

File No. 141098

Committee Item No. 1

Board Item No. 8

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Neighborhood Services & Safety Date December 4, 2014

Board of Supervisors Meeting Date December 9, 2014

Cmte Board December 16, 2014

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Completed by: Derek Evans Date 11/26/14

Completed by: Derek Evans Date 12/5/14 / 12/16/14

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);
renumbering (new section numbers in parentheses) Sections 1009.52 (19H.3), 1009.54

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

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

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

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

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

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

1 Police Code section 4600.3), *and* prohibit smoking in enclosed areas and sports stadiums (*San*
2 *Francisco* Health Code Article 19F~~section 1009.22~~) *and prohibit the use of electronic cigarettes*
3 *where smoking is not allowed (Health Code Article 19N).*

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

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

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

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

24 *(f) ~~B. There are approximately 1,001 970 outlets in San Francisco that are licensed to sell~~*
5 *tobacco, that is about 1 retailer for every 111 youth kids in the community compared to California*

1 generally where there are approximately 36,700 licensed tobacco retail stores in California – one for
2 every 254 youth children. The California Department of Health Services reports that 26.7 percent of
3 California adolescents believe it is easy to buy a pack of cigarettes.

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

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

9 (g) H. San Francisco has a substantial interest in promoting compliance with State
10 laws prohibiting sales of cigarettes and ~~T~~obacco ~~p~~roducts to minors, in promoting
11 compliance with laws intended to discourage the purchase of ~~T~~obacco ~~p~~roducts by minors,
12 and in protecting our children from illegally obtained tobacco.

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

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

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

10 (k) As the tobacco related public health crisis affects all supervisorial districts in San
11 Francisco, it is in the City's interest to reduce the disproportionate exposure to tobacco outlets that
12 exists among supervisorial districts and to minimize exposure in all supervisorial districts by limiting
13 the number of new tobacco permits issued. District Seven currently has the lowest number(37) (five) of
14 tobacco permitted retailers per 10,000 residents in San Francisco. Setting a cap slightly above the
15 District Seven density of permitted tobacco retailers as the maximum for each supervisorial district will
16 begin to address the disparity of exposure to tobacco outlets among supervisorial districts and reduce
17 the density of tobacco vendors overall.

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

24 (m) Restaurants, and other non-traditional tobacco retailers in California are more likely to
5 sell tobacco to minors than other retailers. 13.1% percent of restaurants and other

1 nontraditional retailers sold tobacco to minors compared to 8.7% of all other California
2 retailers. had the highest illegal sale rate to minors, 20.3% or higher on average and nearly
3 three times higher than traditional 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) J 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 ~~Tobacco~~ Products, and includes stores engaged in
13 the retail sale of food items.

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

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

18 "Restaurant" means a ~~business~~ retail food Establishment that primarily stores, packages,
19 serves, vends, or otherwise prepares food for human consumption on the premises. "Restaurant"
20 includes, but is not limited to ~~businesses~~ Establishments primarily engaged in providing (1) food
21 services to patrons who order and are served while seated on the premises, and pay after eating, and
22 (2) food services where patrons generally order and pay before eating on the premises, ~~or (3) take-~~
23 out food services where patrons order ready to eat food generally intended for consumption
24 off the premises. "Restaurant" also includes separately owned food facilities that are located in a
5 grocery store but does not include 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 ~~e~~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. ~~1009.52~~19H.3. REQUIREMENT FOR TOBACCO SALES PERMIT.**

17 * * * *

18 **SEC. ~~19H.4~~1009.53. 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 or other work
25 performed by the Planning Department as required by the referral of the application. A separate

1 ~~a~~Application is required for each location where ~~#~~Tobacco ~~s~~Sales are to be conducted. All
2 ~~a~~Applications shall be submitted on a form supplied by the Department and shall contain the
3 following information:

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

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

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

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

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

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

1 ~~section 4600.3 (regulating the self-service merchandising of tobacco products), if the Applicant is a~~
2 ~~pharmacy prohibited from selling tobacco products under Article 19J. No permit shall issue if the~~
3 ~~Application is incomplete or inaccurate.~~

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

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

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

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

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

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

23 (5) No new permit shall be issued in any supervisorial district that has 45 or
24 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 (g) Pending Applications. Applications that have been submitted to the Director for
9 approval as of December 9, 2014 shall not be subject to the Section 19H.4(f)(2)-19H.4(f)(8)
10 and Section 19H.5.

11
12 **SEC. 19H.5 DENSITY CAP**

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

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

22 **SEC. 19H.6. EXCEPTIONS FOR CERTAIN NEW PERMITS. INTERIM EXCEPTION**
23 **FOR NEW PERMITS WHERE SALE OF THE ESTABLISHMENT IS PENDING.**

24 Notwithstanding Section 19H.5 and Sections 19H.4(f)(3),(4),(5) and (7):

1 (a) If an owner of a retail food store establishment as defined in the Planning Code or
2 Tobacco Shop who holds a Tobacco Sales permit and has been in business for five years as
3 of the effective date of this Section 19H.6, submits an affidavit to the Director that attests to
4 ownership of the business at the same location and under the same Tobacco Sales permit for
5 five consecutive years immediately preceding submission of the affidavit and that also states
6 that the owner is in negotiations with a specific buyer for the retail food store establishment or
7 Tobacco Shop at that location, then that buyer ("new buyer") may apply for, and the Director
8 may issue, a Tobacco Sales permit to the new buyer for the retail food store establishment or
9 Tobacco Shop at that location, on a one-time basis.

10 (b) If the new buyer submits an affidavit to the Director, stating that the new buyer has
11 been in business continuously as a retail food store establishment or Tobacco Shop at that
12 same location under the Tobacco Sales permit obtained in accordance with subsection (a)
13 and also states that the new buyer has held the permit for at least 10 years, then a
14 subsequent buyer of the retail food store establishment or Tobacco Shop at that location
15 ("subsequent buyer") may apply for, and the Director may issue, a Tobacco Sales permit to
16 the subsequent buyer for the retail food store establishment or Tobacco Shop on a one-time
17 basis.

18 (c) Where the owner of a retail food store establishment or Tobacco Shop that holds a
19 Tobacco Sales permit as of the effective date of this Section 19H.6, a child of the owner may
20 apply for, and the Director may issue, a Tobacco Sales permit to the child for that retail food
21 store establishment or Tobacco Shop at that location.

22 (d) An owner of a retail food store establishment or Tobacco Shop holding a Tobacco
23 Sales permit as of the effective date of this Section 19H.6, who must relocate under Chapter
24 34B of the Building Code may apply for, and the Director may issue, a new Tobacco Sales
25 permit for the location of the owner's retail food store establishment or Tobacco Shop.

1 (e) An owner of a Bar or Tavern (cigar or smoking bar) who qualified for an exemption
2 under Section 1009.23(d) of this Code who holds a Tobacco Sales permit and has been in
3 business for five years as of the effective date of this Section 19H.6, who submits an affidavit
4 to the Director that attests to ownership of the business at the same location and under the
5 same Tobacco Sales permit for five consecutive years immediately preceding submission of
6 the affidavit and that also states that the owner is in negotiations with a specific buyer for the
7 Cigar or Smoking Bar at that location, then that buyer ("new buyer") may apply for, and the
8 Director may issue, a Tobacco Sales permit to the new buyer for the Cigar or Smoking Bar at
9 that location, on a one-time basis.

10 (f) If the new buyer submits an affidavit to the Director, stating that the new buyer has
11 been in business continuously as a Cigar or Smoking Bar at that same location under the
12 Tobacco Sales permit obtained in accordance with subsection (a) and also states that the new
13 buyer has held the permit for at least 10 years, then a subsequent buyer of the Cigar or
14 Smoking Bar at that location ("subsequent buyer") may apply for, and the Director may issue,
15 a Tobacco Sales permit to the subsequent buyer for the Cigar or Smoking Bar on a one-time
16 basis.

17 (g) If a spouse or domestic partner acquires the ownership of an Establishment
18 through the death of, or divorce from the owner identified on the permit and submits an
19 affidavit to the Director attesting to the acquisition of the Establishment accompanied by any
20 documentation requested by the Director, the Director may issue a Tobacco Sales permit to
21 the Applicant spouse or domestic partner on a one-time basis.

22
23 ~~Applications submitted under Section 19H.4 on or before September 1, 2014 for a new permit~~
24 ~~subject to Section 19H.5 where an Establishment has held a permit to sell Tobacco Products~~
25 ~~for or more years at the location subject to the sale if the Establishment submits an affidavit to~~

1 accompany the Application stating that no change of ownership has occurred within the prior
2 seven years and that the current permit holder had been in contract with a buyer of the
3 Establishment as of September 1, 2014.
4
5

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

7 (a) The Department shall charge every applicant for a tobacco sales permit a non-
8 refundable application fee for the initial inspection and processing of the application and an
9 annual license fee sufficient to cover the costs of annual inspections, as determined by the
10 Director . The application and processing fee shall be \$53 and is covered by Section 35 of
11 the San Francisco Business and Tax Regulations Code. The annual fee is listed in Section
12 249.16 of the San Francisco Business and Tax Regulations Code. The Fee shall be due
13 annually on March 31 of each year, pursuant to Section 76.1, Article 2 of the San Francisco
14 Business and Tax Regulations Code.

15 * * * *

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

18 * * * *

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

20 The Director may enforce all provisions of this Article. Specific grounds for
21 enforcement are set forth in sections 19H.101009.57 through 19H.181009.65. Upon presentation
22 of proper credentials, the Director may enter and inspect at any time during regular business
23 hours any eEstablishment that is engaging in tTobacco sSales, or is suspected by the Director
24 of engaging in such sales.
25

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

3 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or
4 employee has engaged in any conduct that violates ~~San Francisco~~ Health Code Article
5 19Dsection 1009.1 (regulating cigarette vending machines), the Director may suspend a ~~t~~
6 Tobacco ~~S~~ales permit as set forth in section 19H.191009.66, impose administrative penalties
7 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative
8 penalties.

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

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

15 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or
16 employee has engaged in any conduct that violates ~~San Francisco~~ Police Code section 4600.3
17 (regulating the self-service merchandising of tobacco products), the Director may suspend a
18 ~~t~~Tobacco ~~s~~ales permit as set forth in section 19H.191009.66, impose administrative penalties
19 as set forth in section 19H.201009.67, or both suspend the permit and impose administrative
20 penalties.

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

1 **SEC. 19H.121009.59. CONDUCT VIOLATING ~~SAN FRANCISCO~~ HEALTH CODE**
2 **ARTICLE 19FSECTION 1009.22 (PROHIBITING SMOKING IN ENCLOSED AREAS AND**
3 **SPORTS STADIUMS).**

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~~ Health Code Article
6 19Fsection 1009.22 (prohibiting smoking in enclosed areas and sports stadiums), the Director
7 may suspend a ~~t~~Tobacco ~~s~~Sales permit as set forth in section 19H.191009.66, impose
8 administrative penalties as set forth in section 19H.201009.67, or both suspend the permit and
9 impose administrative 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.131009.60. CONDUCT VIOLATING TOBACCO CONTROL LAWS.**

14 (a) If the Director decides that the ~~p~~Permittee or the ~~p~~Permittee's agent or employee
15 has engaged in any conduct that violates local, state, or federal law applicable to ~~t~~Tobacco
16 ~~p~~Products or ~~t~~Tobacco ~~s~~Sales, including Administrative Code Chapter 105 (imposing Cigarette
17 Litter Abatement Fee), the Director may suspend a ~~t~~Tobacco ~~s~~Sales permit as set forth in
18 section 19H.191009.66, impose administrative penalties as set forth in section 19H.201009.67,
19 or both suspend the permit and impose administrative penalties.

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

23 **SEC. 19H.141009.61. CONDUCT VIOLATING CALIFORNIA PENAL CODE SECTION**
24 **308 (PROHIBITING THE SALE OF TOBACCO TO MINORS).**

1 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or
2 employee has engaged in any conduct that violates California Penal Code section 308
3 (prohibiting the sale of tobacco to minors), the Director may suspend a tobacco sales permit
4 as set forth in section 19H.191009.66.

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

7 **SEC. 19H.151009.62. CONDUCT VIOLATING CALIFORNIA LABOR CODE SECTION**
8 **6404.5 (PROHIBITING SMOKING IN ENCLOSED PLACES OF EMPLOYMENT).**

9 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or
10 employee has engaged in any conduct that violates California Labor Code section 6404.5
11 (prohibiting smoking in enclosed places of employment), the Director may suspend a tobacco
12 sales permit as set forth in section 19H.191009.66.

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

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

16 (a) Upon a decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's agent or
17 employee has obtained tobacco ~~s~~ales permit from the Department by fraudulent or willful
18 misrepresentation, the Director may suspend a ~~f~~Tobacco ~~s~~Sales permit as set forth in section
19 19H.191009.66.

20 (b) Upon a final decision by the Director that the ~~p~~Permittee or the ~~p~~Permittee's
21 agent or employee has obtained a ~~f~~Tobacco ~~s~~Sales permit from the Department by fraudulent
22 or willful misrepresentation, the Director may impose administrative penalties as set forth in
23 section 19H.201009.67.

1 (c) Upon a final decision by the Director that the pPermittee or the pPermittee's
2 agent or employee has obtained a #Tobacco sSales permit from the Department by fraudulent
3 or willful misrepresentation, the Director may revoke a #Tobacco sSales permit.

4 (d) Upon a final decision by the Director that the pPermittee or the pPermittee's
5 agent or employee has obtained a #Tobacco sSales permit from the Department by fraudulent
6 or willful misrepresentation, the Director may impose administrative penalties in addition to
7 either suspending or revoking the #Tobacco sSales permit.

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

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

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

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

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

23 (c) The City Attorney may maintain an action for injunction to restrain any
24 person from selling tobacco without a valid tobacco sales permit. In any such action, the City
25 Attorney may seek civil penalties and may seek a judicial determination that a person must

1 pay any administrative penalties. The person against whom an injunction issues also shall be
2 liable for the costs and attorney's fees incurred by the City and County of San Francisco in
3 bringing a civil action to enforce the provisions of the section.

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

9
10 **SEC. 19H.181009.65. OTHER ENFORCEMENT.**

11 * * * *

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

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

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

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

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

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

22 **SEC. 19H. 201009.67. ADMINISTRATIVE PENALTY.**

23 * * * *

24 **SEC. 19H.211009.68. NOTICE OF CORRECTION.**

1 When the Director commences an enforcement action with a notice of correction, the
2 Director shall serve the notice on the *p*Permittee or the *p*Permittee's agent. The notice shall
3 state that the Department has determined that a violation may have occurred and that
4 reasonable grounds exist to support this determination. The notice may require corrective
5 action immediately or upon a schedule required by the Director. The Director may require the
6 *p*Permittee to post the notice of correction at the location where the Department alleges that
7 violations have occurred. If the *p*Permittee fails to obey a notice of correction, the Director may
8 serve a notice of initial determination in accordance with section 19H.221009.69 of this Article.
9
10

11 **SEC. 19H.221009.69. NOTICE OF INITIAL DETERMINATION.**

12 * * * *

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

14 * * * *

15 **SEC. 19H.241009.72. APPEALS TO BOARD OF APPEALS.**

16 * * * *

17 **SEC. 19H.251009.73. OTHER REMEDIES.**

18 Nothing in this Article shall affect any other remedies which are available to the City
19 and County under any law, including (1) *San Francisco* Health Code Article 19Dsection-1009.1
20 (regulating cigarette vending machines); (2) *San Francisco* Police Code section 4600.3
21 (regulating the self-service merchandising of tobacco products); (3) *San Francisco* Health Code
22 Article 19Fsection-1009.22 (prohibiting smoking in enclosed areas and sports stadiums); (4)
23 California Penal Code section 308 (regulating sales of tobacco products to minors); and (5)
24 California Labor Code section 6404.5 (prohibiting smoking in enclosed places of
25 employment).

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

2 * * * *

3 **SEC. 19H.271009.75. CITY UNDERTAKING LIMITED TO PROMOTION OF THE**
4 **GENERAL WELFARE.**

5 * * * *

6 **SEC. 19H.281009.76. PREEMPTION.**

7 * * * *

8 **SEC. 19H.291009.77. SEVERABILITY.**

9 * * * *

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

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

14 Every person, firm or corporation engaged in tobacco sales shall pay an annual license
15 fee of ~~\$188~~ \$200 to the Tax Collector. The amount of the fee shall be determined and
16 published annually by the Department of Health based on the initial amount of \$188 set in
17 Ordinance 149-08 and adjusted thereafter under Section 76.1(c) of the Business and Tax
18 Regulations Code. The license fee set forth in this Section shall be paid annually on or before
19 March 31, in accordance with the provisions of Section 76.1 of the Business and Tax
20 Regulations Code.

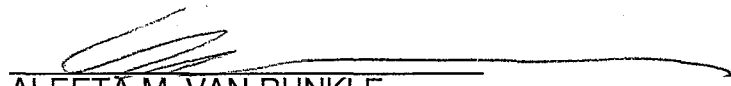
21 Section 4. Effective Date. This ordinance shall become effective 30 days after
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
24 of Supervisors overrides the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

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

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

10
11 APPROVED AS TO FORM:
12 DENNIS J. HERRERA, City Attorney

13 By:


14 ALEETA M. VAN RUNKLE
15 Deputy City Attorney

16 n:\egana\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.

The proposed amendments to Section 19H.6 have created additional exceptions for new permits applications:

Notwithstanding Section 19H.5 and Sections 19HA(f)(3),(4) ,(5) and (7),

(a) If an owner of a retail food store establishment as defined in the Planning Code or tobacco shop who holds a tobacco sales permit and has been in business for five years as of the effective date of this Section 19H.6, and submits an affidavit to the Director that attests to ownership of the business at the same location and under the same tobacco sales permit for five consecutive years immediately preceding submission of the affidavit and that also states that the owner is in negotiations with a specific buyer for the retail food store establishment or tobacco shop at that location, then that buyer ("new buyer") may apply for, and the Director may issue, a tobacco sales permit to the new buyer on a one-time basis.

(b) If the new buyer submits an affidavit to the Director, stating that the new buyer has been in business continuously as a retail food store establishment or tobacco shop at that same location under the tobacco retail sales permit obtained in accordance with subsection

(a) and also states that the new buyer has held the permit for at least 10 years, then a subsequent buyer of the retail food store establishment or tobacco shop at that location ("subsequent buyer") may apply for, and the Director may issue, a tobacco sales permit to the subsequent buyer on a one-time basis.

(c) A child of the owner of a retail food store establishment or tobacco shop that holds a tobacco sales permit as of the effective date of this Section 19H.6, may apply for, and the Director may issue, a tobacco sales permit to the child for that retail food store establishment or tobacco shop at that location.

(d) An owner of a retail food store establishment or tobacco shop holding a tobacco sales permit as of the effective date of this Section 19H.6, who must relocate under Chapter 348 of the Building Code may apply for, and the Director may issue, a new tobacco sales permit.

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.

Evans, Derek

From: Caldeira, Rick (BOS)
Sent: Wednesday, December 10, 2014 8:01 AM
To: Evans, Derek
Subject: Fwd: Item #46 at today's Board Meeting - BOS File No. 141098 Tobacco Sales Permit and Associated Fees

Begin forwarded message:

From: "Calvillo, Angela (BOS)" <angela.calvillo@sfgov.org>
Date: December 9, 2014 at 6:35:36 PM PST
To: "Caldeira, Rick (BOS)" <rick.caldeira@sfgov.org>
Subject: FW: Item #46 at today's Board Meeting - BOS File No. 141098 Tobacco Sales Permit and Associated Fees

A majority of the Board received this.
For the file please.
Thank you
Angela

From: Dick-Endrizzi, Regina (MYR) [<mailto:regina.dick-endrizzi@sfgov.org>]
Sent: Tuesday, December 09, 2014 1:50 PM
To: Mar, Eric (BOS); Campos, David (BOS); Cohen, Malia (BOS); Farrell, Mark (BOS); Kim, Jane (BOS); Avalos, John (BOS); Breed, London (BOS); Tang, Katy (BOS); Wiener, Scott; Yee, Norman (BOS)
Cc: BOS-Legislative Aides
Subject: Item #46 at today's Board Meeting - BOS File No. 141098 Tobacco Sales Permit and Associated Fees

Dear Supervisors,

At last night's Small Business Commission meeting the Commission hear BOS File No. 141098 Tobacco Sales Permit and Associated Fees. The Commission had unanswered questions and items for consideration, but as there is not time to address these question or concerns before you vote today, the Commission chose not to make a recommendation to support or not support. The Small Business Commission has instead chose to provide you with comments.

The Commission wants it to be clearly understood that the comments below do not denote a support for smoking or advocacy of tobacco products. In fact most Commissioner personally do not like smoking and the Commissioners are keenly aware of the destructive health issues associated with tobacco products, but that these products are legal. Therefore their responsibility is to assess any new policy and the implications to small businesses and the business environment, and to advise you accordingly.

Below is the list of the Commissioners comments:

- 1) SEC. 19H.5 Density Cap: The Commission did not accept the rational around of the determination of 45 for the cap. As presented the determination of 45 was an arbitrary determination. The Commission noted that such an arbitrary determination is poor policy making. The Commission believes that more time is needed to do a more detailed assessment and to take into consideration of the planned population growth that is ahead and allocations have some basis on population density both residential and transient.

- 2) SEC 19H.6: The Commission supports the amendments to this section and appreciates the acknowledgement of the importance not to strip small businesses of the equity and value they have worked hard to build in their businesses. The Commission support achieving a policy objective overtime through reasonably managed attrition. The Commission also appreciates Supervisor Mar's office understanding the importance of and including bar(s) that are deemed approved by the Department of Public Health to allow smoking and have a current tobacco permit to be included in SEC. 19H.6
- 3) SEC. 19H.6: The Commission recommends including for situations when a business is held as community property and the tobacco sales permit in under only one spouse or partner's name. That as long as the business retains its community property status it will not affect the status of the tobacco permit and its qualifications under SEC 19H.6. An example is the death of the spouse or partner listed on the tobacco permit.
- 4) The Commission does recommend allowance for permit relocation when the business relocate is not self-initiated by the owner. Such situations for consideration are: seismic work, fire, lease not renewed, property being sold.
- 5) The legislation needs clarification for applications currently in the application process but the approval date is after this item becomes law. Some of the permit applications do require conditional use and conditional use often takes 6+ months to complete.
- 6) The Commission noted that this legislation is specifically targeting tobacco and not all e-cigarettes utilize tobacco, some utilize nicotine. There are other nicotine devices such as Nicorette that are not subject to this law. At issue for the Commission is inconsistency in the application of definitions. The Commission believes more analysis needs to be done before a blanket policy block for this businesses newly established due to e-cigarettes. New businesses that open their business less than 5 years ago and their primary business is e-cigarettes will not meet the criteria 19H.6. Thus putting a great economic advantage to any business that qualifies under 19H.6. The Commission notes the business inequity this will create due to the policy of this legislation which driven by number of allowable permits.

Thank you for your consideration.

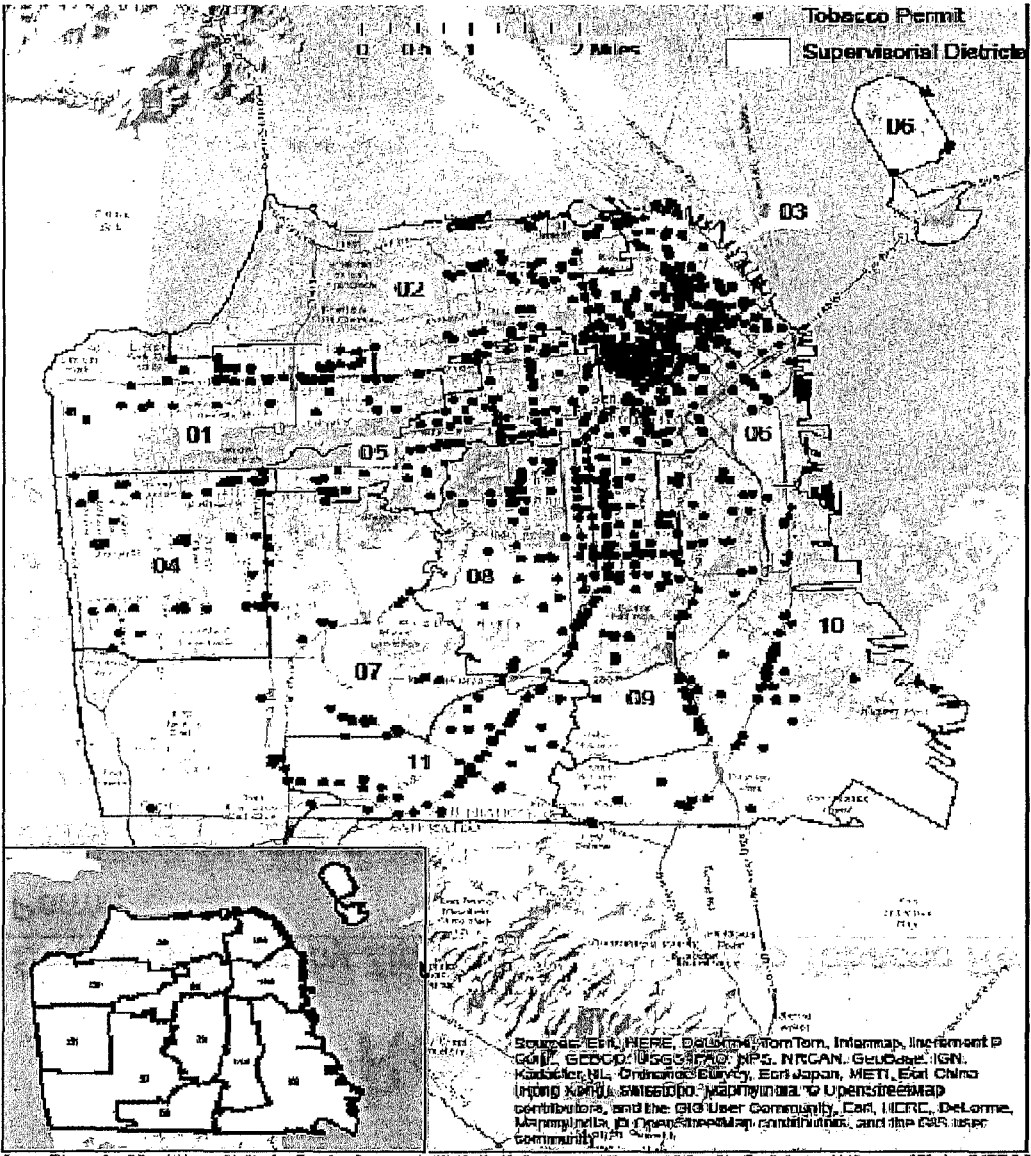
Kindly,

Regina Dick-Endrizzi | Executive Director | Office of Small Business
regina.dick-endrizzi@sfgov.org | D: 415.554.6481 | O: 415.554.6134 | c: 415.902-4573
City Hall, Suite 110 | San Francisco, CA 94102

www.sfgov.org/osb | www.facebook.com/SFOSB | www.twitter.com/sfosb

Distribution of Tobacco Permits in San Francisco

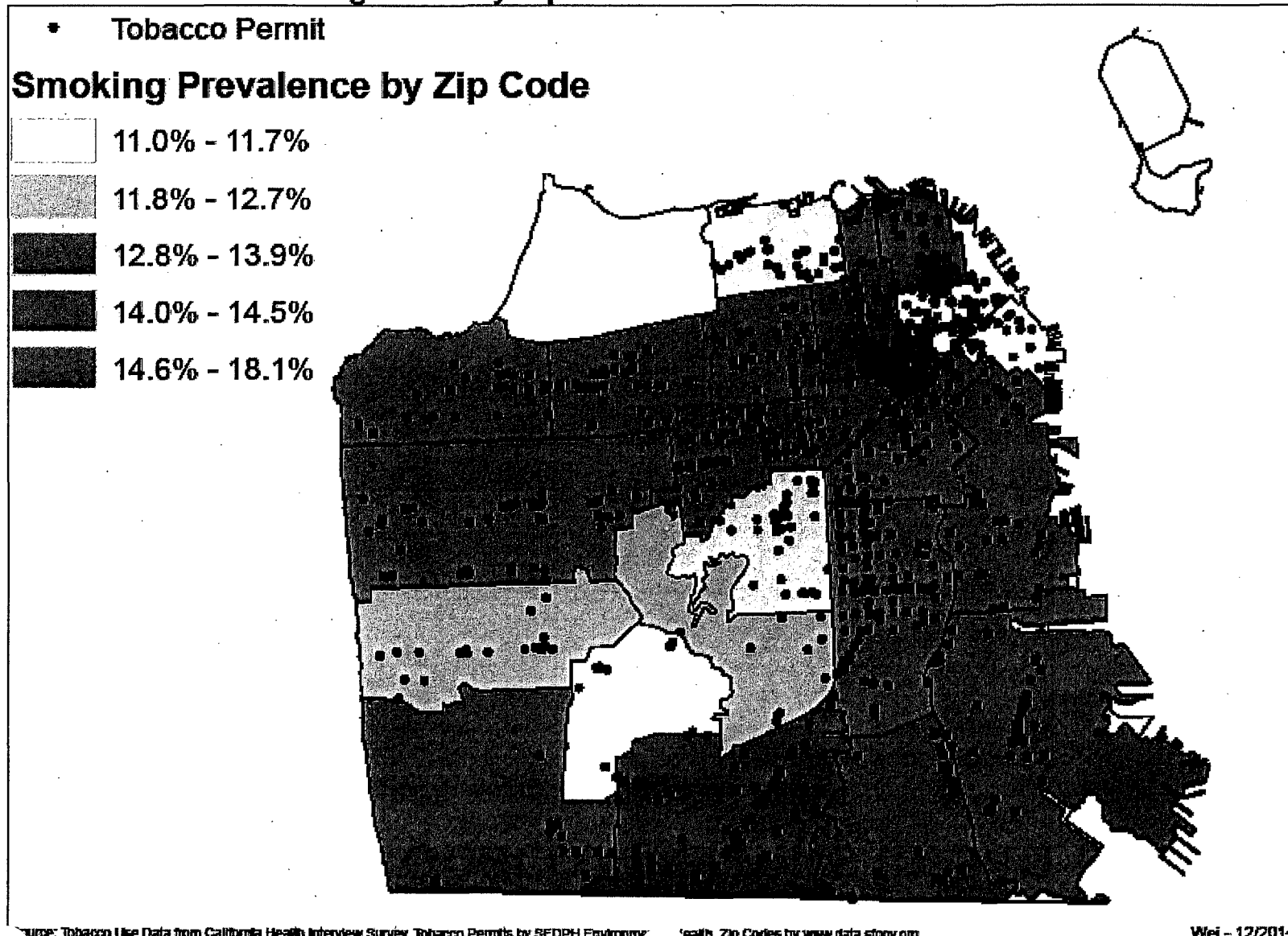
San Francisco Tobacco Permits - 2014



Source: Tobacco Retail Permit List provided by San Francisco Department of Public Health, Environmental Health and Office of the Tax Collector - 2014. Wei - 8/2014

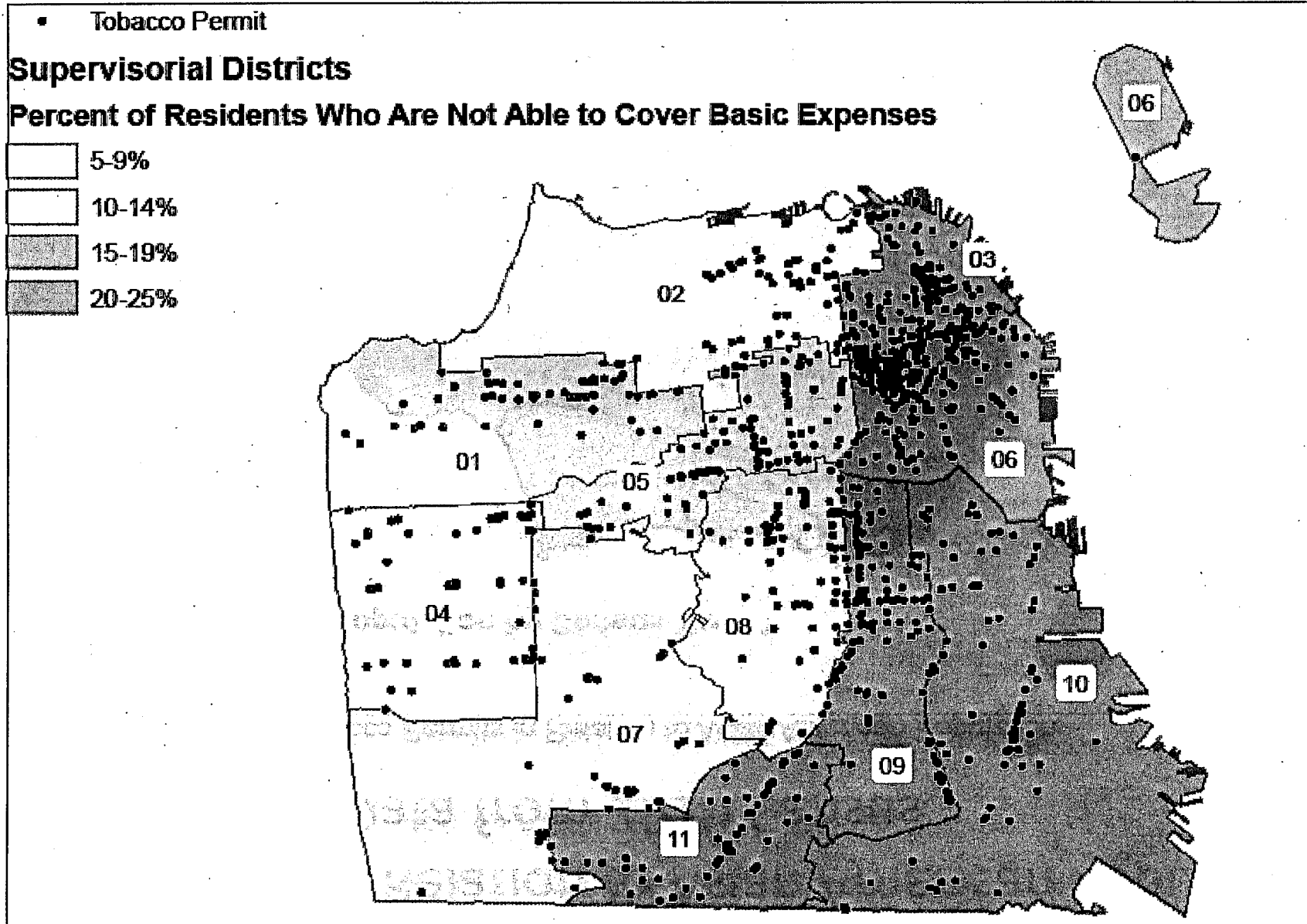
Smoking Prevalence in Relation to Tobacco Retailers

San Francisco Smoking Rates by Zip Code in Relation to Tobacco Retailers



Economic Status of San Francisco Residents

Socioeconomic Status in Relation to Tobacco Permits in San Francisco 2014



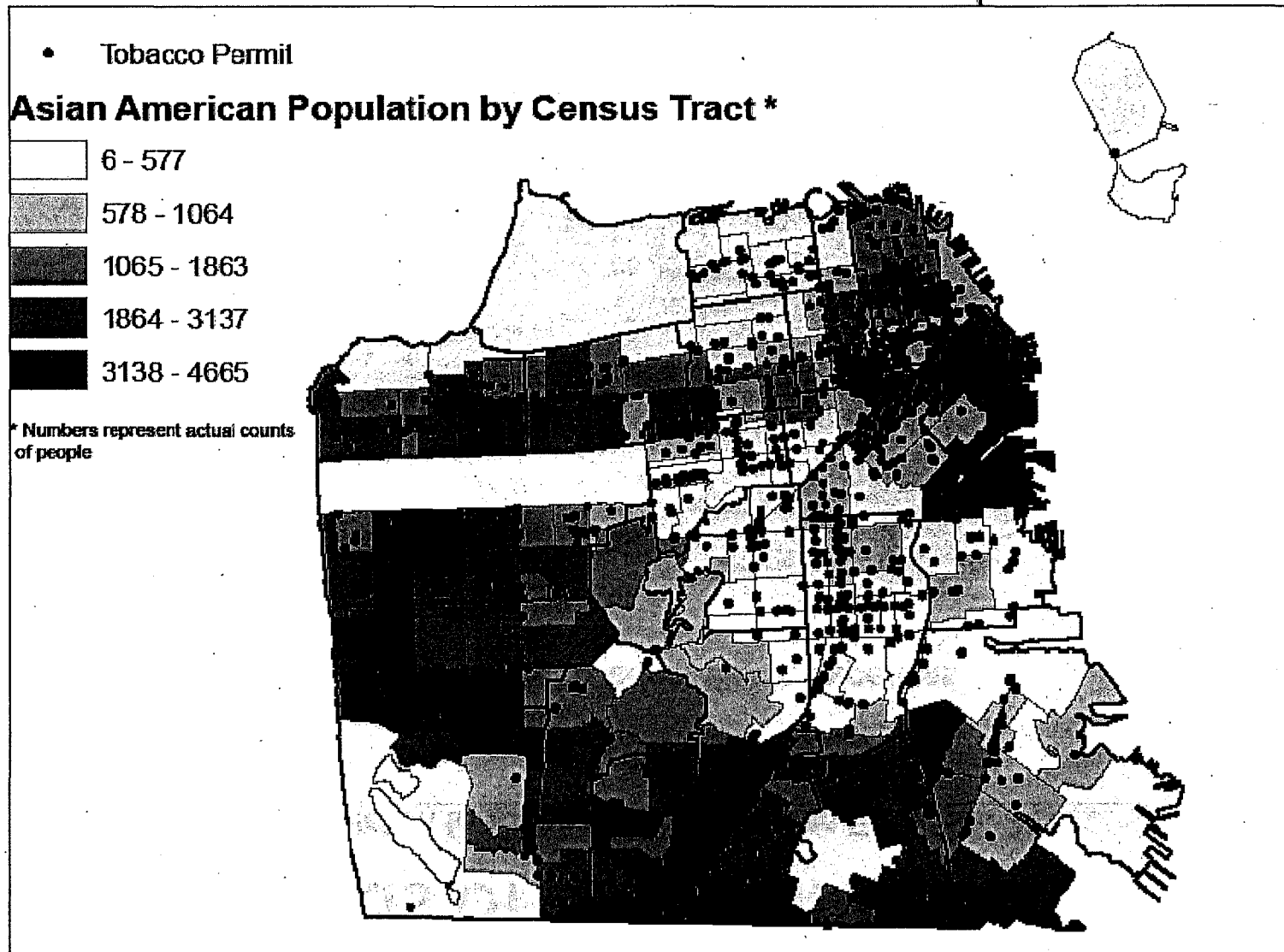
Source: Tobacco Retail Permit Limit provided by San Francisco Department of Public Health, Environmental Health and Office of the Tax Collector - 2014, BEB data from 2013 San Francisco City Survey Report

Wei - 11/2014

Tobacco Permits in Relation to Asian American Populations

Data from 2010 Census

San Francisco Tobacco Permits in Relation to Asian American Population



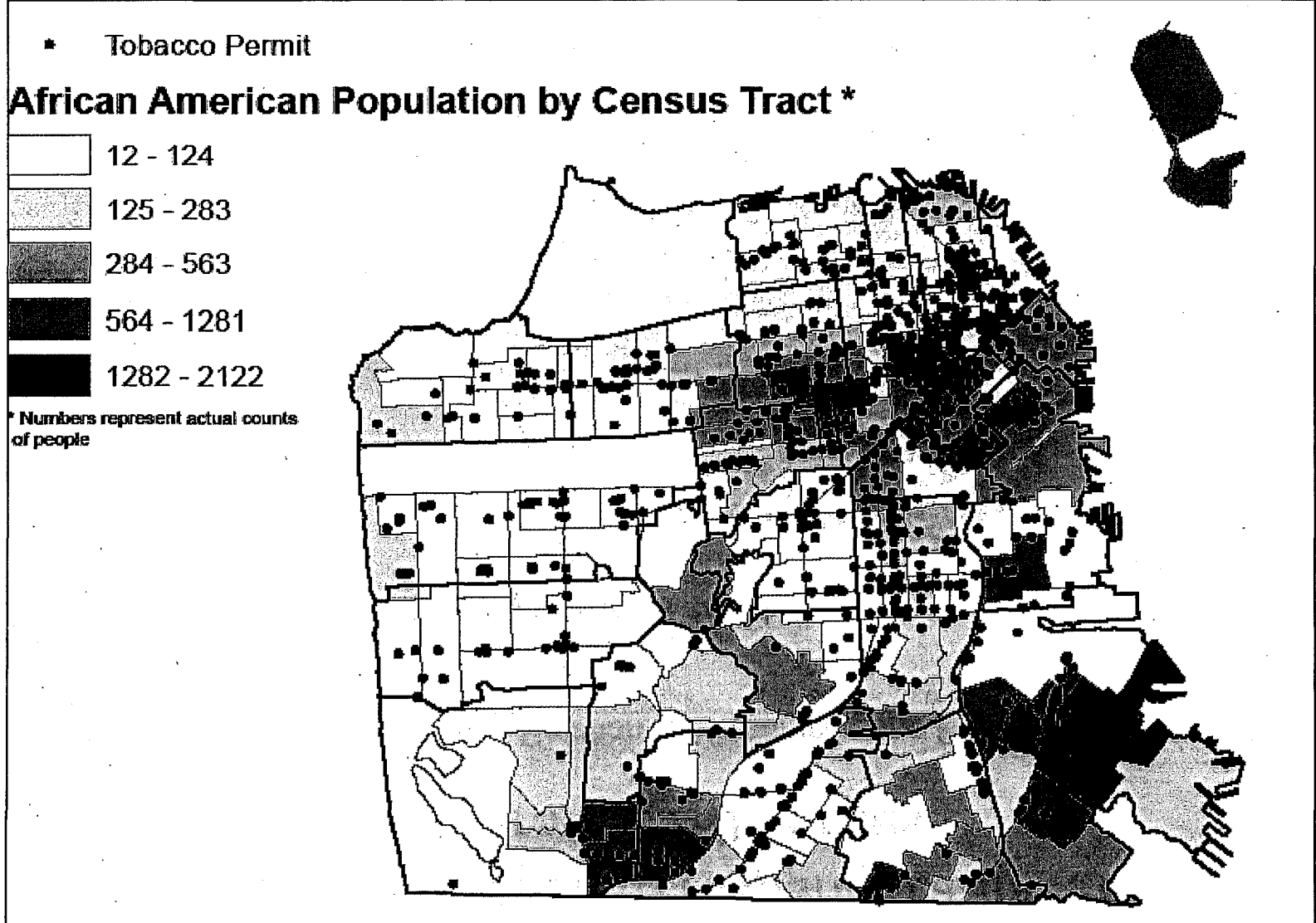
Source: Zip Codes and Population Data by www.census.gov, Tobacco Permit Data from SFDPH Environmental Health

Wei - 10/2014

Tobacco Permits in Relation to African American Populations

Data from 2010 Census

San Francisco Tobacco Permits in Relation to African American Population



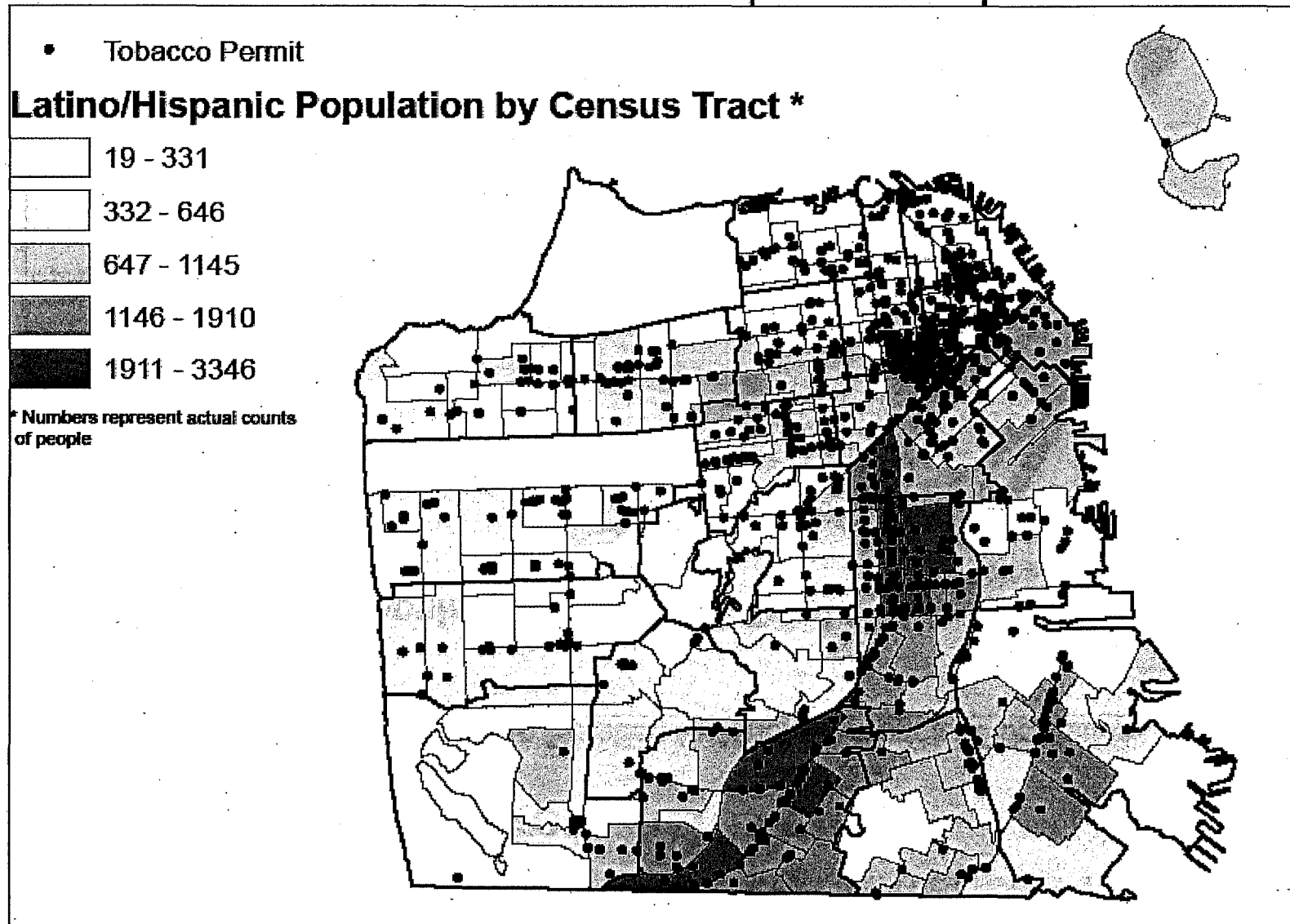
Source: Zip Codes and Population Data by www.data.gov.org, Tobacco Permit Data from SFDPH Environmental Health

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Tobacco Permits in Relation to Hispanic/Latino Populations

Data from 2010 Census

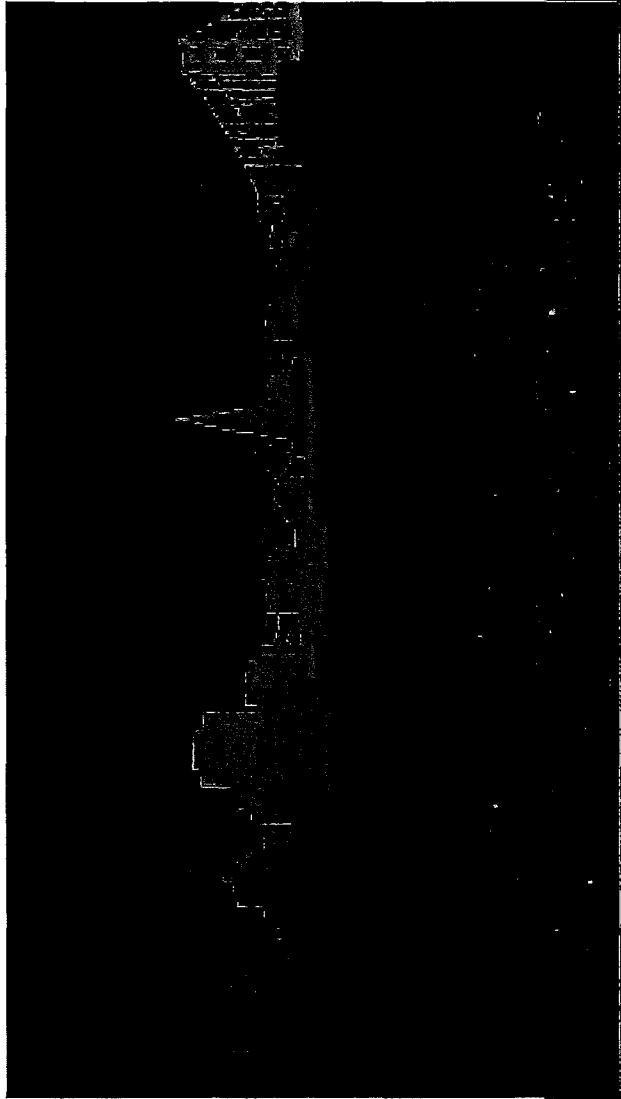
San Francisco Tobacco Permits in Relation to Hispanic/Latino Population



Source: Zip Codes and Population Data by www.data.sfgov.org, Tobacco Permit Data from SFDPH Environment & Health

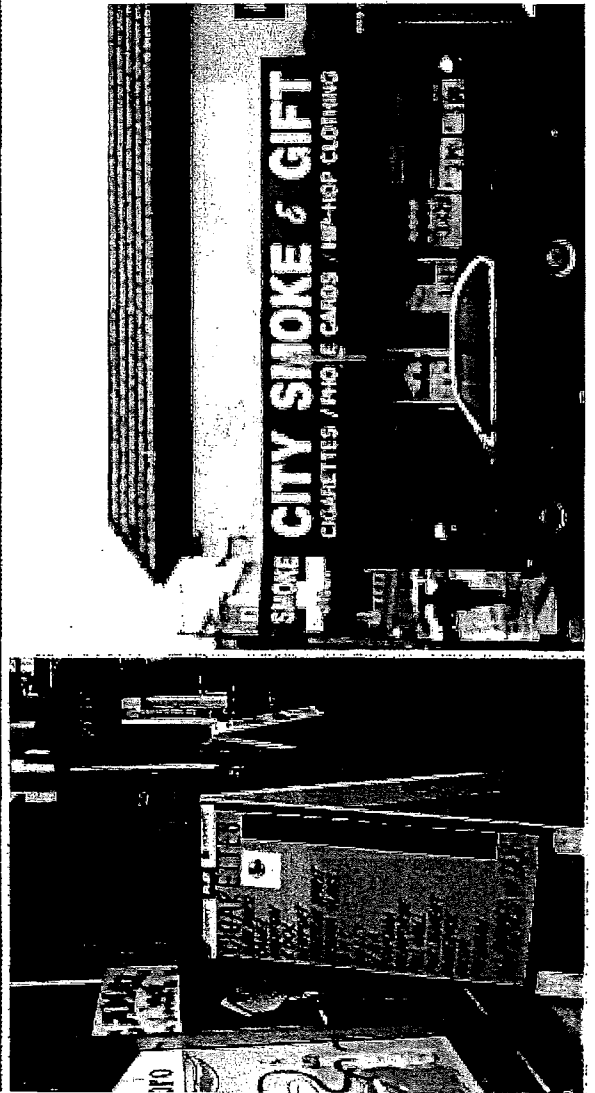
Key Points

- Areas with **lower socioeconomic status** and **higher ethnic minority populations** are associated with higher density of tobacco outlets
- Areas with higher concentrations of tobacco permits are associated with a higher prevalence of smoking
- Permits are disproportionately distributed among the supervisorial districts



TURF CAMPAIGN

TOBACCO USE ●
REDUCTION FORCE



ABOUT YLI

Introduction to Youth Leadership Institute

Building healthy communities through youth engagement and leadership development

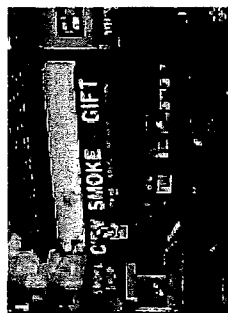
- Focus on environmental prevention and community level approach
- 4 Counties in California: San Mateo, Fresno, Marin, and SF
- Youth led action research



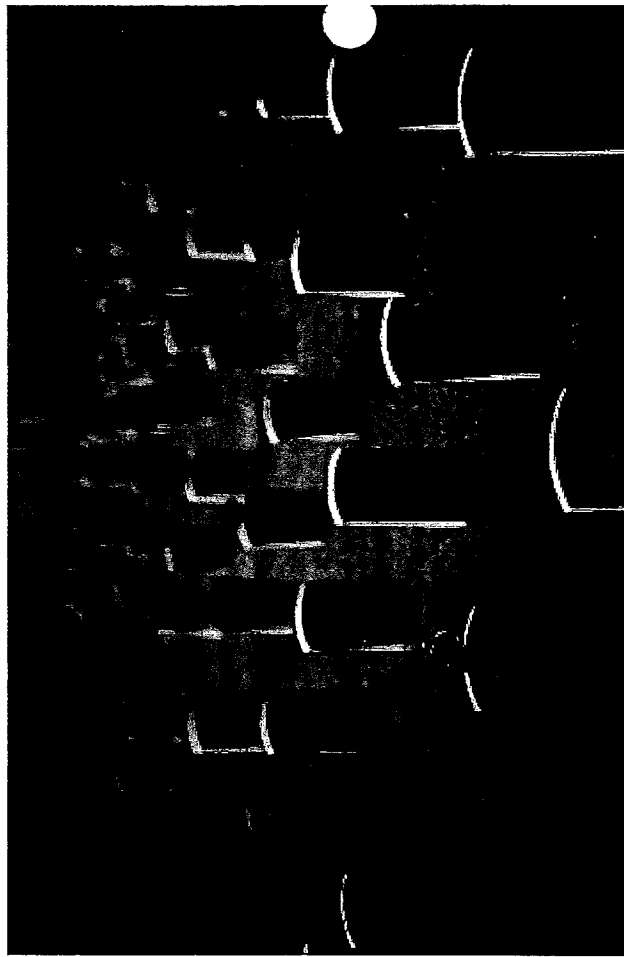
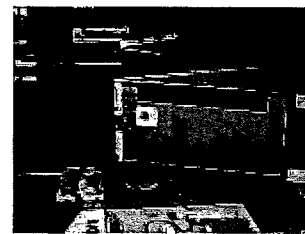
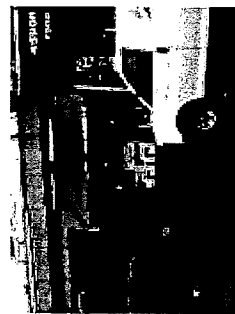
- The Tobacco Use Reduction Force “TURF” is a program of YLI that is a group of young leaders from all over San Francisco who are committed to protect the city’s health.
- Goal: reduce the negative health impacts of tobacco through a reduction in tobacco permits in SF.
- Impact: Community Level Change
- Have been working on tobacco density since 2008
- Youth between the ages 14 and 22 participated in several funding cycles
- Funding came from the Tobacco Free Project, SF Department of Public Health

The Inevitable Equation

More outlets= More Access= More Disease and Death



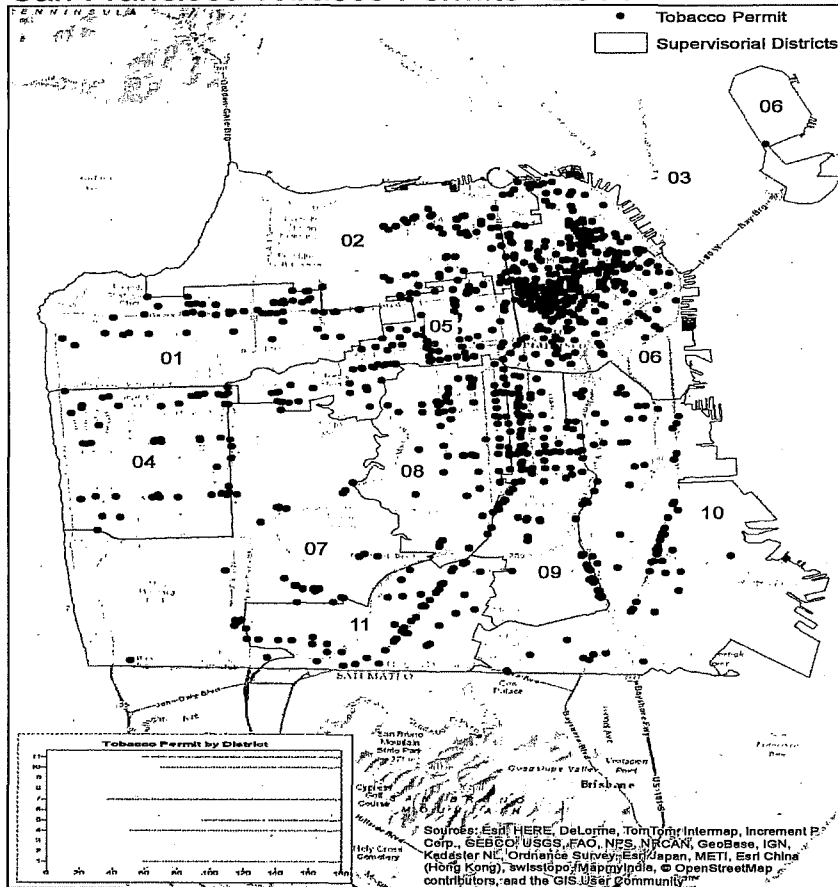
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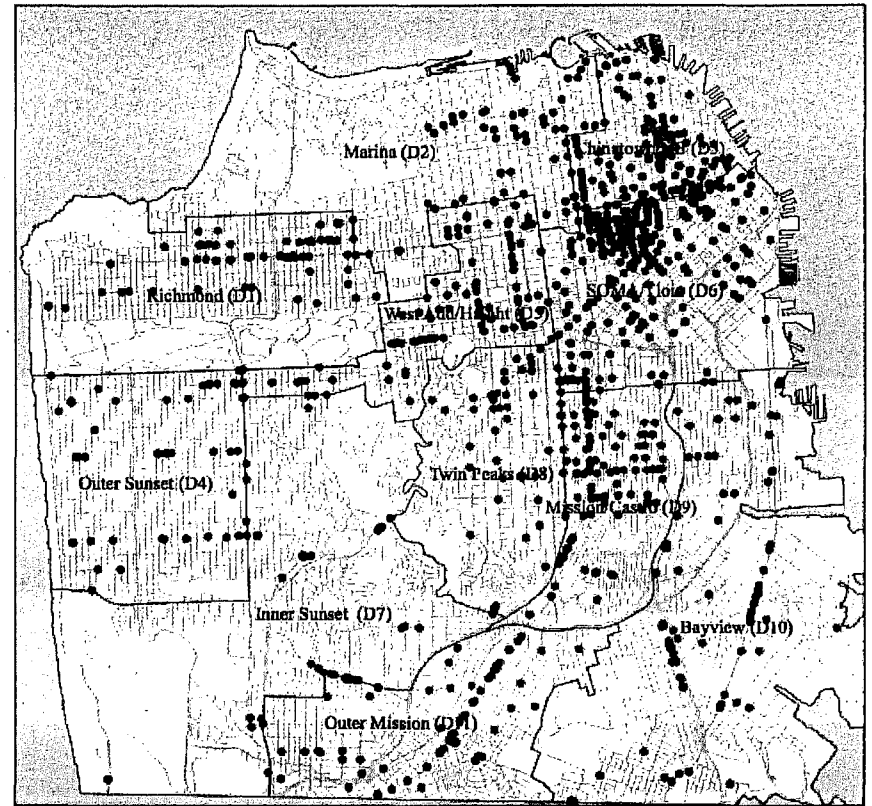
Distribution of SF's 1000+ Tobacco Retailers

Tobacco Outlets in San Francisco
by Supervisory Districts, 2011

San Francisco Tobacco Permits - 2014



Source: Tobacco Retail Permit List provided by San Francisco Department of Public Health, Environmental Health Wel - 9/14



Districts & Outlets

- Tobb_out11v2
- Supervisory Districts

October, 2011
1,001 outlets

516

OUR FACTS

Number and Density of Tobacco Retailers in San Francisco by District

District	# Of Stores that Sell Tobacco *	Tobacco Retailer Density (%)*	Median Household Income **	# Of stores / 10K pop
6 (SOMA/Federbldg)	270	27%	\$38,610	29
3 (Chinatown/North Beach)	147	14.69%	\$48,515	21
9 (Mission/Castro)	97	9.69%	\$69,193	15
5 (Western Addition/Haight)	95	9.49%	\$66,885	13
10 (Bayview)	81	8.09%	\$54,943	10
11 (Outer Mission)	73	7.29%	\$69,992	9
1 (Richmond)	59	5.89%	\$71,204	9
2 (Marina)	51	5.09%	\$102,457	8
4 (Outer Sunset)	46	4.60%	\$76,387	6
8 (Twin Peaks)	45	4.50%	\$93,576	7
7 (Inner Sunset)	37	4.27%	\$92,768	5
Total	1,001			

* Data from TFP Analysis of SF Tax Collector Data, 2011

** Data from "At a Glance: San Francisco Socio-Economic Profile, 2005-2009 American Community Survey", SF Planning Dept.


POLICY GOAL

Our policy goal is to address the issue of health inequity by ensuring a gradual reduction in the availability and distribution of tobacco permits over time.

PUBLIC SUPPORT for Policy

- In a 2009 survey of San Francisco residents in 4 different neighborhoods, 83% supported limits on tobacco outlets selling cigarettes in low income communities with large numbers of children and youth populations.
- In a 2012 survey of San Francisco residents in all neighborhoods showed:
 - 88% of people interviewed agreed that too many tobacco outlets selling cigarettes is bad for their communities health
 - 87% support a policy that will reduce the number of tobacco products available
 - 78% believe that one outlet selling tobacco products every block was too many.

OUTREACH & SUPPORT



The following support the Tobacco Use Reduction Force (TURF) policy campaign to protect the health of all San Franciscans by creating a more equitable environment with fewer tobacco permits.

Commissions/Coalitions

- San Francisco Health Commission
- San Francisco Youth Commission
- San Francisco Tobacco Free Coalition
- Transitional Age Youth Initiative of San Francisco, Young Adult Advisory Board

Health & Policy Organizations

- Alcohol Justice
- BREATHE California
- California LGBT Tobacco Education Partnership
- Center for Policy Analysis on Trade and Health (CPATH)
- Freedom From Tobacco
- Sunset Russian Tobacco Education Project

Community Based & Youth Organizations


- Asian American Recovery Services (AARS)
- Asian Youth Prevention Services (AYPS)
- Bayview Hunters Point Food Guardians
- BMAGIC/Public Defender's Office
- Chinese Progressive Association (CPA)
- Community Youth Center of San Francisco (CYC)
- Dolores Street Community Services (DSCS)
- Filipino Community Center (FCC)
- Girls After School Academy (GASA)
- Homies Organizing the Mission to Empower Youth (HOMEY)
- Horizons Unlimited
- Mujeres Unidas y Activas (MUA)
- People Organized to Defend Environmental and Economic Rights (PODER)
- South of Market Community Action Network (SOMCAN)
- Teachers 4 Social Justice

Community and Economic Development

- Mission Economic Development Agency (MEDA)
- Tenderloin Neighborhood Development Corporation (TNDC)

Businesses

- United Whole Health



The following support the Tobacco Use Reduction Force (TURF) policy campaign to protect the health of all San Franciscans by creating a more equitable environment with fewer tobacco permits.

Individuals

- Ruth Malone, Professor and Chair, Dept of Social and Behavioral Sciences, School of Nursing, UCSF*
- Catherine Mongeon, Staff Attorney at ChangeLab Solutions*
- Ian McLaughlin, Senior Staff Attorney at ChangeLab Solutions*
- Ruth Barajas, Project Director for Bay Area Community Resources*
- Dennis Kim, Associate Artistic Director, Youth Speaks*
- Lali Sells, Health Educator with the National Council on Alcoholism and Other Drug Addictions*
- Dairo Romero, Director of Programs, Mission Economic Development Agency MEDA*
- Fernando Enciso-Marquez, BMAGIC Program Coordinator*
- Naved Husain, UNITE HERE Local 2 Organizer *
- Jeffrey Betcher
- Joseph Smooke, Co-Founder of People Power Media*
- Ariana Gil Nafarrate
- TC Duong
- Shane Maldonado, Consultant
- Annie Gresham, Quality Assurance Coordinator for Respiratory Care Services, Children's Hospital & Research Center Oakland*
- Josh Zukerman, Former Youth Commissioner for District 1*
- Joseph Bleckman, UC Hartings Law Student*

*Title listed for identification purposes only

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

ello,

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

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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.

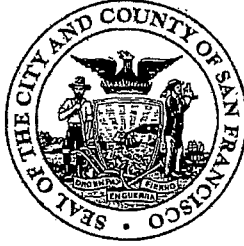
Derek K. Evans

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

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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 "AC", 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: Jones, Paula (DPH)
Sent: Wednesday, December 03, 2014 6:03 PM
To: Evans, Derek
Cc: Lim, Victor (BOS); Pagoulatos, Nickolas (BOS)
Subject: Attn: Clerk of the Board, File No: 141098
Attachments: SFHIP Tobacco Density Ordinance Endorsement final1.pdf

Hi Derek,

I am sending this letter on behalf of the San Francisco Health Improvement Partnership (SFHIP) 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!

Paula

Paula Jones, Ph.D.

Office of Equity and Quality Improvement
Population Health Division
San Francisco Department of Public Health
1390 Market Street, #210 | San Francisco, CA 94102
(415) 252-3853 Phone | Paula.Jones@sfdph.org
www.sfdph.org
www.sfdph.org/foodsecurity

Our Mission: Drawing upon community wisdom and science, we support, develop, and implement evidence-based policies, practices, and partnerships that protect and promote health, prevent disease and injury, and create sustainable environments and resilient communities.

Our Vision: To be a community-centered leader in public health practice and innovation.

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SAN FRANCISCO HEALTH IMPROVEMENT PARTNERSHIP

Ensure Safe + Healthy Living Environments
Increase Healthy Eating + Physical Activity
Increase Access to High Quality Health Care + Services

Steering Committee

Kevin Grumbach, M.D. (Co-chair)
University of California San Francisco

Estela Garcia (Co-Chair)
Chicano/Latino/Indigena Health Equity Coalition

Tomás Aragón, M.D., DrPH
San Francisco Department of Public Health

Tessa Rouverol Callejo
The San Francisco Foundation

Kim Coates
San Francisco Unified School District

Stuart Fong
Chinese Hospital

Jim Illig
Kaiser Permanente Foundation

Neil Iyer
Fund

Lani Kent
San Francisco Mayor's Office

Deena Lahn
San Francisco Community Clinic Consortium

Perry L. Lang
African American Community Health Equity Coalition

Barry Lawlor
St. Mary's Medical Center, Dignity Health

Amor Santiago, DPM, MPH
API Health Parity Coalition

Veronica Shepard
Bayview Health & Wellness Center

Cecilia Thomas
Sutter Health California Pacific Medical Center

Abbie Yant, RN, MA
Saint Francis Memorial Hospital (Dignity Health)

November 26, 2014

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

We are writing on behalf of the San Francisco Health Improvement Partnership in support of the proposed Tobacco Permit Density Reduction Policy.

SFHIP is a cross-sector initiative designed to improve the health and wellness of all San Franciscans. The Steering Committee, which serves as the SFHIP governing body, aims to facilitate alignment of San Francisco's health priorities, resources, and actions; ensure health equity is addressed throughout program planning and service delivery; and promote community connections that support health and wellbeing. The road map for SFHIP is San Francisco's Community Health Improvement Plan (CHIP). The CHIP identifies San Francisco's health priorities as well as goals, objectives, measures, and strategies for each priority.

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. The proposed ordinance will help advance the CHIP priority area of Ensuring Safe and Healthy Living Environments.

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 Health Improvement Partnership applauds your efforts to promote the public health while strengthening community.

Sincerely,

Kevin Grumbach, MD
Steering Committee Co-Chair, SFHIP
Director of CTSI Community
Engagement and Health Policy
Program UCSF &
Professor and Chair, UCSF Department
of Family and Community Medicine

Estela R. Garcia, DMH
Steering Committee Co-Chair, SFHIP
Chair, Chicano/Latino/Indígena Health
Equity Coalition & Executive Director,
Instituto Familiar de la Raza, Inc.



SAN FRANCISCO TOBACCO FREE COALITION

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

*File # 141098
NSS Committee*

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

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO

2014 NOV 20 AM 9:48

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,

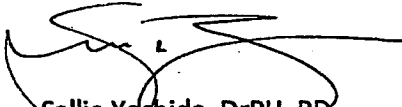
I am writing this letter on behalf of The Sarah Samuels Center for Public Health Research & Evaluation in support of the Tobacco Permit Density Reduction Policy (File No: 141098) that will be heard on December 4, 2014 before the Neighborhood Services and Safety Committee.

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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 Commission & 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

---

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".

---

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

**Evans, Derek**

---

**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**

**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

---

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.**

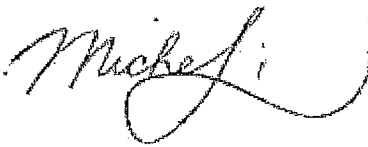
The Youth Commission's support for the ordinance is based in our respect for the impressive youth- and community-led effort to reduce tobacco use in our city's neighborhoods.

\*\*\*

**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.



---

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

Dele 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.

Handwritten signature of Angela Calvillo in black ink.

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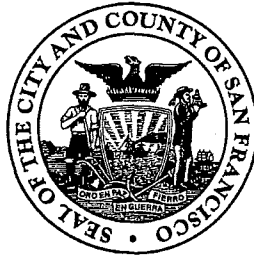
#### NOTICE OF PUBLIC HEARING - NEIGHBORHOOD SERVICES AND SAFETY COMMIT- TEE - SAN FRANCISCO BOARD OF SUPERVISORS - THURS- DAY, DECEMBER 4, 2014, 3:00 PM - LEGISLATIVE CHAMBER, ROOM 250, CITY HALL, 1 DR. CARLTON B. GOODLETT PLACE, SAN FRANCISCO, CA.

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 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.



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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 "Derek Evans".

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  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
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## MEMORANDUM

### NEIGHBORHOOD SERVICES & SAFETY COMMITTEE

### SAN FRANCISCO BOARD OF SUPERVISORS

TO: Supervisor David Campos, Chair  
Neighborhood Services & Safety Committee

FROM: Derek Evans, Assistant Committee Clerk

DATE: December 5, 2014

SUBJECT: **COMMITTEE REPORT, BOARD MEETING**  
Tuesday, December 9, 2014

The following file should be presented as a **COMMITTEE REPORT** at the Board meeting, Tuesday, December 9, 2014. This item was acted upon at the Neighborhood Service and Safety Committee rescheduled meeting on Thursday, December 4, 2014, at 3:00 p.m., by the votes indicated.

**Item No. 1**                      **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.

AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Vote: Supervisor David Campos - Aye  
Supervisor Eric Mar - Aye  
Supervisor Norman Yee - Excused

RECOMMENDED AS AMENDED AS A COMMITTEE REPORT

Vote: Supervisor David Campos - Aye  
Supervisor Eric Mar - Aye  
Supervisor Norman Yee - Excused

Cc: Board of Supervisors  
Angela Calvillo, Clerk of the Board  
Rick Caldeira, Legislative Deputy  
Jon Givner, Deputy City Attorney



DAVID CAMPOS

---

DATE: November 26, 2014

TO: Angela Calvillo  
Clerk of the Board of Supervisors

FROM: Supervisor David Campos

RE: Neighborhood Services and Safety Committee  
COMMITTEE REPORT

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Pursuant to Board Rule 4.20, as Chair of the Neighborhood Services and Safety Committee, I have deemed the following matter is of an urgent nature and request it be considered by the full Board on December 9, 2014, as a Committee Report:

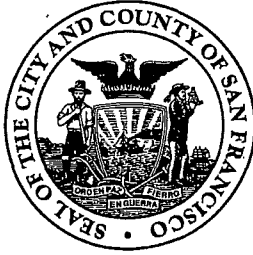
**141098 Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees**

Ordinance amending the Health Code by adding density, proximity, and sales establishment limitations on the granting of new tobacco sales permits, 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 matter will be heard in the Neighborhood Services and Safety Committee Rescheduled Meeting on December 4, 2014, at 3:00 p.m.

A handwritten signature in black ink that reads "David Campos".

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

---

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

Handwritten signature of Karen Licavoli in cursive script.

Handwritten signature of Tonya Williams in cursive script.

**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: