

**DIVISION 445
SECONDHAND SMOKE AND TOBACCO
PRODUCT CONTROL**

**Chapter 445-2
GENERAL PROVISIONS**

445-2.002 Title.

This division is known as the secondhand smoke and tobacco product control ordinance of Contra Costa County.

(Ords. 2006-66 § 4, 98-43 § 2, 91-44 § 2)

445-2.004 Purpose.

The purposes of this division are to protect the public health, safety and welfare against the health hazards and harmful effects of the use of addictive tobacco products; and further to maintain a balance between the desires of persons who smoke and the need of nonsmokers to breathe smoke-free air, while recognizing that where these conflict, the need to breathe smoke-free air shall have priority.

(Ords. 2006-66 § 4, 98-43 § 2, 91-44 § 2)

445-2.006 Definitions.

For the purposes of this division, the following words and phrases have the following meanings:

- (a) “Characterizing flavor” means a distinguishable taste or aroma imparted by a tobacco product or any byproduct produced by the tobacco product that is perceivable by an ordinary consumer by either the sense of taste or smell, other than the taste or aroma of tobacco. A “characterizing flavor” includes, but is not limited to, a taste or aroma relating to a fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice.
- (b) “Cigar” means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand.
- (c) “Constituent” means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacture, or packing of the tobacco product.
- (d) “Consumer” means a person who purchases a tobacco product for consumption and

not for sale to another.

- (e) “E-liquid” means any substance that is intended to be consumed in aerosolized or vaporized form using an electronic smoking device, regardless of the nicotine content of the substance.
- (f) “Electronic smoking device” means any ~~electronic device or delivery system~~ that can be used to deliver to a person, in aerosolized or vaporized form, an inhaled dose of nicotine, tetrahydrocannabinol, or any other cannabinoid, or other substances including but not limited to an electronic cigarette, electronic cigar, electronic pipe, electronic hookah, or vape pen. ~~An “electronic smoking device” includes a device that is manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vape pen, or a vapor pen.~~ “Electronic smoking device” includes any component, part, or accessory of such a device, including but not limited to a cartridge, that is used during the operation of the device.
- (gf) “Enclosed” means all space between a floor and ceiling where the space is closed in on all sides by solid walls or windows that extend from the floor to the ceiling. An enclosed space may have openings for ingress and egress, such as doorways or passageways. An enclosed space includes all areas within that space, such as hallways and areas screened by partitions that do not extend to the ceiling or are not solid.
- (hg) “Flavored tobacco product” means any tobacco product, other than cigarettes as defined by federal law, that contains a constituent that imparts a characterizing flavor. A tobacco product whose labeling or packaging contains text or an image indicating that the product imparts a characterizing flavor is presumed to be a flavored tobacco product.
- (ih) “Little cigar” means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than three pounds per thousand. “Little cigar” includes, but is not limited to, any tobacco product known or labeled as “small cigar” or “little cigar.”
- (j) “Package” or “packaging” means a pack, box, carton, or container of any kind, or any wrapping, in which a tobacco product is sold or offered for sale to a consumer.
- (kj) “Menthol cigarettes” means cigarettes as defined by federal law, that have a characterizing flavor of menthol, mint, or wintergreen, including cigarettes advertised, labeled, or described by the manufacturer as possessing a menthol characterizing flavor.
- (lk) “Multi-unit residence” means a building that contains two or more dwelling units, including but not limited to apartments, condominiums, senior citizen housing, nursing

homes, and single room occupancy hotels. A primary residence with an attached or detached accessory dwelling unit permitted pursuant to Chapter 82-24 of this code is not a multi-unit residence for purposes of this division.

(~~m~~) “Multi-unit residence common area” means any indoor or outdoor area of a multi-unit residence accessible to and usable by residents of different dwelling units, including but not limited to halls, lobbies, laundry rooms, common cooking areas, stairwells, outdoor eating areas, play areas, swimming pools, and carports.

(~~n~~) “Place of employment” means any area under the control of an employer, business, or nonprofit entity that an employee, volunteer, or the public may have cause to enter in the normal course of operations, regardless of the hours of operation. Places of employment include, but are not limited to: indoor work areas; bars; restaurants; hotels and motels, including all guest rooms; vehicles used for business purposes; taxis; employee lounges and breakrooms; conference and banquet rooms; bingo and gaming facilities; long-term health care facilities; warehouses; retail or wholesale tobacco shops; and private residences used as licensed child-care or health-care facilities when employees, children, or patients are present and during business hours. The places specified in subdivisions (e)(1), (2), (6), and (7) of Labor Code section 6404.5 are places of employment for the purposes of this division and are regulated as specified in this division. The places specified in subdivisions (e)(3), (4), and (5) of Labor Code section 6404.5 are not places of employment for the purposes of this division.

(~~o~~) “Public place” means any area to which the public is invited or in which the public is permitted. A private residence is not a public place.

(~~p~~) “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. A vending machine is a form of self-service display.

(~~q~~) “Service area” means any area designed to be or regularly used by one or more persons to receive or wait to receive a service, enter a public place, or make a transaction, whether or not the service involves the exchange of money. “Service areas” include but are not limited to automatic teller machine waiting areas, bank teller windows, ticket lines, bus stops and taxi stands.

(~~r~~) “Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition, or vaporization when the apparent or usual purpose of the combustion, electrical ignition, or vaporization is human inhalation of the byproduct, except when the combusting or vaporizing material contains no tobacco or nicotine or illegal substances, and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “smoke” includes, but is not limited to, tobacco smoke, electronic smoking device vapors, marijuana smoke, and smoke from

any illegal substance.

(~~sf~~) “Smoking” means inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation.

(~~ts~~) “Tobacco paraphernalia” means any item designed or marketed for the consumption, use, or preparation of tobacco products.

(~~ut~~) “Tobacco product” means any of the following:

(1) Any product containing, made from, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, and snuff.

(2) Any electronic smoking device that contains nicotine or can be used to deliver nicotine in aerosolized or vaporized form.

(3) Any component, part, or accessory of a tobacco product, whether or not it is sold separately.

(4) “Tobacco product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for that approved purpose.

(~~y#~~) “Tobacco retailer” means any individual or entity who sells, offers for sale, or exchanges 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 products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(Ords. 2019-34 § 2, 2018-07 § 7, 2017-01 § 2, 2013-10 § 2, 2010-10 § 2, 2006-66 § 4, 98-43 § 2, 91-44 § 2.)

~~(Ords. 2018-07 § 7, 2017-01 § 2, 2013-10 § II, 4-9-13, 2010-10 § II, 10-12-10, 2006-66 § 4, 98-43 § 2, 91-44 § 2).~~

Chapter 445-6
TOBACCO SALES

445-6.002 Self-service displays.

- (a) It is unlawful for any person or tobacco retailer to sell, permit to be sold, offer for sale, or display for sale any tobacco product or tobacco paraphernalia by means of self-service display, vending machine, rack, counter-top or shelf that allows self-service sales for any tobacco product or tobacco paraphernalia.
- (b) All tobacco products and tobacco paraphernalia shall be offered for sale exclusively by means of vendor or employee assistance. Tobacco products and tobacco paraphernalia shall be kept in a locked case that requires employee assistance to retrieve the tobacco products or tobacco paraphernalia.

(Ords. 2006-66 § 6, 98-43 § 2).

445-6.004 Distribution of free samples and coupons.

It is unlawful for any person, agent, or employee of a person in the business of selling or distributing cigarettes or other tobacco or smoking products to distribute, or direct, authorize, or permit any agent or employee to distribute, any of the following to any person on any public street or sidewalk or in any public park or playground or on any other public ground or in any public building:

- (a) Any tobacco product;
- (b) Coupons, certificates, or other written material that may be redeemed for tobacco products without charge.

(Ords. 2006-66 § 6, 91-44 § 2)

445-6.006 Flavored tobacco products and menthol cigarettes.

~~No tobacco retailer may sell, offer for sale, or exchange or offer to exchange for any form of consideration, to a consumer any flavored tobacco product or menthol cigarette. It is a violation of this division for any tobacco retailer to sell or offer for sale any flavored tobacco product or menthol cigarettes within 1,000 feet of any parcel occupied by a public or private school, playground, park, or library. For the purposes of this section, distance is measured by the shortest line connecting any point on the property line of the parcel where the tobacco retailer operates to any point on the property line of the other parcel.~~

(Ords. 2019-34 § 6, 2017-01 § 4).

445-6.008 Packaging and labeling.

No tobacco retailer may sell any tobacco product to any consumer unless that product is sold in the original manufacturer’s packaging intended for sale to consumers and conforms to all applicable federal labeling requirements.

(Ord. 2017-01 § 5).

445-6.010 Minimum package size for little cigars and cigars.

No tobacco retailer may sell to a consumer any of the following:

- (a) Any little cigar unless it is sold in a package of at least ten little cigars.
- (b) Any cigar unless it is sold in a package of at least ten cigars. This subsection does not apply to a cigar that has a price of at least \$5 per cigar, including all applicable taxes and fees.

(Ord. 2017-01 § 6).

445-6.012 Identification required.

No tobacco retailer may sell or transfer a tobacco product or tobacco paraphernalia to a person who reasonably appears to be under the age of 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 the tobacco product or tobacco paraphernalia.

(Ord. 2017-01 § 7).

445-6.014 Electronic smoking devices and e-liquids.

No tobacco retailer may sell, offer for sale, or exchange or offer to exchange for any form of consideration, to a consumer any electronic smoking device or e-liquid where the electronic smoking device or e-liquid:

- (a) Is a new tobacco product as defined in Section 387j(a)(1) of Title 21 of the U.S. Code;
- (b) Requires premarket review under Section 387j of Title 21 of the U.S. Code; and
- (c) Does not have a premarket review order issued under Section 387j(c)(1)(A)(i) of Title 21 of the U.S. Code.

(Ord. 2019-34 § 3.)

Chapter 413-4
COMMERCIAL CANNABIS HEALTH PERMITS

Article 413-4.6
COMMERCIAL CANNABIS ACTIVITY HEALTH STANDARDS

413-4.602 Standards for all permittees.

A permittee shall comply with all of the following standards.

- (a) Compliance with State and Local Laws. A permittee shall comply with all state and local laws and regulations.
- (b) State License. A permittee shall maintain a valid state license. A permittee shall notify the director within three days after receiving any notices of violations or other corrective action ordered by a state or other local licensing authority.
- (c) Business License. A permittee shall maintain a valid county business license.
- (d) Hours of Operation. All permitted facilities shall be closed to the general public, and deliveries are prohibited, between the hours of 9:00 p.m. and 8:00 a.m. the following day.

(Ord. No. 2018-23, § II, 8-7-18)

413-4.604 Commercial cannabis activity standards.

A permittee engaged in a commercial cannabis activity shall comply with all of the following standards in addition to the standards specified in Section 413-4.602.

- (a) Land Use Entitlements. A permittee shall maintain a valid land use permit issued pursuant to Chapter 88-28 authorizing the commercial cannabis activity.
- (b) Odor Control. A permittee shall prevent odors generated from the permitted commercial cannabis activity from impacting neighboring parcels or creating a public nuisance. Unresolved or repeated odor complaints may be a basis for revocation of the permit or denial of permit renewal.
- (c) No Consumption on Premises. No cannabis or cannabis product may be smoked, ingested, or otherwise consumed on the premises.

- (d) Security Breach. A permittee shall notify the county sheriff's office within twenty-four hours after discovering any diversion, theft, loss, or any criminal activity involving cannabis, cannabis product, or any agent or employee of the permittee.

(Ord. No. 2018-23, § II, 8-7-18)

413-4.606 Processing and manufacturing standards.

A permittee that processes or manufactures cannabis or cannabis products shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604.

- (a) No volatile solvent may be used to process or manufacture cannabis or cannabis products.
- (b) All processing and manufacturing operations must occur at the fixed location listed on the permit.

(Ord. No. 2018-23, § II, 8-7-18)

413-4.608 Retail sale standards.

A permittee that sells cannabis or cannabis products shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604.

- (a) Within each building in which cannabis or cannabis products are sold, the permittee shall prominently display a sign including the following statement in bold print:

"GOVERNMENT WARNING: CANNABIS IS A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

- (b) Within each building in which cannabis or cannabis products are sold, the permittee shall establish a waiting area that persons must enter prior to entering the retail area. No person

may be admitted to the waiting area without first verifying through examination of a government-issued identification card that he or she is at least the minimum age under state law to enter the premises. The waiting area must be physically separated from the retail area. No cannabis or cannabis product may be accessible to customers in the waiting area.

- (c) The permittee or at least one employee shall be physically present in the retail area at all times when any non-employee is in the retail area. Within the retail area, the number of non-employees may not exceed twice the number of employees at any time.
- (d) The sale of any non-cannabis food or beverage, alcohol or alcohol product, or tobacco or tobacco product from the permitted premises is prohibited.
- (e) The sale of more than eight hundred milligrams of tetrahydrocannabinol in the form of edible cannabis products to a single cannabis customer in a single day is prohibited.
- (f) The sale of any cannabis product listed in Section 40300 of Division 1 of Title 17 of the California Code of Regulations is prohibited.
- (g) The sale of any flavored cannabis product for which the primary use is human inhalation of the gases, particles, vapors, or byproducts released as a result of combustion, electrical ignition, or vaporization of the flavored cannabis product, is prohibited.
- (h) A permittee shall not sell, permit to be sold, offer for sale, or display for sale any cannabis or cannabis product by means of self-service display, vending machine, rack, counter-top, or shelf that allows self-service sales for any cannabis or cannabis product. All cannabis and cannabis products must be offered for sale only by means of permittee or employee assistance.
- (i) The sale of any electronic smoking device that contains tetrahydrocannabinol or any other cannabinoid, or can be used to deliver tetrahydrocannabinol or any other cannabinoid in aerosolized or vaporized form, is prohibited. For purposes of this subsection, “electronic smoking device” has the meaning set forth in Section 445-2.006. This subsection does not apply to any device regulated by the federal Family Smoking Prevention and Tobacco Control Act.
- (h)(j) The sale of any e-liquid that contains tetrahydrocannabinol or any other cannabinoid is prohibited. For purposes of this subsection, “e-liquid” has the meaning set forth in

Section 445-2.006. This subsection does not apply to any substance regulated by the federal Family Smoking Prevention and Tobacco Control Act.

(Ords. 2019-34 § 4, 2018-23 § 2.) (~~Ord. No. 2018-23, § II, 8-7-18~~)

413-4.610 Retail delivery standards.

A permittee that delivers cannabis or cannabis products from a retail location in the unincorporated area of the county to any location in the unincorporated area of the county shall comply with all of the following standards in addition to the standards specified in Sections 413-4.602 and 413-4.604. A permittee that delivers cannabis or cannabis products from a location outside the unincorporated area of the county to any location in the unincorporated area of the county shall comply with all of the following standards in addition to the standards specified in Section 413-4.602.

- (a) The delivery of more than eight hundred milligrams of tetrahydrocannabinol in the form of edible cannabis products to a single cannabis customer in a single day is prohibited.
- (b) The delivery of any cannabis product listed in Title 17, California Code of Regulations, section 40300, is prohibited.
- (c) The delivery of any flavored cannabis product for which the primary use is human inhalation of the gases, particles, vapors, or byproducts released as a result of combustion, electrical ignition, or vaporization of the flavored cannabis product, is prohibited.
- (d) A permittee may not display any advertisement upon any vehicle that is used for the delivery of cannabis or cannabis products that promotes any activity related to cannabis or that identifies the permittee or the business conducting the delivery.
- (e) A delivery employee who delivers cannabis or cannabis products to a customer shall have in his or her possession a copy of the permit issued under this chapter authorizing the delivery, which shall be made available upon request to law enforcement.
- (f) No delivery employee may deliver cannabis or cannabis products to a customer without first examining a government-issued identification card of the recipient to confirm that the recipient is the customer who requested the delivery and that the recipient is at least the minimum age under state law to purchase the cannabis or cannabis product.

- (g) A delivery employee who delivers cannabis or cannabis products to a customer shall at the time of delivery provide the customer with a written warning that includes the following statement in bold print:

"GOVERNMENT WARNING: CANNABIS IS A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. CANNABIS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF CANNABIS MAY BE DELAYED UP TO TWO HOURS. CANNABIS USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF CANNABIS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(h) The delivery of any electronic smoking device that contains tetrahydrocannabinol or any other cannabinoid, or can be used to deliver tetrahydrocannabinol or any other cannabinoid in aerosolized or vaporized form, is prohibited. For purposes of this subsection, "electronic smoking device" has the meaning set forth in Section 445-2.006. This subsection does not apply to any device regulated by the federal Family Smoking Prevention and Tobacco Control Act.

~~(h)~~(i) The delivery of any e-liquid that contains tetrahydrocannabinol or any other cannabinoid is prohibited. For purposes of this subsection, "e-liquid" has the meaning set forth in Section 445-2.006. This subsection does not apply to any substance regulated by the federal Family Smoking Prevention and Tobacco Control Act.

(Ords. 2019-34 § 5, 2018-23 § 2.) ~~(Ord. No. 2018 23, § II, 8-7-18)~~