:**
 - The Finance Commission serves as an advisory to the City Council and Finance Department in all matters related to the financial, budgetary, banking, accounting, and licensing within the City. Interim Finance Director Ken Louie is the current staff liaison to the Commission, and Councilmember Donovan serves as the Council liaison.

- **Mobility and Transportation Infrastructure Commission:**
 - The Mobility and Transportation Infrastructure Commission was created on February 19, 2020 to separate mobility and transportation policy matters from the Public Works Commission. The Mobility and Transportation Infrastructure

Commission provides input to Council on traffic management plans, transit, multi-modal transportation and active transportation, evolving transportation, parking management, and mobility technologies. In addition, they provide input on transportation related Capital Improvement Project items, Neighborhood Traffic Management Plan, and the Active Transportation Plan. Public Works Director Ted Gerber is the current staff liaison to this Commission, and Councilmember Primuth serves as the Council liaison.

- Library Board of Trustees:
 - The Library Board of Trustees is an advisory body to the City Council that provides input on the Library's needs and traditions, assists with promoting library interests, supports funding levels, and assists members in developing and writing policies that govern the operations of the Library. The Library Board of Trustees core responsibilities also include establishing rules and regulations for the administration of the Library, reviewing and submitting annual operating budgets and making recommendations with respect to appointments, suspension or removal of the City Librarian. Library Director Cathy Billings acts as the current staff liaison to the Board, and Councilmember Mahmud serves as the Council liaison.
- Natural Resources and Environmental Commission:
 - The Commission began in 2007, and is advisory to the City Council in all matters pertaining to energy, science and technology, natural resources, and the environment. The Natural Resources and Environmental Commission assists the City in planning, programming, use, and conservation of energy and natural resources. The Natural Resources and Environmental Commission is one of two commissions in South Pasadena that have seven members. Environmental Services and Sustainability Manager Arpy Kasparian is the current staff liaison to this Commission, and Mayor Cacciotti serves as the Council liaison.
- Parks and Recreation Commission:
 - The Parks and Recreation Commission is a five member body that is advisory to the City Council on all matters pertaining to parks and public recreation; formulates and proposes policies on recreation services for approval by the City Council; recommends the adoption of standards on organizations, facilities and parks, programs, and financial support; informs the public of the policies and functions of the recreation and parks program as directed by the City Council; and takes periodic inventories of recreation services that exist or may be needed and interprets the need of the public to the City Council and Community Services Director. Community Services Director Sheila Pautsch is the current staff liaison to this Commission, and Councilmember Donovan serves as the Council liaison.
- Planning Commission:
 - The Planning Commission is advisory to the City Council on matters pertaining to

subdivisions, zoning, parks and boulevards, beautification of the city and in general all matters regarding the orderly and physical development of South Pasadena. The current staff liaison to the Planning Commission is Planning Manager, Matt Chang while Diana Mahmud serves as the council liaison.

- **Public Arts Commission:**
 - The Public Arts Commission was established a couple of years ago with the purpose to integrate art into public spaces within the City. The Public Art Commission is a five member body that is responsible for the review and approval of public art projects associated with the Public Art Program. These projects include, but are not limited to, proposed site-specific public art, art donations, and public art developed with the funds from the Public Art Development Fee. The current staff liaison to the Public Arts Commission is Deputy Director of Community Development, Margaret Lin while Diana Mahmud serves as the council liaison.

- **Public Safety Commission:**
 - The Public Safety Commission is one of the two commissions that has seven commissioners on board. The commission serves in primary support capacity to the City's public safety personnel in an endeavor to improve the City's existing emergency response capability and provide recommendations to Council on issues related to public safety. These issues include crime trends, incidents in the City, fire prevention, and traffic. The current staff liaisons are Police Chief, Brian Solinsky and Fire Chief, Paul Riddle while Jon Primuth serves as the council liaison.

- **Public Works Commission:**
 - The Public Works Commission has been established since 2012, and focuses on public works inquiries related to water, sewer, storm water, and buildings including City facilities. The commission focuses on issues non-transportation and infrastructure related since the development of the Mobility Transportation and Infrastructure Commission was formed. The current staff liaison to the Public Works Commission is Director of Public Works, Ted Gerber while Evelyn Zneimer serves as the council liaison.

- **Senior Citizen Commission:**
 - The Senior Citizen Commission is a five member body that is advisory to Council on all matters pertaining to senior citizens in the City. Such matters include the advancement of senior citizen planning and programming and to formulate policies for senior citizen services. The current staff liaison to the Senior Citizen Commission is Community Services Supervisor, Melissa Synder while Michael Cacciotti serves as the council liaison.

- **Youth Commission:**
 - The Youth Commission is represented by students of the South Pasadena Middle

School and South Pasadena High School. The students on the commission are involved in coordinating activities, events, and volunteering for charitable fundraisers and food drives. There are ten youth members on the commission, an adult Community-at-Large member, and a South Pasadena Unified School District representative.

The City Council has created a number of Ad Hoc Committees to focus on specific topics. Ad Hoc Committees serve for a specific period of time, or until the work before them is completed, and should be dissolved or disbanded at that point. While many of the Ad Hoc Committees listed above are relevant and active, two committees—Finance and Economic Development—have completed the work under their purview, and are ready to officially be dissolved. At any point, City Council can create Ad Hoc committees to focus on a specific topic, and staff will work on aligning Ad Hoc committee status review on an annual basis to align with committee appointments.

Staff Liaison Feedback

The City Manager's Office met with staff liaisons of each Commission to discuss workload, staff time spent on Commission related work, strengths, shortcomings, and recommendations in managing Commission workflow and output. (Attachment 1) shows the time and resources (staffing and staff time) typically spent on Commission related preparations and workflows. Our interviews revealed noteworthy input, including:

Specific Commissions:

- The Animal Commission was responsible for well-received annual events, and could be incorporated into a Community Services Commission.
- On average, the Parks and Recreation Commission runs for 35-45 minutes. Meetings as needed would be helpful to reduce staff time.
- The Senior Commission is able to go months without meetings due to lack of discussion items.
- The Youth Commission often does not have topics to discuss, and Commissioners have not attended volunteer opportunity events. The City has experienced difficulty in recruiting for Commissioners.
- The Public Works Commission provides Public Works updates to Commissioners when meetings do not have lengthy agendas.
- The Public Safety Commission discusses police related issues for about 90% of items.
- Public Art Commission has significant overlap with the Planning Commission.

Common themes:

- The majority of staff liaisons believe that more detailed training and onboarding processes would be beneficial in standardizing processes. Ideas for this training include creating an onboarding manual for Commissioners.
- The majority of staff would also like to sit through training sessions for preparing minutes and preparing for Commission meetings.

Community Input

The City Manager's Office conducted an online survey to solicit input on Commissions, which was hosted on the City's website between January 20, 2022 to January 28, 2022. The survey received 25 responses on strengths, shortcomings and suggestions of our current Commission structure and management (Attachment 2). Some noteworthy responses include:

- 84% of respondents are or have served on a South Pasadena Commission or Board.
- Responses were received from individuals from or previously from all Commissions, except for the Senior Citizen Commission and the Youth Commission.
- Five (5) respondents who wanted to see additional topics covered by Commissions, including diversity, equity, inclusion, homelessness, and mental health.
- Many strengths and accomplishments were highlighted across various Commissions, and comments were generally appreciative and supportive of efforts.
- Common themes for improvement opportunities for Commissions include better communication with staff, defining roles, increased utilization of feedback from Commissions, increased outreach on meetings to increase participation, and additional resources for success.
- Multiple responses stated the need for increased training for basics of Commission meeting procedures and Brown Act training.
- Many respondents suggested a need for improvements for the City's public meeting process included reducing the amount of Commissions, giving Commission more of a voice, encouraging in-person meetings, aligning Commissions with the City's Strategic Plan, and increased facilitated discussions on sensitive topics.

The City Manager's Office also hosted a virtual Community Input Discussion hosted via Zoom by the City Manager's Office. There were 27 participants, as well as staff liaisons and departments heads at the listening session, and commentary was similar to the input collected via the online survey. Main takeaways from the virtual community input session include:

- Virtual meetings are difficult and not inclusive; residents struggle to communicate digitally. However, virtual meetings are helpful and allow working professionals to be involved with City Council and appointed positions.
- A number of new topics important to the community are not a focus of any existing advisory body: housing rights, energy, mental health, homelessness, social services
- We need a strategic approach to managing Commissions—connect efforts to the strategic plan and to the City budget to be able to fund efforts. Can we include joint meetings for topics that overlap?
- Abolish the Design Review Board and focus efforts on the Planning Commission. Consider establishing informal reviews of planning projects with applicants; fully staffed Planning division should focus on backlog and objective planning processes.
- Define all of the types of advisory bodies—is one more important than another?
- Meetings are too formal, with Commissioners sitting at the dais and limiting comment times. Can we make public meetings more informal and less burdensome in managing?
- Suggest a Good Governance Commission to be created to advise the Mayor on how the City is being run, and suggestion to reorganize the Finance Commission.

- Considering the staff turnover of the last few years, there is a need for institutional knowledge. How do we bring that to advisory boards?
- The amount of advisory board and work generated is concerning—is it sustainable? There are opportunities for joint meetings or combining efforts for overlapping topics.
- Need more public outreach and information, public engagement in City projects and programs. Need to improve upon and focus on communications, customer service to close the loop on resident correspondence and inquiries.
- Consider term limits on “higher level” commissions (Planning, MTIC) to allow other impressive candidates an opportunity to serve.
- Commissioner onboarding and training is needed- focus on Brown Act and Ethics, but include City functions, budget, strategic plan, General Plan. What do we have local control over, how do we work with other agencies and government levels? Government 101 to benefit the appointee’s education and perspective.

Practices in Local and Comparable Cities

Staff has researched the practices in nearby and comparable cities, considering to population and size, number of commissions/advisory boards, the focus of those bodies, and any notable similarities or differences to the City of South Pasadena (Attachment 3). Cities of similar size typically have 6-7 commissions, while larger cities such as Glendale and Torrance have 13.

Larger cities (by geography and population) have fewer number of commissions, but in some cases, the commissions are consolidated with wider scopes of topics to focus on. Examples include the City of Glendale's Parks, Recreation & Community Services Commission that covers all recreational programs and the City’s parks, and the City of Sierra Madre Community Services Commission that oversees the City’s recreation services and programs, all special events, parks, and facilities. The Cities of Sierra Madre, Alhambra, San Gabriel, Rosemead, San Fernando, Duarte, and Ontario have consolidated commissions that oversee planning, building, historical properties, and zoning regulations.

Many cities create and utilize training guides and manuals for onboarding Commissioners that include the City Charter, background on government, the role of commissions, conduct standards, public meeting procedures, and Ralph M. Brown Act requirements. This is a resource we can create and utilize in our efforts.

Discussion/Analysis

The City Manager’s Office is conducting assessments agency wide to identify effectiveness of current practices and efficiencies in furthering the service provided to the community. As a part of this exercise, staff has focused on collecting all relevant information for a fruitful discussion on the City’s Commissions and Committees, including input from current staff liaisons, input from the community, researching the practices of local and comparable cities, and considering some recommendations on how to improve upon public meetings as well as create some efficiencies considering limited staff time and resources. The goal of this exercise is to provide the City Council with current information and possible solutions to creating more effective advisory board processes in our City.

Staff liaison input provided that that each staff member involved in Commissions is spending about 8-10 hours a month on average per Commission. Of the fourteen current Commissions, eight of them have one staff liaison assigned to completing tasks related to writing and reviewing staff reports, recording and uploading minutes, agenda preparation and posting, preparing presentations, and following up with Commissioners as needed. A study of the existing commissions has revealed some overlap in function and focus, which can translate to the consolidation of existing advisory bodies with similar purviews. While the City's departments are almost fully staffed, staff has significant backlog to address in addition to the day to day operations, and as such, an opportunity to create efficiencies in Commission related workload will be effective and have significant impact on workflows and work output.

For a more specific example of how this workload may impact staff duties, the Community Development Department has four Commissioners within their purview, totaling thirty-eight hours a month spent on Commission related work, or 50% of a full-time staff member's schedule. The Community Development Department currently has about 70 planning development cases in their backlog that they are addressing, and about 40-50 ADU applications to process. In addition to the Planning Case Log, the Community Development Department has several priority projects underway that are either a state mandate such as the Housing Element or General Plan Update or local initiative such as the Downtown Specific Plan. Additionally, staff is managing projects that are of significant interest to the community including residents, Commissioners, and community organizations such as updating the SB 9 Urgency Ordinance, Caltrans SB 381, Mills Act Audit, new permit tracking software, comprehensive parking policy study, potential occupancy inspection program, local seismic regulations, and more. Further, there are several mixed-use development projects going through the entitlement phase that require much staff time and attention.

The Public Works Department has three Commissions under the Department's purview, which contributes to a significant workload where there might be efficiencies. The Public Works Department Assessment that was received and filed by this City Council in December 2021 specifically stated that Commission related work load is significant, and that staff is constantly in "fire drill" mode. Recommendation number seven of the assessment reads, "Re-visit the need for all three (3) of the Commissions supported by the Public Works Department... consider consolidating the Public Works Commission and Mobility and Transportation Infrastructure Commission into one Commission."

As a part of this information gathering, and in reviewing staff time and resources as it relates to Commission work flows and work product, staff has identified a need to produce and provide ongoing trainings for staff commission liaison related to agenda and minute preparation, running and managing public meetings, managing workflows and in acting in their role as liaison to appointed commissioners. Efforts to align work plans with the Strategic Plan and the City's budget will translate to effective and efficient work output. Protocols and trainings will help support the staff, and lead to improved communications, customer service, efficient meeting and workflow management.

Moving forward, in an effort to increase and approve staff and commissioner training and support, staff will be:

- Aligning Commission work plans with the adopted Strategic Plan and the City's Annual budget so that resources can be appropriately adjusted as needed, and the Strategic Plan and Budget are communicated as a factor in guiding work plan goals.
- Re-establishing an annual Commissioner's Congress at a Special City Council meeting in the form of a reception, where a holistic review and update of advisory groups and efforts to Council and community will be presented. This will provide an opportunity to provide updates to the City Council, and to recognize the City's Commissioners for their time and efforts.
- Staff will provide an annual update to City Council on Ad Hoc Committees in an effort to keep track of which committees are needed to continue their work, and which have completed their work plans and should be considered for dissolution.
- Council liaison and commissioner appointments will be scheduled as needed and following City Council direction.
- City Clerk's staff will be creating staff liaison support policies, protocols, trainings as well as establishing a point of contact for appointed individuals to receive information, resources and onboarding.

The recommendations herein suggest an approach that focuses on furthering the City's priorities and goals while creating efficiencies in work flows and output. The recommendations, if approved, would translate to the City collapsing 14 Commissioner to 9 agency-wide, as well as dissolution of two ad hoc committees that have already unofficially dissolved. The Economic Development Ad Hoc Committee has been dormant, and was previously identified as an advisory body ready to be considered for abolishment. The Finance Ad Hoc Committee has completed its work and a subset of the Committee is preparing a final report to staff, expected Spring 2022, and should be considered for dissolution as well.

With Council's approval, the work flows and output will be significantly reduced, and will further allow staff to improve processes, training, service to the community, including communications and a collaborative and comprehensive approach to public meetings and advisory bodies.

Recommendations

It is recommended that the City Council:

1. Consolidate the Public Works and the Mobility and Transportation Infrastructure Commissions to a seven-member Mobility, Transportation and Infrastructure Commission;
2. Dissolve the Animal Commission;
3. Dissolve the Youth Commission;
4. Consolidate the Animal, Youth, Senior Citizen and Park and Recreation Commission scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
5. Create an annual Animal Events Steering Committee within the Community Services

Commission to focus on “Doggy Days” and “Be Kind to Animals Day” and other programming;

6. Absorb the Public Art Commission into the existing Planning Commission;
7. Dissolve the Finance Ad Hoc Committee; and
8. Dissolve the Economic Development Ad Hoc Committee.

Alternatives Considered

Should City Council wish to retain existing Commissions, staff suggests making changes to the consideration of the frequency of Commission meetings. This translates to Commissions with lighter workloads meeting on a quarterly or as-needed basis to lighten the administrative load of preparing for and holding public meetings for lighter workloads.

Should there be interest in furthering a discussion such as the creation of an all-encompassing Social Services Commission focused on mental health, homelessness, equity and/or other topics relevant to the Community that are not part of any existing body’s scope of work, City Council may consider staff’s recommendations and improvements provided herein, and direct staff to return in the next 12 months for further discussion.

Next Steps

1. City Council to discuss and provide direction to staff on staff recommendations; or
2. City Council to discuss and request further information or provide different direction to staff on this topic; and
3. Based on City Council’s direction, staff will return with an item on Commissioner appointments and implementation.

Fiscal Impact

Any Council direction that affect the number of public meetings has a fiscal impact as it related to staff time and resources. This is an effort to usher efficiencies and effectiveness in furthering the priorities of the City Council and community, and has the potential to adjust limited staff time and resources to providing direct service to the community.

Public Notification of Agenda Item

The public was made aware that this item was to be considered this evening by virtue of posting of the agenda and reports on the City’s website and bulletin board, notifications on the City’s social media pages, reference on the City’s community input online survey as well as at the virtual community listening session held on January 21, 2022.

Attachments:

1. Staff Liaison Input: Staffing and Resources
2. Community Survey Results
3. Commissions Comparison Chart of Nearby and Comparable Cities

ATTACHMENT 1
Staff Liaison Input: Staffing and Resources

Staff Liaison Input – Staffing and Resources

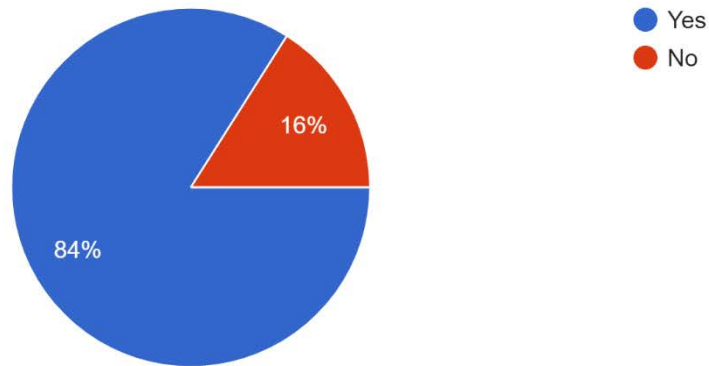
Department	Commission	Number of staff	Staff Time Spent
Police Department	Animal Commission	1	12-16 hours per month
Police Department/ Fire Department	Public Safety Commission	3	30-40 hours per month
Community Development Department	Design and Review Board	1	9 hours per month
Community Development Department	Cultural Heritage Commission	1	12 hours per month
Community Development Department	Planning Commission	1	12 hours per month
Community Development Department	Public Arts Commission	1	5 hours per month
Public Works Department	Natural Resources and Environmental Commission	1	15-30 hours per month
Public Works Department	Mobility and Transportation Infrastructure Commission	3	10 hours per month
Public Works Department	Public Works Commission	2	10 hours per month
Community Services Department	Parks and Recreation Commission	2	10 hours per month
Community Services Department	Senior Citizen Commission	1	8 hours per month
Community Services Department	Youth Commission	1	8 hours per month
Library	Library Board of Trustees	2	20 hours per month
Finance Department	Finance Commission	3	10 hours per month

ATTACHMENT 2
Community Survey Results

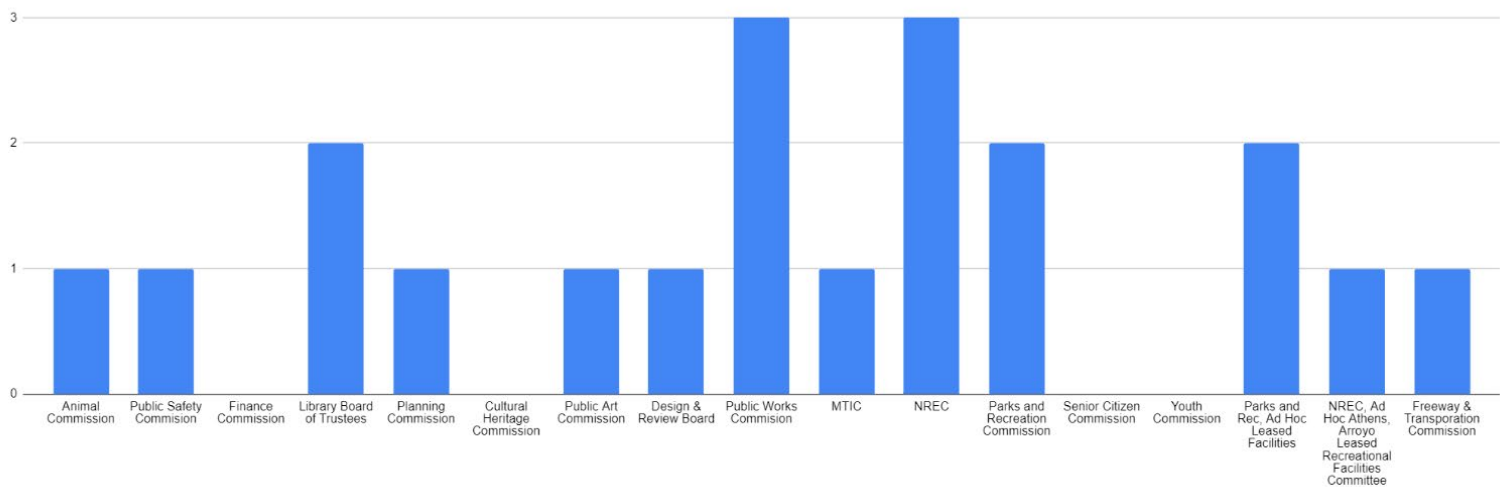
Community Input on Commissions: Survey Results

Have you or are you currently serving on a South Pasadena Commission or Board?

25 responses

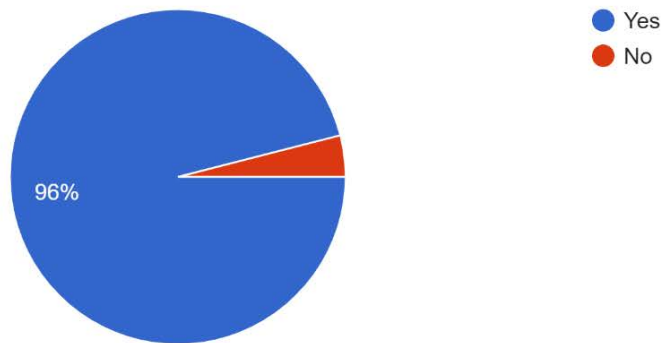


If so, which one(s)? 20 responses

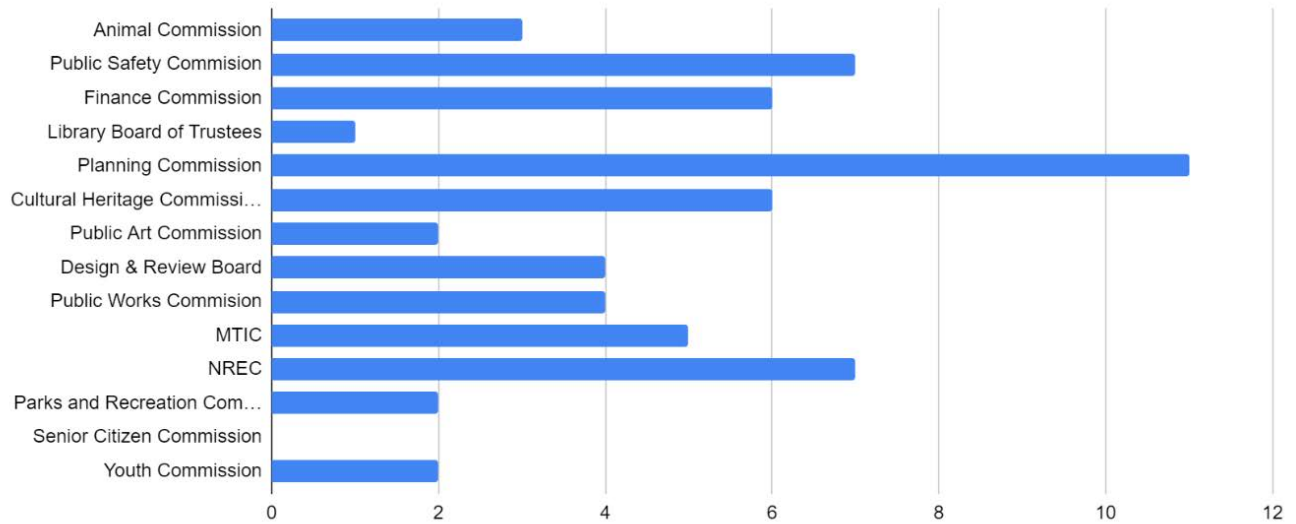


Have you attended South Pasadena Commission/Board meetings?

25 responses



Attendance of South Pasadena Commission/Board Meetings: 24 responses



Are there topics not covered by existing Commissions/Board that you would like the City Council to consider?

- Diversity, Equity, and Inclusion
- Diversity, Equity, and Inclusivity
- Energy, Affordable Housing, Tenants Rights & Issues, Mental Health, Local Economic Development & Jobs
- For a city our size, the number of commissions is plenty, if not actually a bit many
- Homelessness
- Homelessness, Mental Health, Substance Use Disorders, Affordable Housing, Diversity, Equity, Inclusion in City Programs
- (9 responses) stated “No”
- Support services for homeless, more incentives for developing more low income housing
- Trees inventory and maintenance including protected trees
- The current boards and commissions cover the breadth of topics important for citizen input

What are some strengths or accomplishments of the Commission/Board that you have been a part of or attended meetings for?

- Both the commission and committee I sit on have been well-organized with clear direction for outcomes. The Parks and Rec Commission has offered great recommendations for movies and concerts in the parks, in addition to sending the designs for the two pocket parks to Council. The ad hoc committee just recommended a restaurant consultant for the golf course. These are very clear accomplishments that note well-utilized boards.
- Good ideas came out and were later adopted by the City.
- None.
- Preserving the physical character and quality of South Pasadena.
- Finance Commission: provided significant advice to the City Council regarding the City's finances. Public Works Commission: provided feedback to staff regarding various programs and activities of the department.
- Public Safety review of police reform policy proposals
- Current Public Works department appears to be doing a good job
- Supporting public art in our city. Margaret Lin is amazing and to have support from a staff member like her is a blessing.
- Very important to have and maintain design review of both small and large developments to help keep our rich architectural heritage and to help shape future development to be appropriate for our city.
- pocket park and lease meetings

- Planning: General Plan updates, Housing Element updates, ADU updates Natural Resources: Climate Action Plan Parks and Rec: leasing agreements in the Arroyo, bike and walk path in the Arroyo Library: Fine Free Library
- None really
- Upcoming Water Shed in the Arroyo
- NREC recommended and council adopted the Climate Action Plan, which is already being used in decision making.
- CHC has recently completed on ADUs on historic properties adopted by Council
- Diverse group of people with varied backgrounds coming up with solutions to resolve an issue without going to Council or plan to submit solutions for Council to consider.
- Planning passed Inclusionary Housing Ordinance; Public Safety Commission studied unarmed traffic enforcement
- oversight of, and input into the way the various departments of the City are run and which projects get attention
- Commissioners are the voices of the community
- Ban on Styrofoam, water efficiency fee, tiered water rates, Climate Action Plan, city renewable energy council plan. In general, commissions ideally bring expertise from the community and community viewpoints and concerns to the city staff.
- Developing programs and projects to improve traffic management and safety throughout the city
- We have great working relationships with our City staff/liaisons. The NREC supported the City in developing and passing our City's first Climate Action Plan and many action items within the plan have been implemented over the last 2 years. The CAP and Green Action Plan are helpful tools for guiding our commission on new initiatives. We can look back and see what we have accomplished and what is on the horizon. We also oversee tree removal hearings and the updates made to the ordinance have simplified and clarified that process for us as well as for City staff.
- Great input at Commissions, but can't get to them with City staff backlog.

What are some weaknesses or improvement opportunities of the Commission you have been a part of or attended meetings for?

- For the two I'm a part of, I don't have any recommendations. Having not attended other meetings, I can only note that it seems like we have a lot of commissions for a city our size, but if resident recruitment to participate is high and work is getting done, then they are effective.
- When a commission is controlled so as to only do what the City Manager or City Council wants
- Too many commissions. DRB and CHC should be merged. NREC abuses its power in tree removal matters. Should be more clear cut guidelines and appeals.

- Often too much oversight and subjectivity by the Commissioners. Valuable and necessary projects and community advancements are killed by a select few. This is creating an unequal and exclusionary community that benefits those in power only.
- Public Works Commission: The department head should attend these commission meetings, at least occasionally.
- Commissions need independent authority to pursue questions and suggest policy to the council, and they need a better relationship with staff. MTIC has repeatedly complained about being ignored.
- Better communication and avoidance/cancelation of meetings
- The commission works hard to move forward on public art project, policy, and advocacy, especially in terms of becoming an artist friendly city. The culture of bureaucracy and an overly risk adverse approach (especially to potential litigation) are placing obstacles for South Pasadena to become an inclusive, diverse, and equitable artist friendly city. We are really behind other surrounding cities and counties in the southern California area.
- Boards/commissions that have purview over design/development in the city must have members that have design education/experience (architects/design professionals) that can read plans, understand complex concepts and make informed decisions that will have a lasting effect. DRB has/had members that have no knowledge in this field and merely become a "rubber stamp" and contribute little to none in the evaluation of the application at hand - not good...
- We need more explanation of the matters not just a pass and stamp recommendations
- Since the commission members are residents of the city, those voices need to be more relevant when decisions, plans, some actions taken. The commissions could be setting agendas instead of staff.
- There needs to be total term limits. 10 years maximum on all commissions.
- Need to be more involved
- Our commission agendas are defined without commissioner input. It can be difficult to understand context for action items, since most information is discovered during commission meetings.
- Sometimes Commissions rely on technical analysis of consultants without regard to the voices and actual needs of residents concerned wasting financial resources of City
- More communication between the commissions and working together when possible.
- I would like to see cross-commission collaboration. All city issues are interconnected. Speaking personally for my commission, most city decisions are related to the environment. Transportation is a climate issue. Housing is a climate issue. Energy is a climate issue. Most other commissions' decisions impact our directive and more specifically, the Climate Action Plan. As a volunteer, it is very difficult to stay up to date on every agenda item for every commission and council meeting, and often, by the time a decision has been made is when our commission is made aware. It would be beneficial to all commissions if they could be notified of other commission's agenda items that impact them.

- No commission is focused on social services and housing for low-income residents
- unwillingness of the City Council to listen to the input provided
- less staff control and influence
- Meetings could be better publicized to facilitate more community input. Also, some issues cut across existing commissions and it might be good to have joint meetings on a periodic, as needed basis.
- Not having enough staff resources and support to implement our proposals
- I believe our commissions should rotate our Chair and Vice Chair positions annually, reflecting the same protocol that Council follows. This keeps the commissioners more engaged with staff and what is going on within the City.
- Need Chair reviews available for commissions to both preview or have i or items approved, also need concept level meetings available, without waiting 6 months or staff processing.

Is additional training or support for Commissioners or staff liaisons needed to improve our public meeting process?

- Compared to other cities, it seems like a very well-engaged citizenry that understand government functions well.
- I don't know
- I think for many commissioners, it would be helpful in addition to ethics and Brown Act training, to have a session on the mechanisms
- I think the training provided has been effective. I am not sure we've had it over the last year, but there is typically a training on the Brown Act for incoming commissioners provided by the City Attorney. I think another helpful tool would be to provide a commission meeting "procedure and process" class. For new commissioners, who have not engaged with the City politics or attended many public meetings, it could be very confusing.
- Implicit and unconscious bias and anti-racism trainings are necessary
- No
- No
- No – the staff liaison does a good job
- No, our staff liaison is very familiar with the process
- Perhaps training in how to run a meeting for upcoming "chairs" would be helpful
Quality level of Commissioners is high, it's City staff that needs help and Commissioners could help and with the submitted projects
- The Brown Act review does help, but it could be more review and summary training for new commissioners, Staff liaisons are hit and miss. Some staff are very good and some staff are not.
- We need more information on what the committee can accomplish
- Yes. We need more specific training on important topics (i.e. general housing, affordable housing, parking, economics/budget)
- Yes, Commissions are often asking staff for help with basics of the procedure.

- Yes. I think a review of how council wants a meeting held, rules of order, etc. would be helpful
- Yes, NREC needs to take a more holistic approach to tree removals. Not just save a tree at an cost.
- If by support, you mean that the City Council actually takes action suggested or at least gives credence to the suggestions, then yes.
- Less format meeting would be helpful for a better dialogue

Do you have any other suggestions/input on improving the public meeting process in the City of South Pasadena?

- Reduce number of commissions and align them to city departments. Public Works to absorb MTIC and NREC. Community Services to absorb Parks and Rec and Senior Commission. CHC and DRB into one streamlined design review board. PSC to absorb animal commission. Planning commission to remain as is. No new commissions.
- Yes. (1) Statistically valid sampling; (2) Weighting of sampling that takes into account demographics with the most at stake in whatever decision is being made; (3) More education, facts, and context provided to those giving input.
- There are too many commissions for a City the size of South Pasadena, which places a burden on city staff. Commissions should be combined along department lines.
- Commissions should matter more. They've faded into the background, in part because they've been deliberately sidelined. The council should be far more deliberate in its efforts to secure commission input. In general, South Pasadena needs a deeper deliberative process, and engagement with commissions should be part of it.
- Bring back live, in person meetings so the public can be invited to participate, also, need to have an annual "in person commissioners get together" at any of the public parks or at city hall to have a time for commissioners to meet each other along with all of the city staff members, council members, etc. This will provide a benefit to the new city manager and her team. This event will provide collaboration amongst all departments.
- Hopefully, sooner than later in-person meetings will be the standard again. No matter how smooth we try to make the Zoom approach work, conversation/debate back and forth between commissioners and public is stifled. On another note, having been thru several complete turnovers of the planning/building departments, my hopes are high that the new team will really get rolling. One suggestion, we on DRB probably don't need to see soils reports, past permits documentation, and all department plan check comments in order to do our job. I think if the staff reports were slimmed down, that should reduce staff time and help more applications to be processed and reviewed. Another thought: Offer "preliminary reviews" by DRB as in the past. The DRB in particular has been light for many months we could have used our time to give comments/consultation to applicants prior to a formal submittal. This could cut down on the number of times the applicant may have to return to gain approval, and also give the applicant/designer a direction that may be more fitting than the path they were going to take.

- Rules, city politics have a ton of processes and we need to know more of these rules in order to be more effective.
- If Commissions were to change to Advisory then Brown Act would not be needed. But Advisory has to hold same weight as Commission. There are too many meetings and maybe some of the commissions could be combined or hold fewer meetings.
- There needs to be lifetime term limits. 10 years maximum that someone can serve on all commissions. This could be specific to important ones. Like allow people after the 10 year as to serve on less popular commissions.
- Again more involvement by commissioners given the time.
- Facilitated discussions are an amazing way to reach consensus in sensitive topics. The housing element (and strategic plan?) used a consulting company to facilitate meetings to collect input. Those meetings were great! Civil discussions that were well informed and made me feel heard.
- Improve our technical support
- Commission and council meeting input from residents only favors those who have the time to attend. We are a city of families and yet I never really see that type of representation for public input - the majority of those residents impacted are not the ones helping guide commissions and council with input. How can we allow for better accessibility for those who don't have the time to sit thru hours-long meetings?
- Better options for public participation
- better notification of meetings agendas
- Retain the Zoom format even when in-person meetings resume. In other words, use the hybrid format.
- Better citywide publicity and notification of commission meetings, especially when there are important topics and projects to be discussed.
- Trust your Commissions and get submittals to them faster and more simply for their help and input instead of so much lost time with staff first.

ATTACHMENT 3
Commissions Comparison Chart of Nearby and
Comparable Cities

Commissions Comparison Chart of Nearby and Comparable Cities

Comparison Cities	# of Commissions	Types of Commissions	City Population (2019)
City of Alhambra	12	Arts & Cultural Events Commission, Board of Library Trustees, Civil Service Commission & Board of Appeals, Design Review Board, Environmental Sustainability Commission, Historic Preservation Commission, HCDA Citizen Advisory Committee, Human Relations Commission, Parks and Recreation Commission, Planning Commission, Transportation, Youth Commission	84,647
City of San Gabriel	6	Civil Service Commission, Community Services Commission, Design Review Commission, Planning Commission, HEAR Commission, Historic Preservation & Cultural Resource Commission.	40,143
City of Rosemead	4	Beautification Commission, Parks Commission, Planning Commission, Traffic Commission	54,282
City of Pasadena	20	Accessibility and Disability Commission, Arts & Culture Commission, Board of Zoning Appeals, Code Enforcement, Community Police Oversight, Commission on the Status of Women, Design Commission, Environmental Advisory, Hearing Officer, Historic Preservations, Human Relations, Human Services, Library, Northwest, Old Pasadena Parking Meter Zoning Advisory, Planning, Recreation and Parks, Senior, South Lake Parking Place, Transportation Advisory	141,258
City of Burbank	About 20	Art in Public Places Committee, Board of Building and Fire Code Appeals, Board of Library Trustees, Burbank Cultural Arts Commission, Burbank Housing Corporation Board of Directors, Burbank Water and Power Board, Charter Review Committee, Civil Service Board, Community Development Goals Committee, Heritage Commission, Infrastructure Oversight Board, Landlord-Tenant Commission, Park, Recreation, and Community Services Board, Planning Board, Police Commission, Senior Citizen Board, Sustainable Burbank Commission, Transportation Commission, Youth Board	103,703
City of Glendale	13	Arts and Culture Commission, Audit Committee, Building and Fire Board of Appeal, Civil Service Commission, CDBG Advisory Committee, Design Review Board, Glendale Water and Power, Historic Preservation Commission, Park Recreations and Community Services, Planning Commission, CSW Commission, Transportation and Parking Commission, Sustainability Commission	200,232
City of San Fernando	6	Disaster Council, Education Committee, Parks Wellness & Recreation, Planning and Preservation, Senior Citizens, & Transportation and Safety.	23,946
City of Duarte	7	Economic Development Commission, Parks and Recreation Commission, Planning Commission, Public Safety Commission, Public Services Commission, and Traffic Safety Commission	21,559
City of Sierra Madre	6	Community Services Commission, Energy, Environment, and Natural Resources Commission, Library Board of Trustees, Planning Commission, Senior Community Commission	10,932
City of Ontario	7	Development Advisory Board, Historic Preservation Subcommittee, Library Board of Trustees, Museum Board of Trustees, Planning Commission, Recreation and Parks Commission, Zoning Administrator	176,760

A photograph of a city park with a large stone sculpture and a tram on a track in the background. The sculpture is a large, abstract, light-colored stone piece. The tram is a modern, silver and blue vehicle on a track. The background shows trees and a clear sky.

City Council Commission Study Session

February 23, 2022 / 6PM

Prepared By: The Office of the City Manager

Background

SOUTH PASADENA CITY HALL

ADMINISTRATIVE

POLICE

COUNCIL CHAMBERS

December 2021

January 20, 2022

January 26, 2022

January 28, 2022

January – February 2022

February 23, 2022

Feedback collected from staff liaisons

Online survey for community input opens

Virtual Community Input Discussion

Online survey for community input closes

City Manager's Office prepares analysis

Study Session on Commission Analysis with Council

City Council Commissions / Boards

January 2021 to December 2021

1. Animal Commission *Pending Review*
2. Cultural Heritage Commission
3. Design and Review Board
4. Finance Commission
5. Mobility and Transportation Infrastructure Commission
6. Library Board of Trustees
7. Natural Resources and Environmental Commission
8. Parks and Recreation Commission
9. Planning Commission
10. Public Arts Commission
11. Public Safety Commission
12. Public Works Commission
13. Senior Citizen Commission
14. Youth Commission
15. Fourth of July – Festival of Balloons Committee
16. South Pasadena Tournament of Roses Committee

City Council Ad Hoc Committees

January 2021 to December 2021

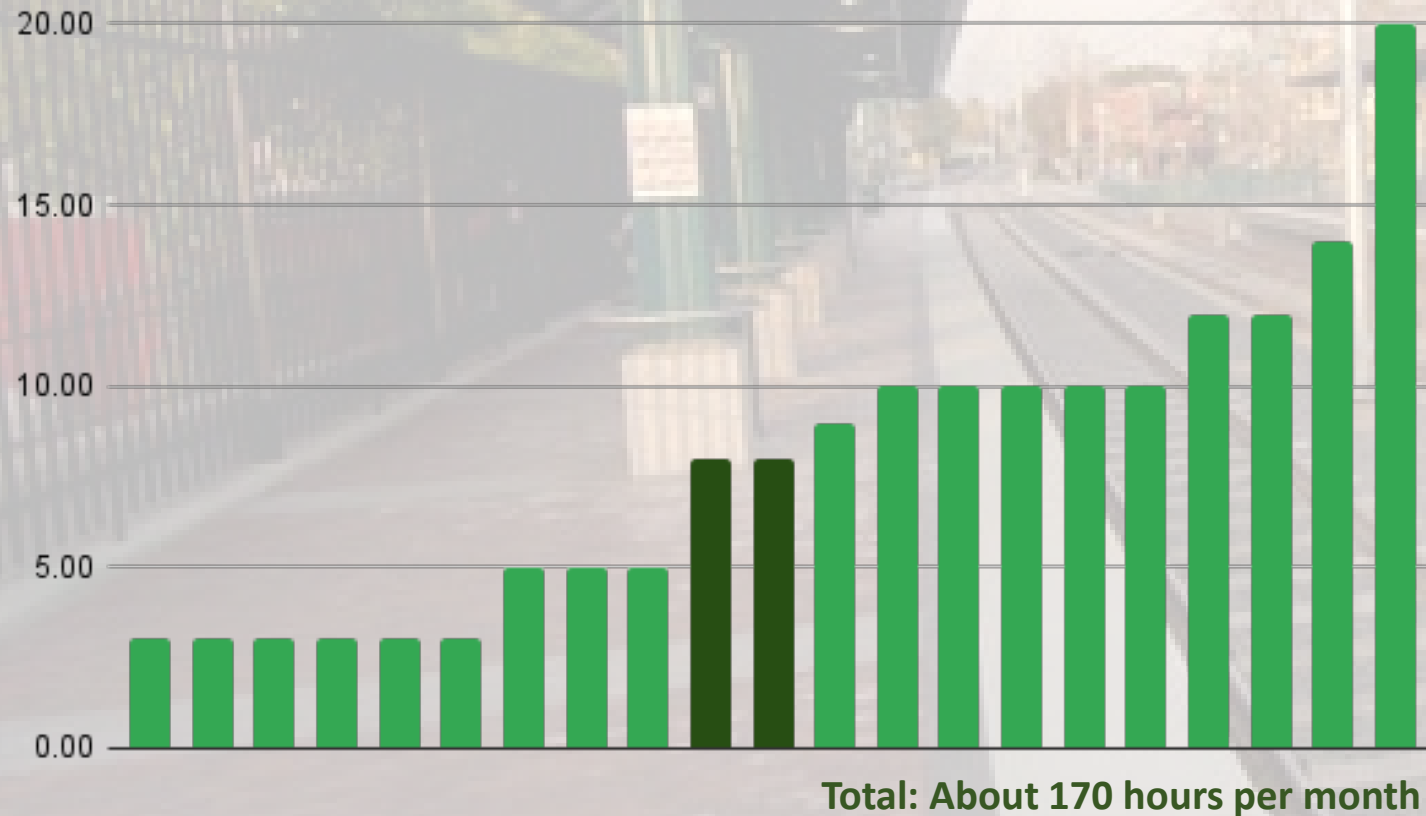
1. Ad Hoc Committee: City Council and South Pasadena Unified School District
2. Ad Hoc Committee: Finance *Pending Review*
3. Ad Hoc Committee: Mission-Meridian Village Subcommittee (08/14/2013)
4. Ad Hoc Committee: Implementation, Caltrans Surplus Properties Disposition Replaced “Leg” and “non-leg” committees by council action on 12/1/2021
5. Ad Hoc Committee: Recreation leased facilities
6. Ad Hoc Committee: South Pasadena Chamber of Commerce – Legislative
7. Ad Hoc Committee: South Pasadena Chamber of Commerce - Economic Development
8. Ad Hoc Committee: South Pasadena Chamber of Commerce – Chamber Board
9. Ad Hoc Committee: Economic Development *Pending Review*

Staff Liaison Feedback

- The Animal Commission was responsible for well-received annual events, and could be incorporated into a Community Services Commission.
- On average, the Parks and Recreation Commission runs for 35-45 minutes. Meetings as needed would be helpful to reduce staff time.
- The Senior Commission is able to go months without meetings due to lack of discussion items.
- The Youth Commission often does not have many topics to discuss, and Commissioners have not attended many City events. The City has experienced difficulty in recruiting for Commissioners.
- The Public Works Commission provides Public Works updates to Commissioners when meetings do not have lengthy agendas.
- The Public Safety Commission discusses Police related-issues for about 90% of items.
- Public Art Commission has significant overlap with the Planning Commission.

Staff Liaison Feedback: Data

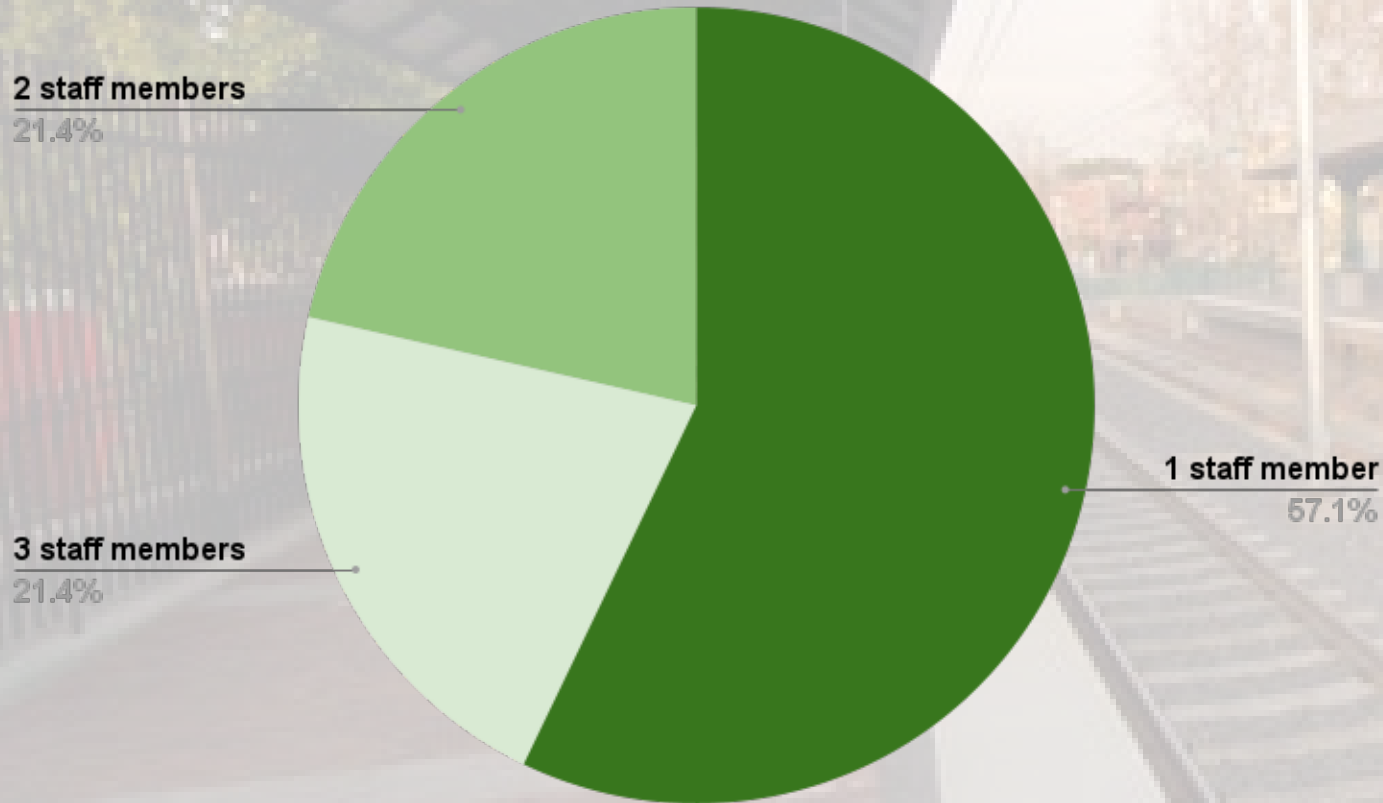
Hours Spent on Commissions per staff



The bar graph displays how many hours are spent per staff liaison each month to produce work for each Commission.

- On average, each staff member is spending 8 hours on Commission related work.

Staff Liaison Feedback: Data



The pie chart displays how many staff members produce work for each Commission.

- 8 Commissions have 1 staff member (57.1%)
- 3 Commissions have 2 staff members (21.4%)
- 3 Commissions have 3 staff members (21.4%)

Specific Departments

Community Development	Public Works Department	Community Services Department
<ul style="list-style-type: none">• With 4 Commissions under their purview, the Department is totaling 38 hours per month on Commission related work, or 50% of a full-time staff member's schedule.• Other workload:<ul style="list-style-type: none">• 70 Planning Development cases (above average)• 40-50 ADU	<ul style="list-style-type: none">• With 3 Commissions under their purview, the Department is spending about 30 hours per month on Commission related work.• The Public Works Assessment that was received a filed by City Council in December 2021 revealed recommendations for Public Works to consolidate their current 4 Commissions to reduce workload issues.	<ul style="list-style-type: none">• With 3 Commissions under their purview, the Department is totaling about 30 hours per month on Commissions related work.• The Youth Commission has had recruitment difficulties and the Senior Citizen Commission is able to meet for 30-45 minutes to go through their agenda for the month. This causes increased workload for staff that is preparing agendas and minutes for these meetings.

Community Feedback

Survey

Improving technical support.

Better notification of meeting agendas.

Improved recruitment processes to diversify advisory bodies.

Input Discussion

Aligning Commissions with Strategic Plan.

Roundtables at meetings.

Increased connection to City Hall happenings.

Increased outreach, training, communication, acknowledgement, less Commissions.

City Comparative Analysis

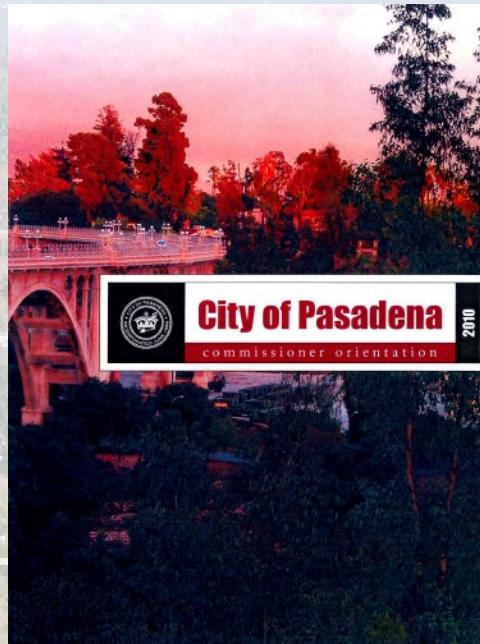
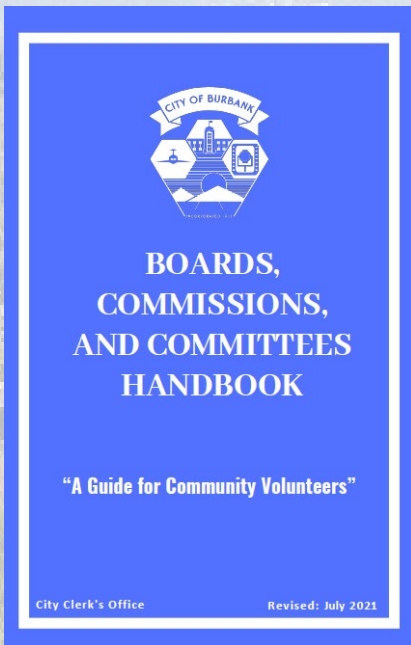
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City of San Fernando	6	23,946
City of Duarte	7	21,559
City of Sierra Madre	6	10,932
City of Ontario	7	176,760

Observations:

- Larger cities (by geography and population) have fewer numbers of commissions, or consolidated commissions with wider scopes of topics.
- Cities of similar size to South Pasadena typically have 6-7 Commissions, while larger cities have about 13.

City Comparative Analysis: Best Practices

Training Guides:



Training Guides in other cities include information on the structure of Commissions, their role and authority, information on City functions, City facts and figures, Ethics training, Brown Act training, and other onboarding information.

Analysis/Discussion

A study of the existing commissions has revealed some overlap in function and focus, which can translate to the consolidation of existing advisory bodies with similar purviews.

While the City's departments are almost fully staffed, staff has significant backlog to address in addition to the day to day operations, and as such, an opportunity to create efficiencies in Commission related workload will be effective and have significant impact on workflows and work output.

In addition, common themes throughout this analysis have shown a need for additional resources both for staff and Commissioners to create more effective processes.

Recommendations

- Consolidate the Public Works and the Mobility and Transportation Infrastructure Commissions to a seven-member Mobility, Transportation and Infrastructure Commission;
- Dissolve the Animal Commission;
- Dissolve the Youth Commission;
- Consolidate the Animal, Youth, Senior Citizen and Park and Recreation Commission scopes of work to create a seven-member Community Services Commission, and reserve at least one seat each for members of youth and senior citizen populations;
- Create an annual Animal Events Steering Committee within the Community Services Commission to focus on “Doggy Days” and “Be Kind to Animals Day” and other programming;
- Absorb the Public Art Commission into the existing Planning Commission;
- Dissolve the Finance Ad Hoc Committee; and
- Dissolve the Economic Development Ad Hoc Committee.

Alternatives

- Consideration of the frequency of Commission meetings for Commissions with lighter workloads to meet on a quarterly or as-needed basis.
- Should there be interest in furthering a discussion such as the creation of an all-encompassing Social Services Commission focused on mental health, homelessness, equity and/or other topics relevant to the Community that are not part of any existing body's scope of work, City Council may consider staff's recommendations and improvements provided herein, and direct staff to return in the next 12 months for further discussion.

Next Steps

1. City Council to discuss and provide direction to staff on staff recommendations; or
2. City Council to discuss and request further information or provide different direction to staff on this topic;
3. Based on City Council direction, staff will bring back an item on implementation and Commissioner appointments.

Q & A

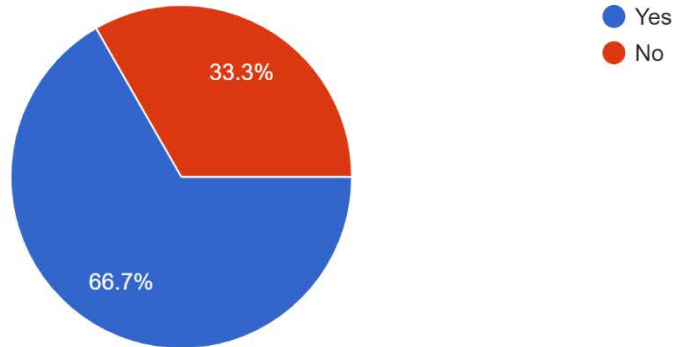
Thank you!

ATTACHMENT 2
Follow-Up Online Survey Results from
March 2022

Follow Up Survey: Community Input on Commissions

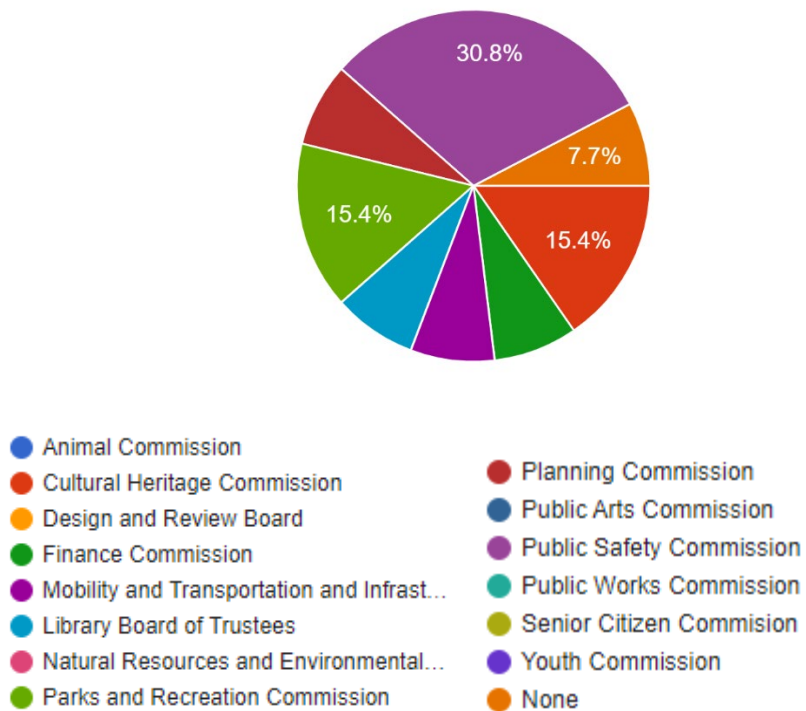
Are you a part of a current Commission/Board?

18 responses



Which Board/Commission are you a part of?

13 responses



Do you have any feedback on how to improve service to the community through advisory bodies and commissions? This may include suggestions for City Council to consider adding or dissolving commissions, combining commissions, improving staffing or trainings, or other options for consideration.

- The recommendations of the Commissions are often ignored or undervalued. Respect the volunteer hours that residents put in when they serve as Commissioners by taking their work seriously.
- Consolidation of Commissions
- I'm in agreement with combining some commissions.
- Training staff who are involved for the first time the in's and out's of the commissions. How to complete the Agenda, take minutes, conduct meetings, upload to city website, and post on YouTube and anything that is involved in the process of setting up and conducting the meeting.
- I do have input. Currently communication of information on how to apply, and if they need to apply, for Cultural Heritage Commission review and approval of a Certificate of Approval is opaque, if not completely inaccessible for residents wanting to do work on a historic property. There should be at least one way an applicant can easily find all the information required to put together a successful COA application package for CHC review. Requisite submittal items should be individually numbered and clearly describe individual drawing sheets required (and all information expected by the CHC to find on them) and what drafting standards to be met, and checkboxes after each line item for the applicants' and staff's use. It should clearly delineate, both verbally and graphically (i.e. using a flow chart) what it takes on the part of the applicant to achieve a Certificate of Approval from the CHC. As an added bonus staff can use the information sheets to see if each item has been completed before accepting applications. Ideally instructions for applicants would be available both online and as a handout at the Planning counter to help Staff explain the application process. Applicants are often clueless why anyone would care about old buildings. Information sheets should include why South Pasadena residents care and have created the CHC review process for construction involving older buildings.

- I just wanted to share that I reviewed this week's agenda and fully support the consolidations of commissions. The sheer number of commissions that we have is too taxing for city staff and for council members who have to attend all the commission meetings. I would actually encourage you to take a closer look at consolidating the design review board and cultural heritage commission. I know the initial reaction is that there would be too much work for one commission to take on, however I believe that changes can help reduce their workload. For example, if people want to get new windows it requires a full review, there should be something like an approved list of windows that staff can help residents navigate so they can do minor changes like this without a full review. I find it very concerning that the DRB, CHC and Planning Commission is a revolving door of local architects and their spouses who bounce from one to the other for decades and have been profiting from their membership. When I was renovating my home many times, I was told to hire someone from one of these commissions since they all looked out for each other and approved each other's projects. This is why I support term limits, but they cannot be abused by just shuffling them around. If there is a shortage of qualified candidates, we need to rethink their workload rather than just say let's keep using the same people. The other thing is I feel that NREC needs to be repurposed, they have essentially become the tree removal commission. Their agenda is often so full with tree removal hearings that they don't get to their other business. Last year they tried to push through a radical ordinance change that would have vastly restructured what residents can do and greatly expanded their purview to include undefined "woody plants" and "shrubs" of certain sizes, deviating far from the intention which is to protect oak trees, larger trees and native trees in our city. Many of the tree removal applications can be handled by city staff, the current trend is that almost any contested tree removal gets pushed to the NREC where activist commissioners require residents to spend thousands of dollars getting additional reports and months of time trying to get their permits approved. They are not balancing the needs of tree preservation with homeowner rights and abusing the process to preserve trees at all costs. Often leading to these appeals going to council where they are approved

anyways, as they should have been from the start. In my case, I had two trees which were improperly cabled prior to my purchase of the home, the city's arborist said they were a hazard and approved the permit. One neighbor objected and this went before the NREC where they demanded I spend money to get an arborist report and took three months to approve the removal permit, the condition of the trees was already determined to be a hazard by the city arborist, what would have happened if during that time the tree fell on my home and injured/killed someone? Hazardous conditions should not be subject to interpretation and review by NREC as these members tend to be activists and not licensed arborists. We need to be careful about using the commissions simply to be the "bad guys" and "spear catchers" for council, let's allow staff to do their job and not bog them down with countless hearings and taskings from the commissioners. We need to run this city more efficiently and be cognizant of city resources, staff time and council time.

- I am one resident who believes that we have too many commissions and suggest that some areas are folded into new, broader commissions with more members. This will allow for more accurate community representation as well will facilitate the creation of more viable sub-committees within the commissions. Commissioners should have professional experience, civic experience or long time personal experience that relate to the function of the commissions to which they are being appointed.
- Advisory bodies might be a better way to address some city issues-for example- Public Art could meet as needed to address public art and meetings more informal with more open discussions. Same as Animal Commission-maybe could be Advisory. At Special City Council Meeting, Feb 23, Councilmember Primuth suggested a Commission Specialist to assist with administration efficiencies. That is a very worthwhile idea to pursue. I like idea of Community Services Commission combining animal, youth, senior, park and recreation with 2 seats going to animal, 1 seat youth, 1 seat senior and 3 seats parks and rec. Then have Steering committees for specific events and try to recruit volunteer experts-for example-if an issue came up regarding the Arroyo Horse Stables-recruit horse

people to help advise. I like idea to combine and expand Public Works and MTIC to a nine member commission. Make it routine to dissolve Steering Committee and Ad Hoc Committee so very clear that the scope of work has a beginning date and end date and just quick announcement of dissolved. Reporting to Council from Commissions needs to be more consolidated, often material is repeated and time consuming. I would prefer term limits for all commissioners and council members-two consecutive terms, take break then can reapply for another commission or return. For Council Member-campaign again, this might help to bring in new residents for council.

- Having served on the Design Review Board, The Planning Commission and, presently, the Cultural Heritage Commission, I am well aware of the amount of staff time it takes to prepare for public meetings. I love South Pas for it's citizen participation but I believe that the amount of staff required to serve the current commissions is affecting the amount of staff time that could be spent serving the general public/city as a whole. I am in favor of dissolving or consolidating commissions.
- I suggest that some Commissions become advisory boards to reduce staff time and to not have formal "legal" meetings per Brown Act. BUT, they need a way to provide meaningful input to the City Council, e.g., Senior Citizen, Youth, Arts, NREC. I would also consider combining Design Review with Planning.
- Notify the community through City Hall Scoop and social media about upcoming commission meetings, to improve awareness and public participation. Beef up Public Works staffing to include dedicated transportation engineer/expert/analyst to support MTIC and move backlogged operational and capital projects forward.
- The Public Safety Commission has taken on the role of being a "Civilian Oversight Commission" of the police department. They do not have any training and experience in Law, Law Enforcement and policies and procedures and yet they are given a voice to push for ordinances affecting the public. South Pasadena spends a great amount of resources on hiring a Police Chief who is the chief law enforcement officer of the city. The commissioners are unelected, act outside of the city charter and have in the past attempted to expand their authority, which

was in violation of many laws. South Pasadena does not need a civilian oversight commission, the police chief is responsible for suggesting and implementing changes. The commission if not checked can become a political arm of a city council or activist group.

- I completely understand the need to reduce the number of commissions. We are a small city with limited staff. However, one of the things that makes our city so special is the involvement of our residents all the issues affecting our city. If the decisions are made to eliminate certain commissions, I would like to see more use of advisory committees, particularly in areas where there isn't the expertise and knowledge in the city departments. These committees could be called upon by the city or any commission when dealing with a particular issue. They could do the research and provide the needed information to the city when decisions need to be made. An animal advisory committee appointed by the city could provide that expertise to the city, the safety commission, the Parks and Recreation commission, NREC commission, etc. when a particular issue needs to be addressed. Having just one "animal" person on the Parks and Recreation commission doesn't fit the bill. Why would the public even think about going to the Park & Rec commission for a safety issue involving coyotes for example? Where would the public go if they are concerned about the rat poison being left out around restaurants which poisons more than rats? Which commission does the public go to if their cars are being attacked by peafowl? By having an advisory committee, no matter where the public goes to bring their concerns, the city and/or commissions can turn to the experts. This could actually save the city staff much valuable time and energy. Also, this would be reassuring to the public who cares about animal issues. There is no way the public can check every commission agenda to see if there is an issue related to animals. By having an advisory committee, the public would know that the city isn't making decisions about animals in a vacuum.
- Please maintain the public safety commission at 7 members, which allows for broader participation in key issues facing the commission. Please also consider changing the public safety commission's meeting time to evenings, or allowing

the commission to vote on and choose the timing for itself. Given the overlap with MTIC and other commissions, periodic joint meetings should be encouraged. Finally, please consider allowing remote participation as a consistent option - it fosters more direct public participation

- I strongly feel the expertise for the arts commission is unique and should be maintained separately. I am also concerned that the seniors and youth will be marginalized if these commissions are dissolved.
- If the Council follows the study recommendation to absorb the Public Art Commission into the planning commission, it should either 1) create a Public Art Board, structured in a similar fashion to the Design Review Board, or 2) incorporate the issues covered by the former Public Art Commission into the work of the Design Review Board. Public Art should not, in other words, become merely a floating agenda item on the Planning Commission's agenda. While the efforts that the City has made in the past two years to clean up its financial situation are laudable, the Council should not dissolve the Finance Ad Hoc Committee at this time. While there has been progress, there has not been enough, and the City has still not shown that it can keep its books and deliver accurate financial information to the Council and to citizens.