

File No. 141098

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Neighborhood Services & Safety Date December 4, 2014

Board of Supervisors Meeting Date _____

Cmte Board

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Completed by: Derek Evans Date 11/26/14
Completed by: _____ Date _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

1 [Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]

2
3 **Ordinance amending the Health Code by adding density, proximity, and sales**
4 **establishment limitations on the granting of new tobacco sales permits, and**
5 **renumbering all sections in Article 19H; amending the Business and Tax Regulations**
6 **Code by increasing the annual license and application fees; and making environmental**
7 **findings.**

8
9 NOTE: **Unchanged Code text and unmodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in File No. 141098 and is incorporated herein by reference.

21 Section 2. Article 19H of the Health Code is hereby amended by revising and
22 renumbering (new section numbers in parentheses) Sections 1009.50 (19H.1), 1009.51
23 (19H.2), 1009.53 (19H.4), 1009.551 (19H.5), 1009.56 (19H.9), 1009.57 (19H.10), 1009.58
24 (19H.11), 1009.59 (19H.12), 1009.60 (19H.13), 1009.61 (19H.14), 1009.62 (19H.15), 1009.63
25 (19H.16), 1009.64 (19H.17), 1009.66 (19H.19), 1009.68 (19H.21), and 1009.73 (19H.25);

1 renumbering (new section numbers in parentheses) Sections 1009.52 (19H.3), 1009.54
2 (19H.7), 1009.55 (19H.8), 1009.65 (19H.18), 1009.67 (19H.20), 1009.69 (19H.22), 1009.71
3 (19H.23), 1009.72 (19H.24), 1009.74 (19H.26), 1009.75 (19H.27), 1009.76 (19H.28), and
4 1009.77 (19H.29); and adding Sections 19H.5 and 19H.6, resulting in Sections 19H.1-19H.29,
5 to read as follows:

6 **SEC. ~~1009.50~~19H.1. FINDINGS.**

7 The Board of Supervisors of the City and County of San Francisco hereby finds and
8 declares as follows:

9 (a) Tobacco is the leading cause of preventable death in the United States and kills nearly 6
10 million people each year globally (World Health Organization 2013). According to the Centers for
11 Disease Control and Prevention (CDC), more than 400,000 deaths in the United States each year are
12 attributable to tobacco use, including one-third of all cancer deaths.

13 (b) In addition to the obvious adverse health impact, tobacco related death and disease have an
14 adverse economic impact. The CDC reports that tobacco use costs the United States billions of dollars
15 each year.

16 (c) A. State law prohibits the sale or furnishing of cigarettes, tobacco products and
17 smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco
18 products by minors. (California Penal Code section 308.) State law also prohibits public
19 school students from smoking or using tobacco products while on campus, attending school-
20 sponsored activities, or under the supervision or control of school district employees.
21 (California Education Code section 48901(a).) In addition, state law prohibits smoking in
22 enclosed places of employment. (California Labor Code section 6404.5.) Moreover, San
23 Francisco has adopted ordinances that ban cigarette vending machines in the City (~~San~~
24 Franciseo Health Code ~~Article 19D~~section 1009.1), prohibit pharmacy sales of Tobacco Products
25 (~~San Francisco~~ Health Code Article 19J), prohibit the self-service merchandising of ~~T~~tobacco

1 ~~P~~products, except in places to which access by minors is prohibited by law (~~San Francisco~~
2 Police Code section 4600.3), ~~and~~ prohibit smoking in enclosed areas and sports stadiums (~~San~~
3 ~~Francisco~~ Health Code ~~Article 19F~~~~section 1009.22~~) ~~and prohibit the use of electronic cigarettes~~
4 ~~where smoking is not allowed (Health Code Article 19N).~~

5 (d) ~~B.~~ Despite these state and local restrictions, minors continue to obtain cigarettes
6 and other ~~T~~~~obacco~~ ~~P~~~~products~~ at alarming rates. ~~36.8% of California youth have smoked an entire~~
7 ~~cigarette by age 14 according to a 2012 survey conducted by the California Department of Public~~
8 ~~Health. The former United States Surgeon General Regina Benjamin at a February 2014 summit~~
9 ~~emphasized that the key factor in the fight against tobacco is preventing minors from becoming~~
10 ~~smokers. She noted, "for every smoker who dies, there are two so-called replacement smokers trying a~~
11 ~~cigarette for the first time and getting hooked." Children under the age of 18 consume 924 million~~
12 ~~packs of cigarettes annually in the United States. Over 29 million packs of cigarettes are sold to~~
13 ~~California children annually. More than 60 percent of all smokers begin smoking by the age of 14, and~~
14 ~~90 percent begin by age 19.~~

15 ~~C.~~ In a 2002 California youth buying survey, 19.3 percent of retailers surveyed unlawfully
16 sold tobacco products to minors compared to 17.1 percent in 2001.

17 ~~D.~~ California's rate of illegal tobacco sales to minors is steadily increasing. In 2002 the rate
18 was 19.3 percent, up from 17.1 percent in 2001, and 12.8 percent in 2000.

19 (e) ~~Although it is unlawful to sell Tobacco Products and/or tobacco paraphernalia to minors,~~
20 ~~in a 2013 California youth buying survey, 7.6% of retailers surveyed unlawfully sold Tobacco Products~~
21 ~~to minors. These percentages are more concerning locally. San Francisco's Tobacco Sales to minors~~
22 ~~were reported to be 13.4% of retailers in 2012. Notably, sales in the City to minors are well above the~~
23 ~~2012 statewide sales rate of 8.7%. More aggressive policies are needed to keep San Francisco's youth~~
24 ~~from gaining access to Tobacco Products.~~

1 ~~(f) E. There are approximately 970 outlets in San Francisco that are licensed to sell tobacco,~~
2 ~~that is about 1 retailer for every 111 kids in the community compared to California generally where~~
3 ~~there are approximately 36,700 licensed tobacco retail stores in California – one for every 254~~
4 ~~children. The California Department of Health Services reports that 26.7 percent of California~~
5 ~~adolescents believe it is easy to buy a pack of cigarettes.~~

6 ~~— F. Despite active enforcement by the San Francisco Police Department, a significant number~~
7 ~~of retailers continue to sell tobacco illegally to minors. The rate of illegal tobacco sales documented by~~
8 ~~the Police Department during 2001 was 25.3 percent and 20.2 percent in 2002.~~

9 ~~G. In a youth decoy operation conducted by the Police Department, 50 percent of the 12 bars~~
10 ~~visited illegally sold tobacco to a minor.~~

11 (g) H. San Francisco has a substantial interest in promoting compliance with State
12 laws prohibiting sales of cigarettes and ~~†Tobacco pProducts~~ to minors, in promoting
13 compliance with laws intended to discourage the purchase of ~~†Tobacco pProducts~~ by minors,
14 and in protecting our children from illegally obtained tobacco.

15 ~~(h) Social norms about smoking influence smoking rates, particularly among those not~~
16 ~~addicted. Studies have found that strong governmental regulation of smoking corresponds with and~~
17 ~~may contribute to anti-smoking norms. Social unacceptability has been repeatedly shown to be an~~
18 ~~important influence on both smoking rates and anti-smoking norms. Children and young people are~~
19 ~~particularly influenced by cues suggesting smoking is acceptable.~~

20 ~~(i) Empirical research connects lower densities of retail outlets with lower consumption of~~
21 ~~tobacco, particularly among youth. Higher tobacco retail density encourages smoking by making~~
22 ~~cigarettes more accessible and available, by normalizing tobacco use, and through increasing~~
23 ~~environmental cues to smoke. Research focused on California has found a higher prevalence of~~
24 ~~current smoking and experimental smoking among students at schools in areas with a higher density of~~
25 ~~tobacco outlets. Prevalence of smoking was higher among students at schools in neighborhoods with~~

1 five or more stores that sell tobacco than among students at schools in neighborhoods without any
2 stores that sell tobacco.

3 (j) California communities in lower socio-economic areas with a higher concentration of
4 convenience stores have significantly higher rates of smoking. Residents of these neighborhoods are
5 more at risk for tobacco related disease and death. Likewise, San Francisco's most disadvantaged
6 neighborhoods are disproportionately impacted by high tobacco retail density. The six supervisorial
7 districts with the highest proportions of tobacco retail sales by population (Districts 3, 5, 6, 9, 10, and
8 11) also have the lowest median household incomes in the-City. District Six, with a median household
9 income of \$38,610, has 270 tobacco permits while District Two, with a median household income of
10 \$102,457, has only 51 tobacco permits. African American and Latino residents are more likely to live
11 in districts with the highest number of tobacco retail outlets.

12 (k) As the tobacco related public health crisis affects all supervisorial districts in San
13 Francisco, it is in the City's interest to reduce the disproportionate exposure to tobacco outlets that
14 exists among supervisorial districts and to minimize exposure in all supervisorial districts by limiting
15 the number of new tobacco permits issued. District Seven currently has the lowest number (five) of
16 tobacco permitted retailers per 10,000 residents in San Francisco. Setting the District Seven density of
17 permitted tobacco retailers as the maximum for each supervisorial district will begin to address the
18 disparity of exposure to tobacco outlets among supervisorial districts and reduce the density of tobacco
19 vendors overall.

20 (l) San Franciscans support limiting and reducing the number of permits for the sale of
21 tobacco. In a 2012 representative survey of over 220 San Francisco residents, 88.5% felt that too
22 many stores selling cigarettes is bad for community health; almost 74% would support a law that
23 very gradually reduces the number of stores selling cigarettes and Tobacco Products given that the
24 highest density of these is in low income neighborhoods; and 87% would support a policy that would
25 reduce the amount of Tobacco Products available.

1 (m) Restaurants, and other non-traditional tobacco retailers in California had the highest
2 illegal sale rate to minors, 20.3% or higher on average and nearly three-times higher than traditional
3 tobacco retailers.

4 (n) Young adult Bar patrons in one California study reported a current smoking rate of 47
5 percent, nearly four times the 2010 state rate of smoking prevalence for young adults.

6 (o) Social environments such as Bars and clubs are important venues for public health efforts
7 to address young adult smoking.

8 (p) ¶ This Article 19H is designed to promote the public interest in ensuring that San
9 Francisco businesses operate in compliance with applicable laws regulating tobacco,
10 including laws prohibiting the sale of tobacco to minors and laws regulating smoking.

11 ~~—I. Requiring tobacco vendors to obtain a tobacco sales permit will not unduly burden~~
12 ~~legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to~~
13 ~~adults. It will, however, allow the City to regulate those establishments selling tobacco products to~~
14 ~~ensure that they comply with federal, state, and local tobacco laws.~~

15
16 **SEC. ~~1009.51~~19H.2. DEFINITIONS.**

17 The following words and phrases, whenever used in this Article, shall be construed as
18 defined in this section. Words in the singular include the plural and words in the plural include
19 the singular. Words in the present tense include the future.

20 "Application" means the application submitted under Section 19H.4 for a Tobacco Sales permit
21 allowing the person or business to engage in the sale of tobacco products at an Establishment.

22 "Bar" means an area, whether a separate, stand-alone business or part of a larger business
23 which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and
24 in which the serving of food is incidental to the consumption of such beverages.

1 "Cap" means the figure set forth in Section 19H.5 and represents the total number of permitted
2 Establishments that may operate in each supervisorial district.

3 "Change of Ownership" means a change of 50 percent or more of the ownership of the
4 business within a 12-month period; provided, however, that if the Permittee is a corporation, transfer
5 of 25 percent of the stock ownership of the permittee shall be deemed to be a Change of Ownership.

6 "Density Cap" has the same meaning as "Cap."

7 (a) "Department" means the Department of Public Health.

8 (b) "Director" means the Director of Health or his or her designee.

9 "District Population" means the population reported by the Department of Elections in each of
10 the 11 supervisorial districts as required by Charter Section 13.110.

11 (c) "Establishment" means any store, stand, booth, concession or any other enterprise
12 that engages in the retail sale of ~~t~~Tobacco ~~p~~Products.

13 (d) "Permittee" means a person who has obtained a ~~t~~Tobacco ~~s~~Sales permit for a
14 specific location pursuant to this Article.

15 (e) "Person" means any individual, partnership, cooperative association, private
16 corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

17 "Restaurant" means a retail food Establishment that primarily stores, packages, serves,
18 vends, or otherwise prepares food for human consumption on or off premises. "Restaurant" includes,
19 but is not limited to Establishments primarily engaged in providing (1) food services to patrons who
20 order and are served while seated on the premises, and pay after eating, (2) food services where
21 patrons generally order and pay before eating on the premises, or (3) take-out food services where
22 patrons order ready-to-eat food generally intended for consumption off the premises. "Restaurant"
23 also includes separately owned food facilities that are located in a grocery store but does not include
24 the grocery store.

1 "School" means a public or private kindergarten, elementary, middle, junior high or high
2 school, or a school combining some or all of the above school grades.

3 ~~(f)~~ "Tobacco Products" means tobacco and any substance containing tobacco leaf,
4 including but not limited to cigarettes, electronic cigarettes, cigars, pipe tobacco, snuff, chewing
5 tobacco, dipping tobacco, or any other preparation of tobacco, including the cigarettes
6 commonly known as bidis.

7 ~~(g)~~ "Tobacco sales" means sales, or any offer to sell or exchange, for any form of
8 consideration, ~~#~~Tobacco products to any person by any person who operates an
9 establishment. "Tobacco sales" includes any display of ~~#~~Tobacco products.

10 "Tobacco Shop" means any tobacco retailer whose principal business is selling Tobacco
11 Products, tobacco paraphernalia, or both, as evidenced by any of the following: 50% or more of floor
12 area and display area is devoted to the sale or exchange of Tobacco Products, tobacco paraphernalia,
13 or both; 70% or more of gross sales receipts are derived from the sale or exchange of Tobacco
14 Products, tobacco paraphernalia, or both; or 50% or more of completed sales transactions include a
15 Tobacco Product or tobacco paraphernalia.

16 **SEC. ~~1009.5219H.3~~. REQUIREMENT FOR TOBACCO SALES PERMIT.**

17 * * * *

18 **SEC. ~~19H.41009.53~~. APPLICATION PROCEDURE: INSPECTION OF PREMISES;**
19 **ISSUANCE AND DISPLAY OF PERMIT.**

20 (a) **Application.** An ~~a~~Application for a ~~#~~Tobacco sales permit shall be
21 submitted in the name of the person(s) proposing to engage in the sale of ~~#~~Tobacco products
22 and shall be signed by each person or an authorized agent thereof. The ~~a~~Application shall be
23 accompanied by the appropriate fees as described in section 35 of the *San Francisco* Business
24 and Tax Regulations Code and such fees shall include any required inspections by the Planning
25 Department. A separate ~~a~~Application is required for each location where ~~#~~Tobacco sales are

1 to be conducted. All ~~a~~Applications shall be submitted on a form supplied by the Department
2 and shall contain the following information:

3 1. The name, address, email address, and telephone number of the
4 ~~a~~Applicant;

5 2. The ~~e~~Establishment name, address, email address, and telephone
6 number for each location for which a ~~t~~Tobacco ~~s~~Sales permit is sought;

7 3. Such other information as the Director deems appropriate, including
8 the ~~A~~applicant's type of business, and whether the ~~a~~Applicant has previously been issued a
9 permit under this Article that is, or was at any time, suspended or revoked. No permit shall be
10 issued if the Application is incomplete or inaccurate.

11 (b) **Inspection by Director.** Upon receipt of a completed ~~a~~Application and
12 fees, the Director may inspect the location at which ~~t~~Tobacco ~~s~~Sales are to be permitted. The
13 Director may also ask the ~~a~~Applicant to provide additional information that is reasonably
14 related to the determination whether a permit may issue.

15 (c) Referral to the Planning Department. The Director will then refer the Application
16 to the Planning Department. The Planning Department upon referral shall analyze the Application
17 against the most recent data provided by the Department to determine whether the Applicant's location
18 will comply with subsections (f)(3) and (f)(4) and whether the location qualifies as a Tobacco Shop.

19 (d)(e) Issuance of Permit. If the Director is satisfied that the ~~a~~Applicant has
20 met the requirements of this Article and that issuance of the permit will not violate any law, the
21 Department shall issue the permit. An Establishment may not sell Tobacco Products until the permit
22 is issued. No permit shall issue if the Director finds that the Applicant is in violation of San Francisco
23 Health Code section 1009.1 (regulating cigarette vending machines), San Francisco Police Code
24 section 4600.3 (regulating the self-service merchandising of tobacco products), if the Applicant is a
25

1 ~~pharmacy prohibited from selling tobacco products under Article 19J. No permit shall issue if the~~
2 ~~Application is incomplete or inaccurate.~~

3 ~~(e)-(d)~~ **Display of Permit.** Each permittee shall display the permit prominently at
4 each location where ~~†~~Tobacco ~~s~~Sales occur. No permit that has been suspended shall be
5 displayed during the period of suspension. A permit that is revoked is void and may not be
6 displayed.

7 **(f) Grounds for Denial.**

8 (1) No permit shall be issued if the Director finds that the Applicant is in
9 violation of Health Code Article 19; Police Code Section 4600.3 (regulating the self-service
10 merchandising of tobacco products), or the California Labor Code.

11 (2) No permit shall be issued if the Applicant does not have a valid current
12 Tobacco Retail Permit from the State Board of Equalization where the Applicant is required to have the
13 State Board of Equalization permit except for businesses selling only electronic cigarettes.

14 (3) No permit shall be issued if the Applicant will be within 500 feet of the
15 nearest point of the property line of a school as measured by a straight line from the nearest point of
16 the property line on which a school is located to the nearest point of the property line on which the
17 Applicant's Establishment will be located.

18 (4) No new permit shall be issued if the Applicant will be located within 500 feet
19 of the nearest point of the property line of an existing Establishment as measured by a straight line
20 from the nearest point of the property line on which the Applicant's Establishment will be located to the
21 nearest point of the property line of the existing Establishment.

22 (5) No new permit shall be issued in any supervisorial district that has 45 or
23 more Establishments with Tobacco Sales permits.

1 (6) No new permit shall be issued to any Applicant whose main purpose is
2 offering food or alcoholic beverages for sale for consumption on the premises, including Bars and
3 Restaurants.

4 (7) No new permit shall be issued to any Applicant for operation of a Tobacco
5 Shop.

6 (8) No new permit shall be issued for a location not previously occupied by a
7 permitted Establishment.

8 **SEC. 1009.55119H.5 DENSITY CAP**

9 (a) The Density Cap shall be forty-five (45) permitted Tobacco Sales Establishments in a
10 supervisory district. The Department shall assess the Density Cap every two years to evaluate
11 whether to recommend to the Board of Supervisors an amendment to this Article to change the number
12 of permitted Establishments as reasonably necessary to advance the public health purposes this Article
13 seeks to achieve. The City may not issue a new permit in any supervisory district that is at or above
14 the Density Cap at the time of submission of the Application.

15 (b) Pursuant to its authority under Section 19H.26 to adopt rules, the Department may adopt
16 rules governing the approval process for application submitted in a supervisory district where the
17 number of permits has fallen below the cap, including rules on the timing for the approval process.

18
19 **SEC. 19H.6 INTERIM EXCEPTION FOR NEW PERMITS WHERE SALE OF THE**
20 **ESTABLISHMENT IS PENDING.**

21 Applications submitted under Section 19H.4 on or before September 1, 2014 for a new permit
22 are not subject to Section 19H.5 where an Establishment has held a permit to sell Tobacco Products for
23 seven or more years at the location subject to the sale without any transfer of ownership if the
24 Establishment submits an affidavit to accompany the Application stating that no change of ownership
25

1 has occurred within the prior seven years and that the current permit holder had been in contract with
2 a buyer of the Establishment as of September 1, 2014.

3 **SEC. 19H.71009.54. PERMIT AND ANNUAL LICENSE FEES.**

4 * * * *

5 **SEC. 19H.81009.55. PERMIT MAY NOT BE TRANSFERRED TO NEW PERSONS OR**
6 **LOCATIONS.**

7 * * * *

8 **SEC. 19H.91009.56. ENFORCEMENT AND INSPECTION.**

9 The Director may enforce all provisions of this Article. Specific grounds for
10 enforcement are set forth in sections 19H.101009.57 through 19H.181009.65. Upon presentation
11 of proper credentials, the Director may enter and inspect at any time during regular business
12 hours any eEstablishment that is engaging in tTobacco sSales, or is suspected by the Director
13 of engaging in such sales.

14 **SEC. 19H.101009.57. CONDUCT VIOLATING ~~SAN FRANCISCO~~ HEALTH CODE**
15 **ARTICLE 19DSECTION 1009.1 (REGULATING CIGARETTE VENDING MACHINES).**

16 (a) Upon a decision by the Director that the pPermittee or the pPermittee's agent or
17 employee has engaged in any conduct that violates San Francisco Health Code Article
18 19Dsection 1009.1 (regulating cigarette vending machines), the Director may suspend a
19 tTobacco Ssales permit as set forth in section 19H.191009.66, impose administrative penalties
20 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative
21 penalties.

22 (b) The Director shall commence enforcement of this section by serving either a
23 notice of correction under section 19H.211009.68 of this Article or a notice of initial
24 determination under section 19H.221009.69 of this Article.

1 **SEC. 19H.111009.58. CONDUCT VIOLATING ~~SAN FRANCISCO~~ POLICE CODE**
2 **SECTION 4600.3 (REGULATING THE SELF-SERVICE MERCHANDISING OF TOBACCO**
3 **PRODUCTS).**

4 (a) Upon a decision by the Director that the *p*Permittee or the *p*Permittee's agent or
5 employee has engaged in any conduct that violates *San Francisco* Police Code section 4600.3
6 (regulating the self-service merchandising of tobacco products), the Director may suspend a
7 *Tobacco s*Sales permit as set forth in section 19H.191009.66, impose administrative penalties
8 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative
9 penalties.

10 (b) The Director shall commence enforcement of this section by serving either a
11 notice of correction under section 19H.211009.68 of this Article or a notice of initial
12 determination under section 19H.221009.69 of this Article.

13 **SEC. 19H.121009.59. CONDUCT VIOLATING ~~SAN FRANCISCO~~ HEALTH CODE**
14 **~~ARTICLE 19F~~SECTION 1009.22 (PROHIBITING SMOKING IN ENCLOSED AREAS AND**
15 **SPORTS STADIUMS).**

16 (a) Upon a decision by the Director that the *p*Permittee or the *p*Permittee's agent or
17 employee has engaged in any conduct that violates *San Francisco* Health Code *Article*
18 19Fsection 1009.22 (prohibiting smoking in enclosed areas and sports stadiums), the Director
19 may suspend a *Tobacco s*Sales permit as set forth in section 19H.191009.66, impose
20 administrative penalties as set forth in section 19H.201009.67, or both suspend the permit and
21 impose administrative penalties.

22 (b) The Director shall commence enforcement of this section by serving either a
23 notice of correction under section 19H.211009.68 of this Article or a notice of initial
24 determination under section 19H.221009.69 of this Article.

25 **SEC. 19H.131009.60. CONDUCT VIOLATING TOBACCO CONTROL LAWS.**

1 (a) If the Director decides that the pPermittee or the pPermittee's agent or employee
2 has engaged in any conduct that violates local, state, or federal law applicable to tobacco
3 pProducts or tobacco sales, including Administrative Code Chapter 105 (imposing Cigarette
4 Litter Abatement Fee), the Director may suspend a tobacco sales permit as set forth in
5 section 19H.191009.66, impose administrative penalties as set forth in section 19H.201009.67,
6 or both suspend the permit and impose administrative penalties.

7 (b) The Director shall commence enforcement of this section by serving either a
8 notice of correction under section 19H.211009.68 of this Article or a notice of initial
9 determination under section 19H.221009.69 of this Article.

10 **SEC. 19H.141009.61. CONDUCT VIOLATING CALIFORNIA PENAL CODE SECTION**
11 **308 (PROHIBITING THE SALE OF TOBACCO TO MINORS).**

12 (a) Upon a decision by the Director that the pPermittee or the pPermittee's agent or
13 employee has engaged in any conduct that violates California Penal Code section 308
14 (prohibiting the sale of tobacco to minors), the Director may suspend a tobacco sales permit
15 as set forth in section 19H.191009.66.

16 (b) The Director shall commence enforcement of this section by serving a notice of
17 initial determination in accordance with section 19H.221009.69 of this Article.

18 **SEC. 19H.151009.62. CONDUCT VIOLATING CALIFORNIA LABOR CODE SECTION**
19 **6404.5 (PROHIBITING SMOKING IN ENCLOSED PLACES OF EMPLOYMENT).**

20 (a) Upon a decision by the Director that the pPermittee or the pPermittee's agent or
21 employee has engaged in any conduct that violates California Labor Code section 6404.5
22 (prohibiting smoking in enclosed places of employment), the Director may suspend a tobacco
23 sales permit as set forth in section 19H.191009.66.

24 (b) The Director shall commence enforcement of this section by serving a notice of
25 initial determination in accordance with section 19H.221009.69 of this Article.

1 **SEC. 19H.161009.63. FRAUDULENT PERMIT APPLICATIONS.**

2 (a) Upon a decision by the Director that the pPermittee or the pPermittee's agent or
3 employee has obtained tobacco sales permit from the Department by fraudulent or willful
4 misrepresentation, the Director may suspend a tobacco sales permit as set forth in section
5 19H.191009.66.

6 (b) Upon a final decision by the Director that the pPermittee or the pPermittee's
7 agent or employee has obtained a tobacco sales permit from the Department by fraudulent
8 or willful misrepresentation, the Director may impose administrative penalties as set forth in
9 section 19H.201009.67.

10 (c) Upon a final decision by the Director that the pPermittee or the pPermittee's
11 agent or employee has obtained a tobacco sales permit from the Department by fraudulent
12 or willful misrepresentation, the Director may revoke a tobacco sales permit.

13 (d) Upon a final decision by the Director that the pPermittee or the pPermittee's
14 agent or employee has obtained a tobacco sales permit from the Department by fraudulent
15 or willful misrepresentation, the Director may impose administrative penalties in addition to
16 either suspending or revoking the tobacco sales permit.

17 (e) The Director shall commence enforcement of this section by serving a notice of
18 initial determination in accordance with section 19H.221009.69 of this Article.

19 (f) Any person who obtained a permit by fraud or misrepresentation may be
20 prosecuted for either an infraction or a misdemeanor punishable by a fine not to exceed one
21 hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second violation
22 within one year, and five hundred dollars (\$500) for a third and for each subsequent violation
23 within one year.

24 **SEC. 19H.171009.64 SELLING TOBACCO WITHOUT A PERMIT.**

1 (a) Upon a final decision by the Director that any person has engaged in the
2 sale of tobacco at any *Establishment* without a permit, the Director may impose administrative
3 penalties as set forth in section 19H.201009.67.

4 (b) The Director shall commence enforcement of this section by serving a notice
5 of initial determination in accordance with section 19H.221009.69 of this Article. This Notice of
6 Initial Determination may require that all tobacco sales cease and may impose an
7 administrative penalty.

8 (c) The City Attorney may maintain an action for injunction to restrain any
9 person from selling tobacco without a valid tobacco sales permit. In any such action, the City
10 Attorney may seek civil penalties and may seek a judicial determination that a person must
11 pay any administrative penalties. The person against whom an injunction issues also shall be
12 liable for the costs and attorney's fees incurred by the City and County of San Francisco in
13 bringing a civil action to enforce the provisions of the section.

14 (d) Any person who engages in tobacco sales without the required permit may
15 be prosecuted for either an infraction or a misdemeanor punishable by a fine not to exceed
16 one hundred dollars (\$100) for a first violation, two hundred dollars (\$200) for a second
17 violation within one year, and five hundred dollars (\$500) for a third and for each subsequent
18 violation within one year.

19 **SEC. 19H.181009.65. OTHER ENFORCEMENT.**

20 * * * *

21 **SEC. 19H.191009.66 TIME PERIOD OF SUSPENSION OF PERMIT.**

22 When this Article allows the Director to suspend a permit, the following sanctions may
23 be imposed:

24 (a) The Director may suspend the permit for a maximum of 90 days for the first
25 violation.

1 (b) If a second violation occurs within twelve months of the first violation, the
2 Director may suspend the permit for a maximum of six months.

3 (c) Upon the third violation, ~~and each subsequent violation~~, if within twelve months
4 of the prior violation, the Director may suspend the permit for a maximum of one year.

5 (d) Each suspension is an independent sanction and is served consecutively.

6 **SEC. ~~19H.2091009.67~~. ADMINISTRATIVE PENALTY.**

7 * * * *

8 **SEC. ~~19H.211009.68~~. NOTICE OF CORRECTION.**

9 When the Director commences an enforcement action with a notice of correction, the
10 Director shall serve the notice on the pPermittee or the pPermittee's agent. The notice shall
11 state that the Department has determined that a violation may have occurred and that
12 reasonable grounds exist to support this determination. The notice may require corrective
13 action immediately or upon a schedule required by the Director. The Director may require the
14 pPermittee to post the notice of correction at the location where the Department alleges that
15 violations have occurred. If the pPermittee fails to obey a notice of correction, the Director may
16 serve a notice of initial determination in accordance with section ~~19H.221009.69~~ of this Article.

17 **SEC. ~~19H.221009.69~~. NOTICE OF INITIAL DETERMINATION.**

18 * * * *

19 **SEC. ~~19H.231009.71~~. PAYMENT OF ADMINISTRATIVE PENALTIES.**

20 * * * *

21 **SEC. ~~19H.241009.72~~. APPEALS TO BOARD OF APPEALS.**

22 * * * *

23 **SEC. ~~19H.251009.73~~. OTHER REMEDIES.**

24 Nothing in this Article shall affect any other remedies which are available to the City
25 and County under any law, including (1) ~~San Francisco~~ Health Code ~~Article 19D~~ ~~section 1009.1~~

1 (regulating cigarette vending machines); (2) *San Francisco* Police Code section 4600.3
2 (regulating the self-service merchandising of tobacco products); (3) *San Francisco* Health Code
3 Article 19Fsection-1009.22 (prohibiting smoking in enclosed areas and sports stadiums); (4)
4 California Penal Code section 308 (regulating sales of tobacco products to minors); and (5)
5 California Labor Code section 6404.5 (prohibiting smoking in enclosed places of
6 employment).

7 **SEC. 19H.261009.74. AUTHORITY TO ADOPT RULES AND REGULATIONS.**

8 * * * *

9 **SEC. 19H.271009.75. CITY UNDERTAKING LIMITED TO PROMOTION OF THE**
10 **GENERAL WELFARE.**

11 * * * *

12 **SEC. 19H.281009.76. PREEMPTION.**

13 * * * *

14 **SEC. 19H.291009.77. SEVERABILITY.**

15 * * * *

16
17 Section 3. The Business and Tax Regulations Code is hereby amended by revising
18 Section 249.16, to read as follows:

19 **SEC. 249.16. TOBACCO LICENSE PERMIT FEE.**

20 Every person, firm or corporation engaged in tobacco sales shall pay an annual license
21 fee of ~~\$188~~ \$200 to the Tax Collector. The license fee set forth in this Section shall be paid
22 annually on or before March 31, in accordance with the provisions of Section 76.1 of the
23 Business and Tax Regulations Code.
24
25

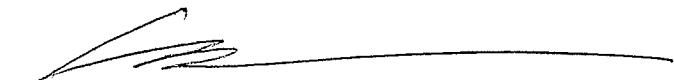
1 Section 4. Effective Date. This ordinance shall become effective 30 days after
2 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
3 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
4 of Supervisors overrides the Mayor's veto of the ordinance.

5
6 Section 5. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors
7 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,
8 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal
9 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment
10 additions, and Board amendment deletions in accordance with the "Note" that appears under
11 the official title of the ordinance.

12
13 Section 6. No Conflict with Federal or State Law. Nothing in this ordinance shall be
14 interpreted or applied so as to create any requirement, power, or duty in conflict with any
15 federal or state law.

16
17 APPROVED AS TO FORM:
18 DENNIS J. HERRERA, City Attorney

19 By:


20 ALEETA M. VAN RUNKLE
21 Deputy City Attorney

22 n:\legana\as2014\1300508\00965737.doc

LEGISLATIVE DIGEST

[Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]

Ordinance amending the Health Code by adding density, proximity and sales establishment limitations on the granting of new tobacco sales permits; amending the Business and Tax Regulations Code by increasing the annual license and application fees for permits; and making environmental findings.

Existing Law

Article 19 of the Health Code provides a process for applying for tobacco retail sales permits. Any establishment that sells tobacco products in San Francisco must have a valid permit issued by the Health Department.

Amendments to Current Law

The proposed amendments to the Health Code impose a cap on the number of permitted tobacco sales establishments located within each supervisorial district. The Health department will not grant a new permit where there are 45 or more permitted establishments within a particular district.

No permit shall be issued if:

- the Applicant will be within 500 feet of the nearest point of the property line of a school;
- the Applicant will be located within 500 feet of the nearest point of the property line of an existing Establishment;
- any Applicant whose main purpose is offering food or alcoholic beverages for sale for consumption on the premises, including Bars and restaurants; and
- no new permit shall be issued to any Applicant for operation of a Tobacco Shop.

Pending Applications for a new permit are not subject to the limitations above where an Establishment has held a permit to sell tobacco products for seven or more years at the location subject to the sale without any transfer of ownership if the Establishment submits an affidavit to accompany the Application that no change of ownership has occurred within the prior seven years and that the current permit holder had been in contract with a buyer of the establishment as of September 1, 2014.

The proposed ordinance also amends section 249.16 of the Business and Tax Regulations Code by increasing the annual fee for tobacco sales permits.

Background Information

The proposed ordinance is intended to address the growing epidemic of tobacco use by youth. 36.8% of California youth have smoked an entire cigarette by age 14 according to a 2012 survey conducted by the California Department of Public Health. The former United States Surgeon General at a February 2014 summit emphasized that the key factor in the fight against tobacco is preventing minors from becoming smokers. As former United States Surgeon General Regina Benjamin noted, "for every smoker who dies, there are two so-called replacement smokers trying a cigarette for the first time and getting hooked."

Empirical research connects lower densities of retail outlets with lower consumption of tobacco, particularly among youth. Higher tobacco retail density encourages smoking by making cigarettes more accessible and available, by normalizing tobacco use, and through increasing environmental cues to smoke. Research focused on California has found a higher prevalence of current smoking and experimental smoking among students at schools in areas with a higher density of tobacco outlets. Prevalence of smoking was higher at schools in neighborhoods with five or more stores that sell tobacco than at schools in neighborhoods without any stores that sell tobacco.

California communities in lower socio-economic areas with a higher concentration of convenience stores have significantly higher rates of smoking. Residents of these neighborhoods are more at risk for tobacco related disease and death. Likewise, San Francisco's most disadvantaged neighborhoods are disproportionately impacted by high tobacco retail density. The six supervisorial districts with the highest proportions of tobacco retail by population (Districts 3, 5, 6, 9, 10, and 11) also have the lowest median household incomes in the city. District Six, with a median household income of \$38,610, has 270 tobacco permits while District Two, with a median household income of \$102,457, has only 51 tobacco permits. African American and Latino residents are more likely to live in districts with the highest number of tobacco retail outlets.

n:\egana\as2014\1300508\00964802.doc

Evans, Derek

From: Navarrete, Joy (CPC)
Sent: Wednesday, November 19, 2014 5:06 PM
To: Evans, Derek; Jones, Sarah (CPC)
Cc: Poling, Jeanie (CPC)
Subject: RE: Enviro Review Request: BOS File 141098
Attachments: 2014-001702ENV.pdf

Here's the E review for 141098.

Joy Navarrete. Senior Environmental Planner
San Francisco Planning Department
1650 Mission Street, Suite 400
San Francisco, CA 94103
P. 415-575-9040 F. 415-558-6409
www.sfplanning.org

From: Evans, Derek
Sent: Wednesday, November 19, 2014 8:43 AM
To: Jones, Sarah (CPC)
Cc: Navarrete, Joy (CPC); Poling, Jeanie (CPC)
Subject: RE: Enviro Review Request: BOS File 141098

Hello,

This item has been calendared for the December 4, 2014, Neighborhood Services & Safety Committee meeting (see attached). The Environmental Review will be needed before the item is heard.

Thank you,

Derek K. Evans
Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
derek.evans@sfgov.org | www.sfbos.org

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.
<http://www.sfbos.org/index.aspx?page=104>

***Disclosures:** Personal information that is provided in communications to the Board of Supervisors is subject to disclosure under the California Public Records Act and the San Francisco Sunshine Ordinance. Personal information provided will not be redacted. Members of the public are not required to provide personal identifying information when they communicate with the Board of Supervisors and its committees. All written or oral communications that members of the public submit to the Clerk's Office regarding pending legislation or hearings will be made available to all members of the public for inspection and copying. The Clerk's Office does not redact any information from these submissions. This means that personal information—including names, phone numbers, addresses and similar information that a member of the public elects to submit to the Board and its committees—may appear on the Board of Supervisors website or in other public documents that members of the public may inspect or copy.*

From: Evans, Derek
Sent: Wednesday, October 29, 2014 4:55 PM
To: Jones, Sarah (CPC)
Cc: Navarrete, Joy (CPC); Poling, Jeanie (CPC)
Subject: Enviro Review Request: BOS File 141098

Hello,

Please see the attached request for environmental review.

Thank you, kindly.

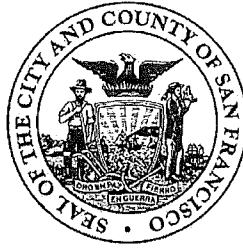
Derek K. Evans

Assistant Clerk, Board of Supervisors
1 Dr. Carlton B. Goodlett Place, City Hall, Room 244
San Francisco, CA 94102
Phone: (415) 554-7702 | Fax: (415) 554-5163
derek.evans@sfgov.org | www.sfbos.org

Complete a Board of Supervisors Customer Satisfaction form by clicking the link below.
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BOARD of SUPERVISORS



City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 554-5227

October 29, 2014

File No. 141098

Sarah Jones
Environmental Review Officer
Planning Department
1650 Mission Street, 4th Floor
San Francisco, CA 94103

Dear Ms. Jones:

On October 21, 2014, Supervisor Eric Mar introduced the following proposed legislation:

File No. 141098

Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and renumbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings.

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to be "DE", written over a horizontal line.

By: Derek Evans, Assistant Clerk
Neighborhood Services and Safety Committee

Attachment

c: Joy Navarrete, Environmental Planning
Jeanie Poling, Environmental Planning

Not defined as a project under CEQA Guidelines Sections 15378 and 15060(c)(2) because it does not result in a physical change in the environment.

Joy
Navarrete

Digitally signed by Joy Navarrete
DN: cn=Joy Navarrete, o=Planning,
ou=Environmental Planning,
email=joy.navarrete@sfgov.org,
c=US
Date: 2014.11.19 17:02:17 -08'00'

Evans, Derek

From: Sallie Yoshida [sallie@samuelscenter.com]
Sent: Wednesday, November 26, 2014 2:14 PM
To: Evans, Derek
Cc: Lim, Victor (BOS); Pagoulatos, Nickolas (BOS); Hennessey-Lavery, Susana (DPH); Pbarahona@yli.org
Subject: Attn: Clerk of the Board, File No: 141098
Attachments: File No 141098.pdf

(Letter also attached)

To the members of the Neighborhood Services and Safety Committee,

I am writing this letter on behalf of The Sarah Samuels Center for Public Health Research & Evaluation in support of the Tobacco Permit Density Reduction Policy (File No: 141098) that will be heard on December 4, 2014 before the Neighborhood Services and Safety Committee.

Established nearly 20 years ago, The Sarah Samuels Center for Public Health Research & Evaluation is nationally recognized for its public health research, program, and policy evaluation. We focus on chronic disease prevention with the goal of improving health and reducing health disparities, and our work is concentrated in low resource and ethnically diverse communities where rates of chronic illness are highest.

Tobacco policies are critical for addressing chronic disease because tobacco is the leading cause of preventable deaths in the world. Effective policies must address the needs of low-income neighborhoods and communities of color, as they face the greatest amount of exposure to tobacco. The tobacco industry targets these neighborhoods with their products and the results can be seen in the higher prevalence of smoking in these areas.

The tobacco retail density policy will greatly improve the health of San Francisco residents and decrease the tobacco disparities between neighborhoods. The decrease in tobacco influences will result in lower smoking prevalence. The Sarah Samuels Center for Public Health Research and Evaluation applauds your efforts to promote the public health while strengthening community.

Thank you,

Sallie Yoshida, DrPH, RD
Executive Director

~~~~~

**Sallie Yoshida, DrPH, RD**

Executive Director

The Sarah Samuels Center for Public Health Research and Evaluation (*formerly Samuels & Associates*)

1222 Preservation Park Way, Oakland CA 94612

(510) 271-6799

[www.samuelscenter.com](http://www.samuelscenter.com)



To the members of the Neighborhood Services and Safety Committee,

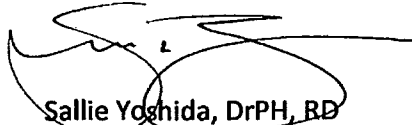
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Tobacco policies are critical for addressing chronic disease because tobacco is the leading cause of preventable deaths in the world. Effective policies must address the needs of low-income neighborhoods and communities of color, as they face the greatest amount of exposure to tobacco. The tobacco industry targets these neighborhoods with their products and the results can be seen in the higher prevalence of smoking in these areas.

The tobacco retail density policy will greatly improve the health of San Francisco residents and decrease the tobacco disparities between neighborhoods. The decrease in tobacco influences will result in lower smoking prevalence. The Sarah Samuels Center for Public Health Research and Evaluation applauds your efforts to promote the public health while strengthening community.

Thank you,



Sallie Yoshida, DrPH, RD  
Executive Director

## Evans, Derek

---

**From:** Cassie Ray [cassie.ray@cancer.org]  
**Sent:** Wednesday, November 26, 2014 12:36 PM  
**To:** Evans, Derek  
**Cc:** Lim, Victor (BOS); Pagoulatos, Nickolas (BOS)  
**Subject:** Attn: Clerk of the Board, File No: 141098  
**Attachments:** San Francisco retailer density 11-26-14.docx

Dear Members of the Neighborhood Safety and Services Committee:

Attached is a letter supporting the amendment of the current tobacco retail license ordinance to eliminate new retailers near schools and reduce density of retailers, which disproportionately affects low income and ethnic minority communities. The tobacco industry has marketed heavily to these communities and the majority of this marketing is at the point of sale. Phasing out sales near schools and reducing density of retailers in neighborhoods can help reduce youth access to tobacco, and also reduces exposure of youth to tobacco marketing. These steps will help to reduce the number of kids who ever become smokers, and save them from the premature death that it causes.

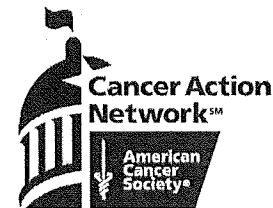
**Cassie Ray** | Northern California Government Relations  
American Cancer Society Cancer Action Network, Inc.  
980 9th Street Suite 2200  
Sacramento, CA 95814  
Phone: 707.290.0003 | Mobile: 707.290.0003 | Fax: 916.447.6931

[acscan.org](http://acscan.org)



[acscan.org](http://acscan.org)

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November 26, 2014

Neighborhood Services and Safety Committee  
City Hall, Room 244  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

Dear Supervisors Campos, Mar and Yee:

The American Cancer Society Cancer Action Network (ACS CAN) is committed to protecting the health and well-being of the residents of San Francisco through evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. ACS CAN supports efforts to reduce youth access to tobacco in our communities, as tobacco use is the number one cause of preventable cancer death in this country. The City of San Francisco has demonstrated a commitment to reducing youth access to tobacco through the passage of a Tobacco Retail License, and we support your efforts to strengthen those protections by reducing density of retailers and restricting sales near schools. We also applaud your efforts to reduce the density of retailers in high density neighborhoods, which disproportionately affect ethnic minority and low-income communities.

The tobacco industry has gone to great lengths to target youth and minority communities over the past 30 years. In fact, according to the CDC, in 2011, the tobacco industry spent \$23million per day on marketing! They have marketed disproportionately to youth, racial and ethnic minorities, and those of low income or education status. They have successfully penetrated these populations, as is evidenced through the disproportionate number of San Francisco retailers in lower income neighborhoods, and not surprisingly, their investment in these communities has been destructive, as these populations bear a disproportionate burden of tobacco related disease.

A new report released in 2104 by the Surgeon General found that more than 43 million Americans still smoke and tobacco will cause an estimated 480,000 deaths this year in the U.S. Both opponents of smoking and purveyors of cigarettes have recognized the significance of adolescence as the period during which smoking behaviors are typically developed. Tobacco use is a pediatric epidemic, with almost 90% of adult smokers beginning as kids. Of the 9 million youth currently living in our state, nearly 1.4 million of them will become smokers, and approximately 440,000 of those kids will die prematurely as a result of tobacco use.

The CDC reports that youth are more likely to experiment with tobacco products when retailers are located near schools, playgrounds, libraries, or other youth sensitive areas. One-third of illegal tobacco sales take place within 1,000 feet of schools. Reducing access to tobacco products in the areas youth frequent, and imposing tough penalties, including permanent revocation of the Tobacco Retail License after repeated offenses, has been shown to be effective tools in reducing sales to youth.

There is evidence that reducing youth access further protects youth from ever starting to smoke as adults, thereby protecting them from a deadly habit and the cancers it causes. This can be particularly important for minority and low-income youth, who have the greatest exposure to retailers, as well as the accompanying marketing of these products. ACS CAN supports the City of San Francisco's efforts to amend the current Tobacco Retail License to include prohibiting issuance of new tobacco retail licenses near schools or within 500 feet of another tobacco retailer.

Sincerely,

Cassie Ray  
Government Relations Director, Northern California  
American Cancer Society Cancer Action Network

**Evans, Derek**

---

**From:** Caldeira, Rick (BOS)  
**Sent:** Thursday, November 20, 2014 8:04 AM  
**To:** Somera, Alisa (BOS); Evans, Derek; Ausberry, Andrea  
**Cc:** Calvillo, Angela (BOS)  
**Subject:** FW: Four Youth Commission Actions: Support BOS File No. 141123; Support BOS File No. 141098; Motion of Support for Vision Zero; Motion of Support for Youth Advocacy Day 2015  
**Attachments:** Four YC Actions 11-17-14.pdf; 1415-M-01 Vision Zero.pdf; 1415-M-02 YAD Sponsorship.pdf; 1415-RBM-05.pdf; 1415-RBM-06.pdf

Alisa, for File No. 141123 (Administrative Code - Establishing the Duties of the Office of Early Care and Education and Creating the Office of Early Care and Education Citizens' Advisory Committee)

Derek, for File No. 141098 (Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees)

Derek, for File No. 141201 (Hearing - Street Safety Project Delivery)? I think 1415-M-01 relates.

Andrea, for File No. 140460 (Hearing - Street Widths in Hunters Point Shipyard and Candlestick Point Developments Requesting Such Changes Including Pedestrian Safety Strategy and "Vision Zero" Policy? I think 1415-M-01 relates.

Thank you for including the e-mail and respective attachment(s) in each of the files.

Rick.

---

**From:** Calvillo, Angela (BOS)  
**Sent:** Wednesday, November 19, 2014 5:17 PM  
**To:** Caldeira, Rick (BOS); Gosiengfiao, Rachel (BOS)  
**Subject:** FW: Four Youth Commission Actions: Support BOS File No. 141123; Support BOS File No. 141098; Motion of Support for Vision Zero; Motion of Support for Youth Advocacy Day 2015

For the files please. It also looks like BOS 11?

---

**From:** Youthcom  
**Sent:** Wednesday, November 19, 2014 3:06 PM  
**To:** Lee, Edwin (Mayor) (ADM); BOS-Supervisors  
**Cc:** Calvillo, Angela (BOS); [jason.elliott@sfgov.org](mailto:jason.elliott@sfgov.org); Maria Su (CHF); Mendoza, Hydra (MYR); Wheaton, Nicole (MYR); Garcia, Barbara (DPH); Low, Jen (BOS); Pagoulatos, Nickolas (BOS); Lim, Victor (BOS); DeAsia Landrum (CHF); Betty Sells-Asberry; [natalie@walksf.org](mailto:natalie@walksf.org); [genaro@walksf.org](mailto:genaro@walksf.org)  
**Subject:** Four Youth Commission Actions: Support BOS File No. 141123; Support BOS File No. 141098; Motion of Support for Vision Zero; Motion of Support for Youth Advocacy Day 2015

## YOUTH COMMISSION

### MEMORANDUM

**TO:** Honorable Mayor Edwin M. Lee  
Honorable Members, Board of Supervisors

**CC:** Angela Calvillo, Clerk of the Board of Supervisors  
Jason Elliott, Director of Legislative & Government Affairs, Mayor's Office  
Maria Su, Director, Department of Children, Youth, and their Families  
Hydra Mendoza, Mayor's Families & Children's Advisor



Nicole Wheaton, Mayor's Legislative Director and Commissioner & Board Liaison

**FROM:** 2014-2015 Youth Commission

**DATE:** Wednesday, November 19, 2014

**RE:** Four Youth Commission actions at the November 17, 2014 meeting: Support on BOS file no. 141123 [Administrative Code - Establishing the Duties of the Office of Early Care and Education and Creating the Office of Early Care and Education Citizens' Advisory Committee]; Support on BOS file no. 141098 [Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]; Motion supporting and co-sponsoring Vision Zero; Motion supporting and co-sponsoring Youth Advocacy Day 2015

---

At our regular meeting on Monday, November 17, 2014, the Youth Commission voted to support Board of Supervisors file no. 141123 [Administrative Code - Establishing the Duties of the Office of Early Care and Education and Creating the Office of Early Care and Education Citizens' Advisory Committee]. The Youth Commission also proposed and approved a recommendation that the Board of Supervisors include guidelines for considering a diverse range of parental experiences when making appointments of parent representatives to the OECE Citizens' Advisory Committee. These could include consideration of the diverse perspectives of parents who are young, single, low-income, or formerly-incarcerated, as well as those from differing San Francisco neighborhoods. The record of our response is contained in [1415-RBM-05](#).

\*\*\*

Additionally, the Youth Commission voted to support Board of Supervisors file no. 141098 [Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]. The Youth Commission's support for the ordinance is based in our respect for the impressive youth- and community-led effort to reduce tobacco use in our city's neighborhoods. Youth Commissioners look forward to supporting the Board of Supervisors' future efforts to assess the decline of the overall number of tobacco sales permits in circulation due to attrition, if the ordinance takes effect. The record of our response is contained in [1415-RBM-06](#).

\*\*\*

Moreover, the Youth Commission adopted motion [1415-M-01](#) [*The Youth Commission supports and co-sponsors the Vision Zero Campaign in promoting safety for the city's youth*]. This motion affirms the Youth Commission's commitment to, and participation in, the City's efforts to eliminate pedestrian fatalities and improve pedestrian safety.

\*\*\*

Finally, the Youth Commission adopted motion [1415-M-02](#) [*The Youth Commission supports and co-sponsors the 6th annual Youth Advocacy Day on March 18, 2015*]. This motion affirms Youth Commissioners' participation in an annual Spring event hosted by the Department of Children, Youth, and Their Families that brings hundreds of high school students to practice civic engagement and youth advocacy.

Please do not hesitate to contact Youth Commissioners or Youth Commission staff (415) 554-6446 with any questions. Thank you.

---

Adele Failes-Carpenter  
Director  
San Francisco Youth Commission  
Office: (415) 554-7112 | Fax: (415) 554-6140

Visit the official [Youth Commission site](#) and [YC facebook page](#).

**Youth Commission**  
City Hall ~ Room 345  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4532



1415-RBM-06

(415) 554-6446  
(415) 554-6140 FAX  
[www.sfgov.org/youth\\_commission](http://www.sfgov.org/youth_commission)

## YOUTH COMMISSION MEMORANDUM

**TO:** Derek Evans, Committee Clerk, Neighborhood Services and Safety Committee  
**FROM:** Youth Commission  
**DATE:** Wednesday, November 19, 2014  
**RE:** Referral response to BOS File No. 141098

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At our regular meeting of **Monday, November 17, 2014** the Youth Commission voted unanimously to support the following motion:

**To support BOS File No. 141098, Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and renumbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings.**

The Youth Commission's support for the ordinance is based in our respect for the impressive youth- and community-led effort to reduce tobacco use in our city's neighborhoods.

\*\*\*

**During discussion on this item, the youth commission proposed and unanimously approved the following comments regarding this legislation:**

We recommend that Board of Supervisors request a subsequent hearing some time after the ordinance, if passed, takes effect, in order to determine whether the overall number of tobacco sales permits in effect has declined due to attrition, as intended by the ordinance.

We look forward to staying updated on forward movement on this item. If you have any questions about these recommendations, please do not hesitate to contact our office or your Youth Commissioner.

A handwritten signature in cursive script that reads "Michel Li".

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Chair, Michel Li  
Adopted on November 17, 2014  
2014-2015 San Francisco Youth Commission

**Evans, Derek**

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**From:** Youthcom  
**Sent:** Wednesday, November 19, 2014 12:19 PM  
**To:** Evans, Derek  
**Cc:** Lim, Victor (BOS); Pagoulatos, Nickolas (BOS); Lu, Allen; Luis Avalos; m.li19@gmx.com; Calvillo, Angela (BOS)  
**Subject:** YC Referral Response to BOS File No. 141098  
**Attachments:** 1415-RBM-06.pdf

1415-RBM-06

**YOUTH COMMISSION  
MEMORANDUM**

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**FROM:** Youth Commission  
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---

Chair, Michel Li  
Adopted on November 17, 2014  
2014-2015 San Francisco Youth Commission

Adele Failes-Carpenter  
Director  
San Francisco Youth Commission  
Office: (415) 554-7112 | Fax: (415) 554-6140

Visit the official [Youth Commission site](#) and [YC facebook page](#).  
Sign up for [our newsletter](#).

Complete a Board of Supervisors [Customer Satisfaction form](#).

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## NOTICE OF PUBLIC HEARING

### NEIGHBORHOOD SERVICES AND SAFETY COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

NOTICE IS HEREBY GIVEN THAT the Neighborhood Services and Safety Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard:

**Date:** Thursday, December 4, 2014

**Time:** 3:00 p.m.

**Location:** Legislative Chamber, Room 250 located at City Hall,  
1 Dr. Carlton B. Goodlett Place, San Francisco, CA

**Subject:** File No. 141098. Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and renumbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings.

If the Ordinance passes, it would authorize an increase to the current annual fee for tobacco sales permits. Every person, firm or corporation engaged in tobacco sales would pay an annual license fee of \$200 (an increase of \$12 from \$188) to the Tax Collector. The license fee set forth would be paid annually on or before March 31, in accordance with Business and Tax Regulations Code, Section 76.1. Additionally, the Application would be accompanied by the appropriate fees as described in Business and Tax Regulations Code, Section 35, and such fees would include any required inspections by the Planning Department.

In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, 94102. Information relating to the proposed fee is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Wednesday, November 26, 2014.

  
Angela Calvillo, Clerk of the Board

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Derek Evans  
SF BD OF SUPERVISORS (OFFICIAL NOTICES)  
1 DR CARLTON B GOODLETT PL #244  
SAN FRANCISCO, CA 94102

### COPY OF NOTICE

Notice Type: GPN GOVT PUBLIC NOTICE  
Ad Description: DKE NSS 14-day fee ad - 141098

To the right is a copy of the notice you sent to us for publication in the SAN FRANCISCO CHRONICLE. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the Clerk of the Board. Publication date(s) for this notice is (are):

11/20/2014 , 11/26/2014

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| ORANGE COUNTY REPORTER, SANTA ANA          | (714) 543-2027 |
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| SAN FRANCISCO DAILY JOURNAL, SAN FRANCISCO | (800) 640-4829 |
| SAN JOSE POST-RECORD, SAN JOSE             | (408) 287-4866 |
| THE DAILY RECORDER, SACRAMENTO             | (916) 444-2355 |
| THE INTER-CITY EXPRESS, OAKLAND            | (510) 272-4747 |

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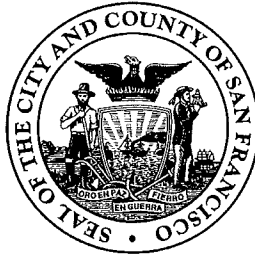
#### NOTICE OF PUBLIC HEARING - NEIGHBORHOOD SERVICES AND SAFETY COMMIT- TEE - SAN FRANCISCO BOARD OF SUPERVISORS - THURS- DAY, DECEMBER 4, 2014, 3:00 PM - LEGISLATIVE CHAMBER, ROOM 250, CITY HALL, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA.

NOTICE IS HEREBY GIVEN THAT the Neighborhood Services and Safety Committee will hold a public hearing to consider the following proposal and said public hearing will be held as follows, at which time all interested parties may attend and be heard: **File No. 141098.** Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and re-numbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings. If the Ordinance passes, it would authorize an increase to the current annual fee for tobacco sales permits. Every person, firm or corporation engaged in tobacco sales would pay an annual license fee of \$200 (an increase of \$12 from \$188) to the Tax Collector. The license fee set forth would be paid annually on or before March 31, in accordance with Business and Tax Regulations Code, Section 76.1. Additionally, the Application would be accompanied by the appropriate fees as described in Business and Tax Regulations Code, Section 35, and such fees would include any required inspections by the Planning Department. In accordance with Administrative Code, Section 67.7-1, persons who are unable to attend the hearing on this matter may submit written comments to the City prior to the time the hearing begins. These comments will be made a part of the official public record in this matter and shall be brought to the attention of the members of the Committee. Written comments should be addressed to Angela Calvillo, Clerk of the Board, City Hall, 1 Dr. Carlton Goodlett Place, Room 244, San Francisco, 94102. Information relating to the proposed fee is available in the Office of the Clerk of the Board. Agenda information relating to this matter will be available for public review on Wednesday, November 26, 2014.



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BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

October 29, 2014

**File No. 141098**

Sarah Jones  
Environmental Review Officer  
Planning Department  
1650 Mission Street, 4<sup>th</sup> Floor  
San Francisco, CA 94103

Dear Ms. Jones:

On October 21, 2014, Supervisor Eric Mar introduced the following proposed legislation:

**File No. 141098**

**Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and renumbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings.**

This legislation is being transmitted to you for environmental review.

Angela Calvillo, Clerk of the Board

A handwritten signature in black ink, appearing to be "DE" or similar initials.

By: Derek Evans, Assistant Clerk  
Neighborhood Services and Safety Committee

Attachment

c: Joy Navarrete, Environmental Planning  
Jeanie Poling, Environmental Planning

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Rm 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
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## MEMORANDUM

TO: Barbara Garcia, Director, Public Health Department  
John Rahaim, Director, Planning Department  
Jose Cisneros, Treasurer and Tax Collector  
Regina Dick-Endrizzi, Director, Office of Small Business

FROM: Derek Evans, Assistant Committee Clerk

DATE: October 29, 2014

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors Neighborhood Services and Safety Committee has received the following legislation, which is being referred to your department for informational purposes.

**File No. 141098**

**Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, and renumbering all sections in Article 19H; amending the Business and Tax Regulations Code by increasing the annual license and application fees; and making environmental findings.**

Please submit any comments or reports to the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

cc: Greg Wagner, Department of Public Health  
AnMarie Rodgers, Planning Department  
Greg Kato, Office of the Treasurer and Tax Collector  
Christian Murdock, Small Business Commission





# SAN FRANCISCO TOBACCO FREE COALITION

In care of the Tobacco Free Project, 30 Van Ness Ave. Suite 2300, San Francisco, CA 94102

To the honorable members of the Neighborhood Services and Safety Committee,

We are writing on behalf of the San Francisco Tobacco Free Coalition in support of the proposed Tobacco Permit Density Reduction Policy. Tobacco policies are critical public health measures because tobacco is the leading cause of preventable deaths in the world. Aside from the loss of life, tobacco use has a huge economic cost for San Francisco at approximately \$400 million annually.

Low income neighborhoods and communities of color face the greatest amount of exposure to tobacco. The tobacco industry targets these neighborhoods with their products and the results can be seen in the higher prevalence of smoking in these areas. Supervisorial District 3 (Chinatown) and District 6 (Tenderloin) contain large ethnic and low income populations have 180 tobacco retail outlets each, which is over three times the number of permits in D2, the Marina. The high density of tobacco retailers has negatively impacted these neighborhoods.

Both of these districts also have large numbers of children and young people who are particularly influenced by cues suggesting smoking is acceptable. In addition to these cues, there are issues such as peer pressure or having a desire to appear older and we can see why 80% of smokers start before the age of 18. At this age, the brain is still under development and susceptible to nicotine, which is a highly addictive drug. Finally, while sales to minors have reduced in San Francisco, the sales rate in 2012 at 13.4% was still well above the statewide sales rate of 8.7%

The vast majority of tobacco retailers in San Francisco are small "corner stores". The trends show that food service sales are becoming an increasing priority for these stores as profit margins for food are higher than tobacco.

The tobacco retail density policy will greatly improve the health of San Francisco residents and decrease the tobacco disparities between neighborhoods. The decrease in tobacco influences will result in lower smoking prevalence. The San Francisco Tobacco Free Coalition applauds your efforts to promote the public health while strengthening community.

Best Wishes,

Karen Licavoli & Tonya Williams

Co-Chairs

San Francisco Tobacco Free Coalition

A handwritten signature in cursive script that reads "Karen Licavoli".

A handwritten signature in cursive script that reads "Tonya Williams".

## Evans, Derek

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**From:** Board of Supervisors (BOS)  
**Sent:** Wednesday, November 19, 2014 2:51 PM  
**To:** BOS-Supervisors  
**Cc:** Evans, Derek; Caldeira, Rick (BOS)  
**Subject:** File 141098: FW: Attn: Clerk of the Board, File No: 141098  
**Attachments:** Letter in Support of Density Ordinance.pdf

---

**From:** Wei, Gary (DPH)  
**Sent:** Wednesday, November 19, 2014 10:15 AM  
**To:** Board of Supervisors (BOS)  
**Cc:** Hu, Alice (DPH); Hennessey-Lavery, Susana (DPH); Smith, Derek (DPH)  
**Subject:** Attn: Clerk of the Board, File No: 141098

I am sending this letter on behalf of the Tobacco Free Coalition in support of the Tobacco Permit Density Reduction Policy (File No: 141098) that will be heard on December 4, 2014 before the Neighborhood Services and Safety Committee. Thank you.

Best Regards,

Gary Wei, MPH, CPH

Research and Outreach Coordinator

Tobacco Free Project

Community Health Equity & Promotion Branch

San Francisco Department of Public Health

30 Van Ness Ave. #2300

San Francisco, CA 94102

415-581-2448

[gary.wei@sfdph.org](mailto:gary.wei@sfdph.org)

[sftobaccofree.org](http://sftobaccofree.org)

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee. (An Ordinance, Resolution, Motion, or Charter Amendment)
- 2. Request for next printed agenda Without Reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor [ ] inquires"
- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Reactivate File No. [ ]
- 10. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative Form.**

**Sponsor(s):**

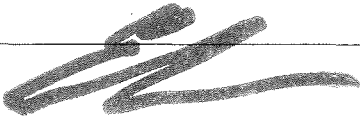
Mar, Kim, Wiener

**Subject:**

Health, Business and Tax Regulations Codes - Tobacco Sales Permits

**The text is listed below or attached:**

Please see attached.

Signature of Sponsoring Supervisor: 

For Clerk's Use Only: