

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
REDWOOD CITY AMENDING CHAPTER 15, ARTICLE III OF
THE REDWOOD CITY MUNICIPAL CODE**

WHEREAS, the County of San Mateo has adopted an ordinance requiring tobacco retailers in the unincorporated areas to obtain a tobacco retailer permit; and

WHEREAS this Council finds that there is a substantial interest in regulating tobacco retailers to, among other reasons, reduce illegal sales of tobacco products to persons under 18; and

WHEREAS the requirement for a tobacco retailer's permit will not unduly burden legitimate business activities of retailers of tobacco to sell cigarettes on a retail basis.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF
THE CITY OF REDWOOD CITY AS FOLLOWS:**

SECTION 1. Chapter 15, Article III of the Redwood City Municipal Code is hereby amended to read as follows:

ARTICLE III. Tobacco Retail Permit

Sec. 15.20. Responsibility: The Director of Environmental Health of San Mateo County shall be responsible for the enforcement of the provisions of this Article. Said Director and his or her designated representatives, collectively, shall be referred to hereinafter as the "Director."

Sec. 15.21. Permit Required: It shall be unlawful for any retailer, individual, or entity to sell or offer for sale any tobacco products without first obtaining and maintaining a valid tobacco retailer's permit from the Environmental Health Division of the San Mateo County Department of Health (the "Environmental Health Division") for each location where such sales are conducted. Permits are valid for one year and shall be renewed annually.

Sec. 15.22. Application, Issuance, and Renewal:

- (a) Application for a tobacco retailer's permit shall be submitted in the name of the entity or person proposing to conduct retail tobacco sales and shall be signed by such person or an authorized agent thereof. All applications shall be submitted on a form supplied by the Environmental Health Division and contain the following information:

- (1) The name, address, and telephone number of the applicant;
 - (2) The business name, address, and telephone number of each location where tobacco is retailed; and
 - (3) Such other information as the Director determines is necessary for implementation of this ordinance codified in this chapter.
- (b) Applicants for renewal must follow the application procedures set forth in subsection (a). A renewal for a tobacco retailer's permit will be denied if the application is for a person or location for which a suspension is in effect.

Sec. 15.23. Display of Permit:

Upon receipt of an application for a tobacco retailer's permit, the Director shall issue a permit which must be prominently displayed at each location where tobacco retail sales are conducted.

Sec. 15.24. Fees for Permit:

The fee for a tobacco retailer's permit shall reflect the County's costs of processing the permit and regulating compliance with this chapter and shall be contained in section 5.64.070 of the San Mateo County Ordinance Code.

Sec. 15.25. Permit is nontransferable:

Tobacco retailers' permits are nontransferable as between entities, retailers, individuals, locations or otherwise.

Sec. 15.26. Suspension of permit:

- (a) Grounds for Suspension. A tobacco retailer's permit may be suspended, as set forth below in subdivision (b), by the Director upon a finding, after notice and opportunity to be heard, that either of the following occurred:
- (1) After the permit was issued it was determined that the application for the permit is incomplete or inaccurate.
 - (2) The permittee or his or her agent has violated any provision of this chapter or any federal or state tobacco-related law.
- (b) Time Period of Suspension of Permit.
- (1) Upon the first time that the Director makes the finding that either subsection (a)(1) or (a)(2) of this section has occurred, the permit to sell tobacco products shall be suspended for up to 30 days.

- (2) Upon the second time that the Director makes the finding set forth in subsection (a)(1) or (a)(2) of this section within twenty-four months of the first determination, the permit to sell tobacco products shall be suspended for no less than 30 days and up to 90 days.
 - (3) Upon the third and each subsequent time that the Director makes the finding set forth in subsections (a)(1) and (a)(2) within twenty-four months of a prior determination, the permit to sell tobacco products shall be suspended for no less than 90 days and up to one year.
- (c) Effective Date of Suspension.
- (1) If the Director makes oral findings and issues an order of suspension at the hearing, the suspension will be effective 10 days from the date of the hearing, unless a timely appeal is filed in accordance with subsection (d).
 - (2) If the Director makes written findings and issues an order of suspension by certified mail after the hearing, the suspension will be effective 15 days from the date appearing on the notice of that finding and order of suspension, unless a timely appeal is filed in accordance with subsection (d).
- (d) Appeal of Suspension.
- (1) The decision of the Director is appealable to the San Mateo County Licensing Board.
 - (2) An appeal must be in writing, be addressed to the Director and be hand-delivered to the offices of the Environmental Health Division.
 - (3) An appeal must be received by the Environmental Health Division before the effective date of suspension provided by subsections (c)(1) or (c)(2) in order to be considered.
 - (4) The filing of a timely appeal will stay a suspension pending a decision on the appeal by the San Mateo County Licensing Board.
 - (5) The decision of the San Mateo County Licensing Board shall be a final administrative order, with no further administrative right of appeal.

Sec. 15.27. Administrative fine:

- (a) Grounds for Fine. A fine may be imposed upon findings made by the Director that any retailer, individual, or entity who is an owner of a retail establishment:
 - (1) does not have a valid tobacco retailer's permit; and
 - (2) offers for sale any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco or products prepared from tobacco.

- (b) Amount of Fine. Upon findings made under subsection (a), the retailer, individual, or entity who is an owner of a retail establishment shall be subject to an administrative fine as follows:
 - (1) A fine not exceeding one hundred dollars (\$100) for a first violation.
 - (2) A fine not exceeding two hundred dollars (\$200) for a second violation.
 - (3) A fine not exceeding five hundred dollars (\$500) for the third and subsequent violations.
 - (4) Each day that tobacco products are offered for sale with out a permit shall constitute a separate violation. A finding of "offering for sale" will be made if these tobacco products are actually sold and or displayed in the retail establishment.

- (c) Fine Procedures. Notice of the fine shall be served on the retailer, individual, or entity who is owner of the establishment by certified mail. The notice shall contain an advisement of the right to request a hearing before the Director contesting the imposition of the fine. Said hearing must be requested within ten days of the date appearing on the notice of the fine. The decision of the Director shall be a final administrative order, with no administrative right of appeal.

- (d) Failure to Pay Fine. If said fine is not paid within 30 days from the date appearing on the notice of the fine or of the notice of determination of the Director after the hearing, the fine shall be referred to a collection agency within or external to the County. In addition, any outstanding fines must be paid prior to the issuance of any permit by the San Mateo County Environmental Health Division of the Department of Health.

Sec. 15.28. Severability:

If any provision of this chapter or the application of such provision to any person or in any circumstances shall be held invalid, the remainder of this chapter, or the application of such provision to person or in circumstances other than those as to which it is held invalid, shall not be affected thereby.

Sec. 15.29. Enforcement:

- (a) Enforcement of Applicable Law. If an agent or employee of the tobacco retailer violates any provisions of this chapter or any federal or state tobacco related law, the tobacco retailer shall immediately report the violation to the Environmental Health Division.

- (b) Authorization of Enforcement By San Mateo County Personnel. The County of San Mateo, its officers, employees and agents are hereby authorized to enforce this ordinance on behalf of the city, within the jurisdiction areas of this city. Such enforcement authority includes, but is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the tobacco retailer requirements, holding hearings, suspending permits and issuing administrative fines.

SECTION 2. This ordinance shall be effective thirty (30) days from the date of passage thereof.

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