



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 10/03/2023

ITEM NO: 4

DATE: September 28, 2023
TO: Mayor and Town Council
FROM: Gabrielle Whelan, Town Attorney
SUBJECT: Introduce an Ordinance Titled "An Ordinance of the Town Council of the Town of Los Gatos Amending Section 18.60.020, "Permits for Retailers of Tobacco Products," of Article VI, "Smoking Regulations," of Chapter 18, "Offenses and Miscellaneous Provisions," of the Town Code to Increase Fine Amounts and Amend the Definition of "Tobacco Products" to Align with the Santa Clara County Ordinance."

RECOMMENDATION:

Introduce an Ordinance titled, "An Ordinance of the Town Council of the Town of Los Gatos amending Section 18.60.020, "Permits for Retailers of Tobacco Products," of Article VI, "Smoking Regulations," of Chapter 18, "Miscellaneous Provisions," of the Town Code to increase fine amounts and amend the definition of "Tobacco Products" to align with the Santa Clara County Ordinance."

BACKGROUND:

As its May 16, 2017 meeting, the Town Council adopted an Ordinance to regulate the tobacco retailers which is codified in Section 18.60.020 of the Los Gatos Town Code. The Town contracts with Santa Clara County to enforce Section 18.60.020. The County recently updated its Ordinance regulating tobacco retailers. In order to continue with County-assisted enforcement of the Town's Ordinance, the Town needs to amend its Ordinance to conform with the updated County Ordinance.

DISCUSSION:

The existing Ordinance requires tobacco retailers to obtain permits, prohibits the sale of flavored and electronic cigarette products, prohibits the sale of tobacco to minors, and provides for periodic monitoring to detect sales to minors.

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, Police Chief, and Finance Director

DISCUSSION (continued):

The most important elements of the County's up to date Tobacco Retailing Ordinance are to:

- 1) Increase the dollar amount of fines for violations of the Ordinance by a retailer with a permit from:
 - a. \$100 to \$1,000 for violation of first instance;
 - b. \$200 to \$2,500 for a violation previously committed within a 60-month period;
and
 - c. \$500 to \$5,000 for a violation committed twice within a 60-month period
- 2) Increase the dollar amount of the fine for retailing tobacco products without a tobacco retailing permit from:
 - a. \$100 to \$2,500 for violation of first instance'
 - b. \$200 to \$5,000 for a violation previously committed within a 60-month period;
and
 - c. \$500 to \$10,000 for a violation committed twice within a 60-month period; and
- 3) Include e-cigarettes in the definition of "Tobacco Products."

Staff presented the proposed changes to the Town's Youth Commission and the Youth Commission recommended that the Town Council introduce the Ordinance.

CONCLUSION:

Staff recommends that the Town Council introduce the attached Ordinance to update Section 18.60.020 of the Town Code. After introduction, the Ordinance would return for adoption at the Town Council's October 17, 2023 meeting and would take effect 30 days after adoption.

COORDINATION:

The Police Department, Town Attorney's Office, Town Manager's Office, and Santa Clara County coordinated this report.

FISCAL IMPACT:

This action does not affect the Town's Budget and is required to continue the existing arrangement between the Town and the County for enforcement of the Ordinance provisions.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

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SUBJECT: Updating the Town's Current Tobacco Retailing Ordinance

DATE: September 28, 2023

Attachments:

1. Redline Town Code Section 18.60.020
2. Draft Ordinance