

**SUMMARY OF NEW PROVISIONS UNDER THE CHANGES TO THE COUNTY'S
SECONDHAND SMOKE AND TOBACCO PRODUCT CONTROL ORDINANCE and
ZONING CODE AMENDMENTS**

**Contra Costa Health Services, Public Health Division
For Presentation to Family and Human Services Committee of the
Contra Costa Board of Supervisors, April 24, 2017**

Tobacco Product and Retail Sales Control Ordinance (Amendments to Division 445, Secondhand Smoke and Tobacco Product Control)		
Provision	Description	CA Jurisdictions with Similar Protection
a. Require a Tobacco Retailer License for all retailers selling traditional and/or emerging tobacco products.	Revises definition of “Tobacco Product” to include all “emerging products” including all electronic smoking devices (whether or not they contain nicotine). The new definition covers all electronic devices that can be used to deliver a dose of nicotine or other substances, and all components, parts or accessory of a “tobacco product”.	El Cerrito, Richmond, Albany, Oakland, San Jose and Santa Clara County for a total of close to 100 jurisdictions in CA.
b. Prohibit the sale of flavored (non-cigarette) tobacco products	Prohibits the sale of flavored (non-cigarette) tobacco products within the entire unincorporated County. The Food and Drug Administration has banned candy, fruit and spice as characterizing flavors for cigarettes only. Other tobacco products (smokeless, little cigars, hookah tobacco, and dissolvable tobacco products) with these flavors are exempt from the federal ban.	El Cerrito, Berkeley (within 600 feet of schools), Santa Clara County (except adult-only shops), Hayward, Manhattan Beach, Sonoma, and Yolo County (Also New York City; Providence Rhode Island, and Chicago.) Under consideration in Oakland (citywide).
c. Prohibit the sale of menthol flavored cigarettes	Would prohibit the sale of menthol flavored cigarettes within the entire unincorporated jurisdiction. The Food and Drug Administration has exempted “menthol” flavor from its ban on “characterizing flavors” in cigarettes.	Yolo County (county-wide). Santa Clara County (County-wide, except adult-only shops). Berkeley (within 600 feet of schools) and Chicago (within 500 feet of high schools). Under consideration in Oakland (citywide).
d. Require minimum pack size for cigars	Require minimum pack size of 10 (current regulation for cigarettes is 20). Although federal and state law ban the sale of individual cigarettes, neither restrict the sale of individual cigars, including cigarillos and little cigars that are the same size as cigarettes. Exempts premium cigars that cost \$5 or more.	El Cerrito, Hayward, Sonoma, Huntington Park, Gardena, Union City. Under consideration in Oakland.
e. Prohibit sale of tobacco products in pharmacies	Prohibits the sale of tobacco products in pharmacies, consistent with the public’s perception of pharmacies as a place to go for health-related service and advice. Of the 9 pharmacies in the unincorporated county, three have already made corporate decisions to not sell tobacco products (2 CVS stores and Park Rexall).	Richmond, San Francisco, Santa Clara County, Sonoma County , Berkeley, Healdsburg, Daly City, Hollister, Marin County, Novato . Under consideration in Oakland.
f. Require tobacco retailers to comply with storefront signage laws	Allows for suspension of retailer’s license if a retailer violates the state law or local law setting a maximum percentage of window space that can be covered by signs at retail locations. These laws exist for safety purposes, as they provide for more visibility into stores for law enforcement. This provides a means to bring retailers into compliance with health and safety laws.	Santa Clara County and Yolo County .

g. Require tobacco retailers to comply with drug paraphernalia sales laws	Makes violations of state laws regarding drug paraphernalia or controlled substances a violation of a tobacco retailer license. Definition of what constitutes drug paraphernalia will be consistent with state law.	Oakland, Richmond, Union City plus 8 other cities and counties (Firebaugh, Grass Valley, Huntington Park, Montebello, Parlier, Riverbank, Santa Cruz County, and Watsonville) (as of June, 2012)
h. Require tobacco retailers to check ID of customers who appear younger than 27	Requires retailers to check the age of purchasers who appear to be under the age of 27. This measure helps insure that tobacco is not sold to youth and is even more relevant since the State advanced the legal age to purchase tobacco from 18 to 21 years of age.	Concord, Richmond, Albany, Oakland, Santa Clara (age 30) plus 35 other jurisdictions
i. Limit or “cap” the number of retailers that can sell tobacco products.	This density measure limits the total number of County Tobacco Retailer Licenses that are issued to the current number of licenses.	Sonoma, Orville, Lynwood, Huntington Park, San Francisco
j. Remove tobacco advertising during license suspension	Requires retailers to remove or cover all tobacco product-related advertising, in addition to tobacco products, during the period that their tobacco retailer license is suspended.	Berkeley (remove products), Richmond, Concord, Albany, Oakland, Pacifica, Santa Clara plus 56 other jurisdictions
k. Expand time period reviewed for prior violations of license	Expands time period reviewed for prior violations of license from 24 months (2 years) to 60 months (5 years) when considering length of license suspension.	Berkeley, El Cerrito, Richmond, Albany, Oakland plus 64 other jurisdictions

Tobacco Retailing Businesses (Amendments to Zoning Code Chapter 88-26)

l. Prohibit location of a <u>new</u> tobacco retailer near schools, parks, playgrounds and libraries.	Prohibits a license to new tobacco retailers if located within a 1000 feet of a school, park, playground, or library. Existing tobacco retailing businesses that do not meet the location standards will become nonconforming uses. A nonconforming use will be allowed to continue operating under the ordinance. However, if a change in ownership in the business occurs more than 10 years after the effective date of the ordinance, or more than 10 years after the date the use becomes nonconforming, then the use (tobacco retailing) must be discontinued.	Near Schools and other Youth Sensitive Areas: El Cerrito, Antioch, Dublin, Hayward, Union City, Vallejo, Albany, Oakland, Marin County, and San Rafael (plus 14 other jurisdictions). Near schools only: Berkeley, San Francisco, Santa Barbara County, Sacramento, Santa Clara County, Manhattan Beach, plus 5 other jurisdictions.
m. Prohibit new tobacco retailers from locating within certain proximity of other retailers	Requires that no new tobacco retailers locate within a certain distance 500 feet of another tobacco retailer. Existing tobacco retailing businesses that do not meet the location standards will become nonconforming uses. A nonconforming use will be allowed to continue operating under the ordinance. However, if a change in ownership in the business occurs more than 10 years after the effective date of the ordinance then the use (tobacco retailing) must be discontinued.	El Cerrito, San Francisco, Santa Cruz, Hayward, Dublin, Santa Clara County, Union City, Vallejo, Fairfield, Saratoga, Rohnert Park, Temple City, Westminster, Selma, El Cajon
n. Prohibit new “Significant Tobacco Retailers”	Prohibits a new “Significant Tobacco Retailer” – a business that primarily sells tobacco products – from obtaining a tobacco retailer license. “Significant Tobacco Retailer” means any tobacco retailing business for which 20 percent or more of floor or display area is devoted to tobacco products, tobacco paraphernalia, or both. Prohibits any new ‘vape’ shops, hookah bars, or tobacco shops.	El Cerrito; Huntington Park; Richmond; Carpinteria; Concord (no new hookah shops); Dublin (no vapor lounges or hookah bars); Hayward (no vapor lounges); Union City (no vapor lounges or hookah bars); and Pittsburg (moratorium on any new “smoke shops”)

BOLDED jurisdictions adopted these provisions since the last report to the Board of Supervisors on 5/24/16.

