



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2604

STAFF REPORT
March 6, 2012

Honorable Members of the
Law and Legislation Committee

Title: Zoning Code Amendment Relating to Tobacco Retailing Near Schools (M10-021)

Location/Council District: Citywide

Recommendation: It is recommended that the Law and Legislation Committee review and recommend approval of the proposed ordinance amending the Zoning Code relating to the sale of tobacco near schools and forward its recommendation to the City Council.

Contact: Joy Patterson, Principal Planner, (916) 808-5607

Presenter: Joy Patterson, Principal Planner, (916) 808-5607

Department: Community Development

Division: Planning

Organization No: 21001221

Description/Analysis:

Issue: At the City Council meeting of January 12, 2010, Council member McCarty and Sheedy noted that there was an effort in California communities to explore regulations regarding limitations of distance and hours of operation on the sale of tobacco products near schools. The City Council directed staff to bring forward a discussion on the sale of tobacco products near schools to the Law and Legislation Committee. At the committee meetings of January 18, 2011 and October 18, 2011, committee members discussed the policies surrounding tobacco sales within 1,000 feet of schools. The committee directed Planning staff to prepare an ordinance for the review and recommendation of the Planning Commission requiring a zoning administrator's special permit for tobacco retailers within 1,000 feet of a school and to return to the Law and Legislation Committee after the Planning Commission hearing.

The proposed code amendment adds definitions to Title 17 for "tobacco retailer" and "tobacco product". These definitions are the same as those found in Title 5 of the City Code. The land use chart is proposed for amendment to allow

tobacco retailers in the zones where retail is a permitted use as well as in the HC zone which does not otherwise allow retail stores. Footnote 89 will be added to indicate that in the zones where retail is a permitted use a zoning administrator special permit is required if the tobacco retailers is located within 1,000 feet of a public or private school (K-12) and the tobacco retailers is 15,000 square feet in gross floor area or less. Footnote 90 will be added to allow tobacco retailers in the HC zone if the tobacco products are limited to not more than 10% of the gross square footage of floor area. In addition, a zoning administrator's special permit is required for a tobacco retailer in the HC zone that has 15,000 square feet or less of gross floor area and is located within 1,000 feet, measured from the nearest property lines of the affected parcels, of a public or private school (K-12).

Committee/Commission Action: On January 26, 2012 the proposed ordinance was heard by the Planning Commission. Tobacco retailers, Sacramento business associations and members of the public who attended previous Law & Legislation Committee meetings were informed of the hearing. Two members of the public spoke in support of the proposed amendment. By a vote of 9 ayes, 0 noes, 0 absent (2 vacant), the Planning Commission recommended that the City Council approve the proposed Zoning Code amendment to require a Zoning Administrator Special Permit for tobacco retailers within 1000 feet of a school.

Policy Considerations: The City of Sacramento 2030 General Plan policies encourage a healthy lifestyle for Sacramento residents to improve overall public health. The Public Health and Safety Goal 5.1 states that a goal of the General Plan is to: "Improve the provision of human services and promote public health and safety."

Environmental Considerations:

California Environmental Quality Act (CEQA): The proposed ordinance, which imposes regulations and permit requirements on tobacco retailers, is a general policy and procedure making activity, not conducted in conjunction with a specific project. As such, the proposed ordinance is not a project under the California environmental Quality Act (CEQA) under CEQA Guidelines section 15378(b)(2).

Sustainability Considerations: None

Rationale for Recommendation: The proposed ordinance is consistent with General Plan policies to promote a healthy lifestyle for residents of the City of Sacramento.

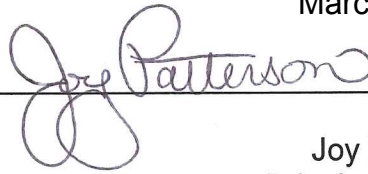
Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Tobacco Retailing Near Schools
(M10-021)

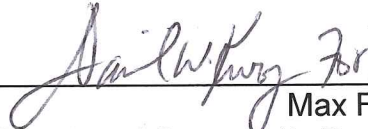
March 6, 2012

Respectfully Submitted by:



Joy Patterson
Principal Planner

Approved by:



Max Fernandez
Director of Community Development

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ORDINANCE NO.

Adopted by the Sacramento City Council

**AN ORDINANCE AMENDING SECTIONS
17.16.010, 17.24.030, AND 17.24.050 OF TITLE 17 OF
THE SACRAMENTO CITY CODE (THE ZONING
CODE) RELATING TO TOBACCO RETAILERS
(M10-021)**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 17.16.010 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. A definition for “tobacco retailer” is added to Section 17.16.010 to read as follows:

“Tobacco retailer” means any person who sells, offers for sale, exchanges, or offers to exchange, for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, offered for sale, exchanged, or offered for exchange. Tobacco retailer includes a tobacco store.

B. A definition for “tobacco product” is added to Section 17.16.010 to read as follows:

“Tobacco product” means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco.

C. Except as specifically amended by adding a definition for “tobacco retailer” and “tobacco product” as set forth in subsections A and B, above, Section 17.16.010 remains unchanged and in full force and effect.

SECTION 2.

Section 17.24.030 Commercial Land Use Chart of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. The matrix set forth in Table 17.24.030 A is amended to add “tobacco retailer” to read as follows:

Uses Allowed	RE	R-1	R-1A	R-1B	R-2	R-2A	R-2B	R-3	R-3A	R-4	R-4A	R-5	RMX	RO	OB
<u>Tobacco retailer*</u>											<u>7/89</u>	<u>7/89</u>	<u>69/89</u>		<u>64/18/89</u>

B. The matrix set forth in Table 17.24.030 B is amended to add “tobacco retailer” to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	AOB	F	AR-P-F	
<u>Tobacco retailer*</u>	<u>53/89</u>	<u>16/90</u>	<u>15/89</u>	<u>89</u>	<u>89</u>	<u>89</u>	<u>12/89</u>	<u>12/89</u>	<u>12/20/89</u>	<u>12/89</u>	<u>12/20/89</u>				<u>14/70/89</u>						

C. Except as specifically amended to add “tobacco retailer” to the land use matrix, Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

SECTION 3.

Section 17.24.050 of Title 17 of the Sacramento City Code (the Zoning Code) is amended as follows:

A. Footnote 89 is added to Section 17.24.050 to read as follows:

89. Tobacco retailers. Tobacco retailers are allowed in this zone. A zoning administrator special permit is required for a tobacco retailer that has 15,000 square feet or less of gross floor area and is located within 1,000 feet, measured from the nearest property lines of the affected parcels, of a public or private school (K—12).

B. Footnote 90 is added to Section 17.24.050 to read as follows:

90. Tobacco retailers. Tobacco retailers are allowed in this zone if the space allocated to tobacco products does not exceed 10% of gross square footage of floor area. A zoning administrator special permit is required for a tobacco retailer that has 15,000 square feet or less of gross floor area and is located within 1,000 feet, measured from the nearest property lines of the affected parcels, of a public or private school (K—12).

C. Except as specifically amended to add footnotes 89 and 90, Section 17.24.050 remains unchanged and in full force and effect.

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Tobacco retailer*											7/89	7/89	69/89		64/18/89

B. The matrix set forth in Table 17.24.030 B is amended to add “tobacco retailer” to read as follows:

Uses Allowed	EC	HC	SC	C-1	C-2	C-3	C-4	M-1	M-1(S)	M-2	M-2(S)	MIP	MRD	H	SPX	TC	A	ACS	F	AR-P-F	
Tobacco retailer*	53/89	16/90	15/89	89	89	89	12/89	12/89	12/20/89	12/89	12/20/89				14/70/89						

C. Except as specifically amended to add “tobacco retailer” to the land use matrix, Section 17.24.030 and Tables 17.24.030 A and 17.24.030 B remain unchanged and in full force and effect.

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C. Except as specifically amended to add footnotes 89 and 90, Section 17.24.050 remains unchanged and in full force and effect.