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Adopted 10/29/2024
Board of Supervisors
DOC-2024-810 18.a

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

ORDINANCE NO. 5461

**ORDINANCE AMENDING CHAPTER 5.60 OF THE SANTA CRUZ COUNTY
CODE REGARDING TOBACCO RETAILING LICENSE TO PROHIBIT SALE
OF FILTERED TOBACCO PRODUCTS**

The Board of Supervisors of the County of Santa Cruz hereby finds and declares the following:

WHEREAS, cigarette filters, or butts, are the most littered item on Santa Cruz County's riverways and beaches, where they are washed into the Monterey Bay and contribute to a common form of litter in the world's oceans; and

WHEREAS, cigarette butts are an unsightly blight on Santa Cruz County sidewalks, parks, playgrounds, recreation trails, and other public spaces; and

WHEREAS, cigarette butts are made of cellulose acetate, a non-biodegradable plastic, which breaks down into microplastics and bioaccumulates in marine organisms; and

WHEREAS, cigarette butts are not just litter but toxic waste, leaching dangerous chemicals such as lead, arsenic, and nicotine in the environment; and

WHEREAS, improperly discarded cigarette butts can poison small children, pets, wildlife, and marine life; and

WHEREAS, improperly discarded cigarette butts are a fire hazard, responsible for burning 88,898 acres in California since 1980; and

WHEREAS, cigarette butts do not actually filter out harmful chemicals from cigarette smoke and provide no demonstrated health benefits to smokers; and

WHEREAS, emerging forms of tobacco waste include electronic cigarettes or vaping devices, and the e-juice, cartridges, batteries, and accessories associated with them; and

WHEREAS, tobacco waste is a health equity issue, disproportionately found in lower income communities and communities of color; and

WHEREAS, tobacco manufacturers take no responsibility for tobacco waste, forcing the physical and financial burden of cleanup onto local government agencies and volunteer organizations; and

WHEREAS, previous approaches including anti-litter laws, anti-smoking signage, increased waste disposal containers, smoking prohibitions in public places and robust cleanup efforts have failed to solve the problem; and

WHEREAS, on May 16, 2023, the Board of Supervisors of the County of Santa Cruz adopted Resolution No. 101-2023 that declared tobacco waste a public health and environmental threat to the residents of the County of Santa Cruz; and

WHEREAS, Resolution No. 101-2023 also created a tobacco waste ad hoc committee to work with County staff and local stakeholders to create a process for advancing policies to reduce or eliminate cigarette butt litter, including drafting an ordinance that would prohibit the sale of plastic filtered tobacco products in the County of Santa Cruz; and

WHEREAS, it is appropriate to update certain provisions of Chapter 5.60 of the Santa Cruz County Code to prohibit the sale of filtered tobacco products;

NOW, THEREFORE, the Board of Supervisors of the County of Santa Cruz hereby ordains as follows:

SECTION I

Subsections (B) and (C) of Section 5.60.010 of the Santa Cruz County Code are hereby amended to read:

5.60.010 Purpose and application.

(B) State law permits local governments to enact local tobacco retail licensing ordinances and allows for the suspension or revocation of a local license for a violation of any State tobacco control law. State law further permits local governments to restrict the sale of tobacco products beyond the restrictions that have been imposed by the State legislature.

(C) This chapter is adopted to (1) ensure compliance with business standards and practices of the County; (2) encourage responsible tobacco retailing; (3) discourage violations of tobacco-related laws; and (4) address the environmental harm and reduce the clean-up costs to the County that arise from the widespread availability of cigarettes and cigars which are marketed as “filtered.” This chapter is not intended to expand or reduce the degree to which

the acts regulated by federal or State law are criminally proscribed or otherwise regulated.

SECTION II

Section 5.60.020 of the Santa Cruz County Code is hereby amended to read:

5.60.020 Definitions.

(A) “Characterizing flavor” means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a tobacco product shall not be determined to have a characterizing flavor solely because of the use of additives or the provision of ingredient information.

(B) “Cigar” means any roll of tobacco wrapped entirely or in part in leaf tobacco or any substance containing tobacco.

(C) “Cigarette” means:

(1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and

(2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.

(D) “Consumer” means a person who purchases a tobacco product for consumption and not for sale to another.

(E) “Department” means the Santa Cruz County Health Services Agency.

(F) “Drug paraphernalia” shall have the definitions set forth in California Health and Safety Code Section 11014.5, as that section may be amended from time to time.

(G) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, e-hookah, or similar product. Electronic smoking device includes any component, part, or accessory of the device, and includes any substance that may be

aerosolized or vaporized by such device, whether or not the substance contains nicotine.

(H) “Flavored tobacco product” means any tobacco product or tobacco paraphernalia that imparts a characterizing flavor.

(I) “Health Officer” means the Health Officer of the County of Santa Cruz or their designee.

(J) “Labeling” means written, printed, or graphic matter upon any tobacco product or any of its packaging, or accompanying such tobacco product.

(K) “Law Enforcement Officer” means a California Certified Peace Officer and/or County of Santa Cruz Sheriff’s Office designated Community Service Officer.

(L) “License” means a tobacco retailer license issued by the County pursuant to this chapter.

(M) “Licensee” means any proprietor holding a license issued by the County pursuant to this chapter.

(N) “License fee” means the charge established by resolution of the Board of Supervisors, calculated to recover the reasonable regulatory costs of issuing and administering licenses, retailer education, performing investigations, inspections, and the administrative enforcement and adjudication thereof.

(O) “Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.

(P) “Package” or “packaging” means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

(Q) “Partially Inconsumable Cigar” means any Cigar containing an embedded component or part commonly referred to or marketed as a filter that is not intended to be consumed, whether it is made of any material including, but not limited to, plastic, cellulose acetate, other fibrous plastic material, or any other inorganic, organic, or biodegradable material.

(R) “Partially Inconsumable Cigarette” means any Cigarette containing an embedded component or part commonly referred to or marketed as a filter that is not intended to be consumed, whether it is made of any material including, but not limited to, plastic, cellulose acetate, other fibrous plastic material, or any other inorganic, organic, or biodegradable material.

(S) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(T) “Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10 percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.

(U) “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(V) “Self-service display” means the open display or storage of tobacco products or tobacco paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

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

(X) “Tobacco product” means:

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

(2) Any electronic smoking device; and

(3) Any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately.

“Tobacco product” does not include drugs, devices, or combination products authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug and Cosmetic Act.

(Y) “Tobacco retailer” means any person or business who sells, offers for sale or distribution, exchanges, or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia without regard to the quantity sold, distributed, exchanged, or offered for exchange.

(Z) "Tobacco retailing" means selling, offering for sale, exchanging, or offering 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.

SECTION III

Subsection (A) of Section 5.60.030 of the Santa Cruz County Code is hereby amended to read:

5.60.030 Mandatory tobacco retail license.

(A) Any person intending to act as a tobacco retailer shall obtain a tobacco retailing license for each location at which tobacco retailing is to occur. No person shall engage in tobacco retailing in the County of Santa Cruz without first obtaining and maintaining a valid License for each location from which tobacco retailing is to occur.

SECTION IV

Subsection (J) of Section 5.60.040 of the Santa Cruz County Code is hereby added to read:

5.60.040 Issuance of tobacco retail license.

(J) It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, Partially Inconsumable Cigarettes or Partially Inconsumable Cigars.

(1) There shall be a rebuttable presumption that a tobacco retailer in possession of four or more packages containing any Partially Inconsumable Cigarettes or Partially Inconsumable Cigars possesses such packages of Partially Inconsumable Cigarettes or Partially Inconsumable Cigars with the intent to sell or offer for sale.

SECTION V

Subsection (A) of Section 5.60.090 of the Santa Cruz County Code is hereby amended to read:

5.60.090 Inspections, investigations and enforcement.

(A) Compliance with this chapter shall be monitored by the Department or any law enforcement officer. Employees of the Department or a law

enforcement officer may conduct inspections and investigations, including but not limited to youth decoy operations. All licensed premises must be open to inspection by the Department or any law enforcement officer during regular business hours.

SECTION VI

The adoption of this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) because there is no reasonably foreseeable significant impact on the environment and CEQA Guidelines Section 15308 because the actions taken is for the protection of the environment.

SECTION VII

Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

SECTION VIII

This ordinance shall take effect on the 31st day after final adoption. Enforcement of subsection (J) of SCCC 5.60.040 shall begin January 1, 2027 or on a date that two additional jurisdictions in the County approve a similar ordinance, whichever date is later.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this 29th day of October, 2024, by the following vote:

AYES: Supervisors Koenig, Friend, Hernandez, McPherson, and Cummings

NOES: None

ABSENT: None

ABSTAIN: None

DocuSigned by:
Justin Cummings
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11/15/2024

Justin Cummings
Chair of the Board of Supervisors

DocuSigned by:
Juliette Rezzato
4688077F311150...

11/15/2024

ATTEST:

Juliette Rezzato
Clerk of the Board