Tobacco Policy Reform: Ending the Youth and Young Adult Tobacco Epidemic

Rocio Arjon
University of San Francisco, rocioarjon6@gmail.com

Follow this and additional works at: https://repository.usfca.edu/capstone

Part of the Community Health and Preventive Medicine Commons, Other Public Health Commons, and the Public Health Education and Promotion Commons

Recommended Citation
https://repository.usfca.edu/capstone/1393

This Project/Capstone - Global access is brought to you for free and open access by the Theses, Dissertations, Capstones and Projects at USF Scholarship: a digital repository @ Gleeson Library | Geschke Center. It has been accepted for inclusion in Master's Projects and Capstones by an authorized administrator of USF Scholarship: a digital repository @ Gleeson Library | Geschke Center. For more information, please contact repository@usfca.edu.
Tobacco Policy Reform: Ending the Youth and Young Adult Tobacco Epidemic

Rocio Arjon

Master of Public Health, University of San Francisco

MPH 683: Integrated Learning Experience

Professor Goliaei, MPH

August 8, 2022
Abstract

Tobacco has been accessible to communities all over the world since 6,000 BC. Overtime, the tobacco industry adapted its products to become more modern and look like technology or taste like common foods and candy. In 1989 the California Department of Public Health organized the California Control Tobacco Program (CTCP) which funds many local jurisdictions in California to provide tobacco education to community members and pass local ordinance to protect the health of their community. This paper is examining the existing policies in Hollister to protect our children and young adults, end the tobacco epidemic, advocate for more comprehensive tobacco policies, and establish tobacco control as a social determinant of health. This paper will make recommendations for the City of Hollister based on current literature, policy, and publicly available discourse about tobacco control policies. When CTCP and the local jurisdictions tobacco education programs were created, it was seen that there was a lack of education on the harms of tobacco in the communities. Local jurisdictions became known in the communities and would gain support from community members to advocate for stricter tobacco laws. This pressured local policymakers to enact policies against tobacco that protect the health of the communities they served. Although, many tobacco laws have been in place there is still work to be done to protect the wellbeing of all California residents. The goal of CTCP is to end the tobacco epidemic and make all of California Tobacco Free by 2035 which will protect the wellbeing of Californians.

Keywords: Tobacco Retail License, Tobacco Control, Youth, Young Adults, Flavored Tobacco, Smoke-free, Tobacco-free, Flavors, Epidemic.
Introduction

Tobacco use is the main preventable reason for death in the US, killing over 480,000 individuals every year (CDC, 2020). For every one of those deaths, no less than two youth or young adults become customary smokers every day. Practically 90% of those substitution smokers smoke their most memorable cigarette by age 18 (Office of the Surgeon General, 2017). Tobacco use among youth and young adults is at an all-time high (Pierce et al., 2021). The tobacco manufacturers have developed many tobacco brands with candy-like flavors to entice youth and young adult consumers to try these tobacco products (Pierce et al., 2021). “Flavored tobacco product means any tobacco product that contains a taste or smell, other than the taste or smell of tobacco, that is distinguishable by an ordinary consumer either prior to, or during the consumption of, including, but not limited to, any taste or smell relating to fruit, menthol, mint, wintergreen, chocolate, cocoa, vanilla, honey, molasses, or any candy, dessert, alcoholic beverage, herb, or spice” (Public Health Law Center, 2018).

Youth and young adults in rural areas are at particular risk of becoming addicted to tobacco products than youth and young adults in urban areas. According to Hartley et al, vapes, little cigars or cigarillos (LCC), big cigars, and smokeless tobacco had the highest current use prevalence among rural youth (2004). The average percentage of Hollister youth who use any tobacco is higher than the state average. According to the California Healthy Kids Survey, 29% of 11th graders have used e-cigarettes and 11% have smoked a cigarette, 16% of 9th graders have used e-cigarettes and 5% have smoke a cigarette, and 53% of continuation and alternative school students have used e-cigarettes and 39% have smoked a cigarette (2019). Therefore, comprehensive tobacco control policies are needed to protect the youth and young adults from the harms and addiction of tobacco. The localized policy adoption process that enables the
invention of effective local tobacco control policies across the state has helped the California Tobacco Control Program (CTCP) (Francis, 2010).

This paper will establish recommendations for the City of Hollister based upon current literature, policy, and publicly available discourse around tobacco control policies in the context of protecting our youth and young adults, end the tobacco epidemic, advocating for more comprehensive tobacco policies, and establishing tobacco control as a social determinant of health.

**Background & Literature Review**

*Health Effects and Cost of Tobacco Use:*

Tobacco product is defined as “(1) any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled, absorbed, or ingested by any other means, including but not limited to, a cigarette, a cigar, pipe tobacco, chewing tobacco, snuff, or snus; (2) any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or (3) any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes” (Public Health Law Center, 2020).

Over 1,200 people in this country pass away from smoking-related causes each day (Office of the Surgeon General, 2017). There are many health effects, even some that are preventable from using tobacco products such as emphysema and chronic bronchitis, chronic obstructive pulmonary disease (COPD), cancer, heart disease, stroke, lung disease, and diabetes (Office of the Surgeon General, 2017). The projected annual cost of these smoking-related
ailments in the United States is $350 billion, which includes $156 billion in lost productivity and $225 billion for adult direct medical care (Centers for Disease Control and Prevention, 2019). There is an epidemic of tobacco use among youth and young adults especially, among the youth ages 12 through 17 and young adults ages 18 through 25. During a study conducted by Cullen et al., there had been an increase in vaping by 218% among middle schoolers and 135% among high schoolers in California from the years 2017 through 2018 (2019). The most popular tobacco product among teenagers and young adults is now e-cigarettes (Gentzke et al., 2019). E-cigarettes have become popular among youth and young adults because of their discrentional style (e.g., shaped like USB flash drives, pens, etc.), high nicotine content, and various flavors (King et al., 2018). There are more than 15,000 different flavors on the market that can entice youth and young adults. As these flavors mask the harsh taste of the nicotine, youth mostly do not consider that most e-cigarettes contain nicotine that can harm their developing brain (Krishnan-Sarin, et al., 2017). Figure 1 demonstrates the prevalence of electronic cigarette users according to age groups among US adults, in which ages 18-24 are the highest.

Figure 1. Source: New and Emerging Tobacco Products and the Nicotine Endgame
Flavored Smoking regulations:

Although, the tobacco industry has been using flavors to attract younger generations since the 17th century (Patten & De Biasi, 2020), the first regulatory policy “The Family Smoking Prevention and Tobacco Control Act” was passed in 2009. The act prohibited the sale of flavored cigarettes with the exemption on menthol and tobacco flavorings (US Food and Drug Administration, 2020). However, the act did not prohibit the sale of many flavored tobacco products which are in the market today. Flavors continue to be used in smokeless tobacco, cigars, cigarillos, hookah, e-cigarettes/vapes, and e-liquid which is commonly known as e-juice. Flavors continue to mask the harsh taste of tobacco; however, they are as harmful and addictive as cigarettes. In fact, studies have shown that 81% of youth and young adults who used tobacco initiated with a flavored product (Campaign for Tobacco-Free Kids, 2017). Flavored tobacco products are marketed as “starter” products because the flavors disguise the harsh taste of the tobacco which makes it easy to start but hard to quit (Campaign for Tobacco-Free Kids, 2017). The 2021 National Youth Tobacco Survey found that almost 85% of young people who vape utilize flavors.

Tobacco Control Act: State and Local Authority

In general, tribal, state, and local governments are allowed to impose tougher laws governing the sale, distribution, possession, use, accessibility, or advertising and promotion of tobacco products, which includes e-cigarettes (Public Health Law Center, 2020). Tribal, state, and local governments can enact policies like Comprehensive Tobacco Retail Licensing, Smoke-free Multi-unit Housing, Smoke-free, and Tobacco-free Outdoor Areas.
Comprehensive Tobacco Retail Licensing

Tribal, state, and local governments adopt Tobacco Retail Licensing (TRL) laws to guarantee compliance among local tobacco business standards, reduce youth and young adult access to tobacco products, and restrict the negative public health and equity impacts linked to tobacco use. A comprehensive TRL can include licensing fees to tobacco retailers, prohibit the sale of tobacco products (e.g., flavored tobacco, single-use tobacco products), require a minimum price and packaging, prohibit advertising, promotions, discount, sample and/or coupons, and minimum age requirement to purchase tobacco products, and limits on eligibility for a TRL. However, tribal, state, and local governments can choose to exempt certain regulations from their Comprehensive Tobacco Retail Licensing Ordinance. Satterlund et al (2014) evaluated the effectiveness of TRL in which the California Tobacco Control Program (CTCP) funded local jurisdictions to pass an ordinance that required all tobacco retailers to obtain a TRL on top of the state license already required. The funds collected for the licenses help fund the enforcement agent and regulation protocols (i.e., decoy operations, yearly inspections) which are needed to ensure that retailers are complying with both local and state regulations (Satterlund et al., 2014). Local projects faced many challenges in this policy such as creating unfavorable environments for business through the regulations and fees, accusations of taking enforcement agencies from more pressing issues, infringement of people’s rights, and imposing economic stress on business owners (Satterlund et al., 2014).

While Rogers et al (2021) evaluated the Tobacco Retail License ordinance that also included flavored tobacco bans in local jurisdictions in California. Flavored tobacco limits/prohibits the sale of premium cigars, big cigars, cigarettes, little cigars, cigarillos, hookah, and electronic smoking devices (e-cigarettes). The establishment of this policy contributed to a
drop in the availability, promotion, and sales of products that are prohibited by the policy as well as in both teen and adult tobacco usage (Rogers et al., 2021). When jurisdictions pass this type of policy, they tend to always have exclusions and exemptions which decreases its effectiveness (Rogers et al., 2021). It also may cause consumers to cross-borders or illicitly purchase the products which undermine the policy purpose (Rogers et al., 2021).

*Smoke-free Multi-unit Housing*

A Smoke-free Multi-unit Housing ordinance can be adopted by tribal, state, and local governments to protect their constituents. This is an ordinance that prohibits smoking on the premises of multi-unit housing. This means that smoking can be prohibited in common areas such as: pool, gym, lobby, stairs, elevator, playground, laundry room, parking lots, etc. The legislation may be entirely smoke-free or may designate specific locations for smoking that must adhere to the following standards (1) must not be an enclosed space; (2) must be at least 25 feet away from an outdoor recreation area, such as a tennis court, swimming pool, or picnic area; (3) must have a designated, cleared perimeter; and (4) must be identified by clear, obvious signs (Public Health Law Center, 2020).

*Smoke-free & Tobacco-free Outdoor Areas*

To protect communities from the harms of secondhand smoke tribal, state, and local governments have the option to adopt smoke-free outdoor ordinances. When this happens, smoking is not permitted in public locations such waiting areas for public transportation, parks, leisure centers, outdoor workplaces, beaches, restaurants, bars, and farmer's markets. By removing the sight and smell of tobacco smoking, smoke-free outdoor legislation also assists those who are trying to quit. These measures, like all tobacco-free programs, convey to kids and young people that smoking is not a socially acceptable habit (Public Health Law Center, 2020).
This ordinance also protects the environment as tobacco product waste is the number one polluter in our country (UNDO, 2021). Tynan et al (2016) evaluated the effectiveness of smoke-free worksites, restaurants, and bars. This policy helps ensure that those who choose to not smoke, are not exposed to the harmful secondhand smoke (SHS). Stroke, lung cancer, and coronary heart disease can all be brought on by secondhand smoke exposure (Tynan et al., 2016). Most smoke-free laws have restrictions such as a designating smoking area or setting a certain distance of which one can smoke which causes this policy to not serve its purpose of minimizing exposure to secondhand smoke (Tynan et al., 2016).

*Socioecological Model*

Many variables cause different population groups to encounter the impacts of tobacco use in various ways. This was perceived in the 1998 Surgeon General's report, Smoking and Health, which expressed: “No single factor determines patterns of tobacco use among racial/ethnic groups; the patterns are a result of complex interactions of multiple factors such as socioeconomic status, cultural characteristics, acculturation, stress, biological elements, targeted advertising, price of products, and varying capacities of communities to mount effective tobacco control initiatives.”

The socioecological model (SEM) is a usually involved structure for inspecting numerous levels and interrelated impacts on human ways of behaving and the wellbeing of people inside a framework (US National Cancer Institute, 2017). As well as elucidating these numerous interrelated impacts, the model has been utilized to plan intercessions to impact wellbeing ways of behaving and the strength of people. The socioecological model developed from Bronfenbrenner's applied natural frameworks model and has gone through various cycles throughout the long term. Bronfenbrenner estimated that human way of behaving could be
grasped with regards to the singular's whole natural framework, comprised of four subsystems that impact ways of behaving: individual, interpersonal, community/organizational, and policy/society.

*Tobacco Control and Youth Access Socioecological Model*

As shown in Figure 2, the individual level of tobacco control literacy perceived and actual impact of tobacco control, the interpersonal sharing of information across social networks related to tobacco control and youth access, the organizational interactions between

![Figure 2. Socioecological Model: Tobacco Control and Youth Access](image-url)
organizations working on tobacco control and protecting youth, availability of community resources, organizations working on tobacco control and serving youth, and federal, state, and local policies related to tobacco and youth access.

This paper will provide recommendations for more comprehensive tobacco control policies in the City of Hollister to protect youth and young adults from becoming addicted to nicotine. The health and well-being of our youth should be our number one priority to end the tobacco use epidemic among youth and young adults. We should have a healthy life, cheaper healthcare expenses, smoke-free neighborhoods, and an environment free of the harmful byproducts of the tobacco industry. And children should be raised without the tobacco industry tainting their adolescent years.

Methods

This paper is a policy analysis of The California Tobacco Control Program (CTCP) efforts to fund local jurisdictions to pass policies, specifically, the City of Hollister. 31.6% of teenagers in Hollister report having used an e-cigarette at least once. Most teenagers reported getting their e-cigarettes from "social sources," while about 45% said they bought their own (with over a quarter of this group saying they buy them directly from a local store).

Primary sources of information were identified through the search in PubMed, Scopus, and Google Scholar. Google search was used to identify policy updates and publicly available discourse related to tobacco control and policies in the U.S. The search was limited to 1965-2022 to ensure that the information was as relevant as possible and captured the policies and work done throughout the years in California since CTCP obtained funding. Only literature written in English were reviewed. The key words that were utilized to identify primary sources included:
tobacco control, youth, young adults, social determinant of health, tobacco ordinance, flavored tobacco, health, racial/ethnic, disparities, secondhand smoke, smoke-free, tobacco, tobacco retailers, tobacco policies, laws, California, protect, and communities. All abstracts were reviewed to identify the relevant items. Relevant materials underwent through a full-text analysis and key findings were extracted. Current policies and publicly available discourse related to local tobacco control also reviewed to support the recommendations. A review of government websites was also conducted which included the California Department of Public Health, U.S. Food and Drug Administration (FDA), The Public Health Law Center, and Centers for Control and Disease Prevention (CDC) were used to analyze relevant legislation and programmatic information on the implementation of tobacco policy. This approach helped to identify the gaps in California tobacco policy and decide on a policy approach to improve health effects from exposure/usage of tobacco products.

**Recommendations**

Although California has a lot of work to do to undo all the tobacco-related issues caused by the tobacco industry, it needs to continue to support local lead agencies to pass ordinances that will get us one step closer to being tobacco-free. Hollister is the county seat of San Benito County with a population of 34,928, as of 2010. The town serves the surrounding farms, orchards, and ranches. In addition, the county has been described as a “bedroom community for Silicon Valley” where many residents commute 100 miles or more each day for greater job opportunities and higher wages. According to the U.S. Census Bureau 2010 statistics, over half (56%) of the residents are Hispanic/Latino, and the next largest group is Caucasian (38%). The project primarily addressed the priority populations of youth, low socio-economic status, and the Hispanic/Latino community.
In the City of Hollister, a tobacco retail license (TRL) policy was adopted in 2006 (see Appendix A) to lower smoking rates among youth and young adults but has not met its purpose yet. The Hollister TRL ordinance requires tobacco retailers to obtain a tobacco retail license from the City of Hollister, which is $269 on top of the $265 already paid to the state. The fees take into account the costs of issuing the license, managing it, the license program, retailer education, retailer inspection, and compliance checks, as well as the costs of recording violations and prosecuting violators. The TRL program is totally supported by fees. Fees are not refundable unless required by law (Resolution No. 2006-137).

“TRL policy,” hereafter, is used to describe the policy indicated in the objective with provisions for flavored and electronic tobacco products. The outcome of TRL policy adoption was measured by observing Hollister City Council meetings for an actual vote to adopt a policy and proof of a signed policy in City Council meeting minutes. After the policy was adopted and in place for a few years, it required an evaluation plan. The evaluation plan examined the process toward policy change and assessed the outcome of policy adoption and implementation. A non-experimental design without a control or comparison community was used to examine how the tobacco education program (TEP) progressed toward its objective during the 4-year project period. Quantitative and qualitative measures helped TEP understand its contributions across intervention activities over time (e.g., pre-post and post-only assessments) and for specific groups of people (e.g., the public, decision-makers, retailers, elected officials). These measures are summarized in Table 1. Several evaluation activities measured the process of advancing toward the TRL policy. These included surveys of participants at educational events, assess gains in knowledge and satisfaction with training, focus groups, and key informant interviews to gain perspective and inform strategy with key decision-makers, public opinion polls and intercept
surveys to gauge community interest and support, media activity records to track print, online, and other creative public outreach and communication, policy record review forms to document City Council policy decisions and conditions, and consumer testing surveys and focus groups to develop user-friendly materials for education and outreach. For example, TEP organized community partners to implement retailer observations, key informant interviews, and a public opinion poll for the statewide Health Stores for a Healthy Community (HSHC) campaign in 2019. In some activities as with the Young Adult Tobacco Purchase Survey (YATPS) and HSHC assessments, TEP and CTCP staff trained community members to correctly implement measurement procedures.

Quantitative and qualitative analyses were conducted as appropriate to each data source. Quantitative analyses – as from observational counts and survey ratings – included descriptive statistics (e.g., frequency, central tendency) and comparisons across groups. Qualitative analyses – as from focus groups and semi-structured interviews – were examined for themes and unique patterns in ideas and other narrative content.

<table>
<thead>
<tr>
<th>Evaluation Activity</th>
<th>Purpose</th>
<th>Sample</th>
<th>Instrument Source</th>
<th>Analysis Method</th>
<th>Timing/Waves</th>
</tr>
</thead>
<tbody>
<tr>
<td>Process</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-E-3 Education/Participant Survey</td>
<td>Assess participants’ gained skills and knowledge, as well as determine the quality of the training.</td>
<td>Assessment Sample; 10-14 coalition members, 2-10 staff members</td>
<td>Evaluation Consultant</td>
<td>Qualitative Analysis</td>
<td>Year 2 to Year 3 1 wave</td>
</tr>
<tr>
<td>1-E-8</td>
<td>Assess participant</td>
<td>Post Assessment</td>
<td>Evaluation</td>
<td>Descriptive</td>
<td>Year 4</td>
</tr>
<tr>
<td>Education/Participant Survey</td>
<td>readiness to complete the and follow the survey protocol.</td>
<td>Sample; 1-4 participants</td>
<td>Consultant</td>
<td>Statistics</td>
<td>1 wave</td>
</tr>
<tr>
<td>-----------------------------</td>
<td>----------------------------------------------------------</td>
<td>--------------------------</td>
<td>------------</td>
<td>------------</td>
<td>--------</td>
</tr>
<tr>
<td>1-E-9 Education/Participant Survey</td>
<td>Assess whether the participants are prepared to conduct site inspections for flavored tobacco/ESDs.</td>
<td>Post Assessment Sample; 2-5 enforcement officers</td>
<td>Evaluation Consultant</td>
<td>Descriptive Statistics</td>
<td>Year 3 to Year 4 1 wave</td>
</tr>
<tr>
<td>1-E-12 Key Informant Interview</td>
<td>Follow-up on current knowledge and attitudes regarding the tobacco retail environment and other topics relevant to the HSHC campaign.</td>
<td>5-7 key informants such as retailers and key decision makers</td>
<td>Evaluation Consultant</td>
<td>Qualitative Analysis</td>
<td>Year 3 1 wave</td>
</tr>
<tr>
<td>1-E-4 Media Activity Record</td>
<td>Assess the message’s effectiveness in being delivered or disseminated, the truthfulness and objectivity of the information, and the amount of popular support.</td>
<td>Census of relevant earned media</td>
<td>Evaluation Consultant</td>
<td>Media Content Analysis</td>
<td>Year 1 to Year 4 1 wave</td>
</tr>
<tr>
<td>1-E-5 Policy Record</td>
<td>Collect data on knowledge, attitudes, and perception regarding the retail environment.</td>
<td>Decisions and policy review and created by local politicians and City staff</td>
<td>Evaluation Consultant</td>
<td>Data Analysis</td>
<td>Year 1 to Year 4 1 wave</td>
</tr>
<tr>
<td>1-E-11 Public Intercept Survey/Opinion Poll</td>
<td>Support or opposition to policy strategies should be documented, as should knowledge and demographic data for the HSHC campaign.</td>
<td>Convenience sample of 100-120 participants</td>
<td>Evaluation Consultant</td>
<td>Qualitative Analysis</td>
<td>Year 3 1 wave</td>
</tr>
<tr>
<td><strong>Outcome</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-E-6 Observation Data</td>
<td>Assess the availability of flavored tobacco products and flavored electronic smoking devices (ESDs)</td>
<td>Census sample of all 28 tobacco retailers</td>
<td>Evaluation Consultant</td>
<td>Descriptive Statistics</td>
<td>Year 4 1 wave</td>
</tr>
</tbody>
</table>
The 4-year policy campaign integrated intervention and evaluation activities to move the TRL policy forward. **Figure 3** illustrates this journey with some key milestones and accomplishments. The timeline of milestones and conditions is a brief illustration of the policy campaigns progress. The conditions in the City of Hollister to amend the TRL policy were overall favorable. In between the milestones, there was substantial activity and interactions with city staff and the city council.

**Figure 3.** Timeline of Key Implementation Milestones and Conditions
Substantial progress was made in growing and strengthening collaborations throughout
the city of Hollister, especially with youth. Led by a very active Youth Coalition, the campaign
was able to move two city council members to champion a policy amendment, and a third to
consider one. Considerable resistance continued for two city council members who noted the
importance of allowing local businesses to do their work and for individuals to be responsible for
their own health. Future efforts to amend Hollister’s TRL to include flavored tobacco products
might provide stronger evidence of the economic impact on taxpayers for healthcare and other
costs attributable to nicotine addiction fostered by tobacco use. TEP should continue its
successful youth engagement and CEA strategies into 2022-2025. While the proposed TRL
objective was not achieved, the accomplishments during this campaign have created a more
organized, motivated, and ready campaign for future policy success.

Therefore, a tobacco policy that bans flavor tobacco which is marketed toward youth
and young adults would be more effective. The City of Hollister needs a comprehensive
tobacco policy that includes: local government to require any tobacco retailer to obtain a
tobacco retail license (TRL) that will be priced at $400 minimum on top of the state TRL that
is $265, a minimum age requirement of 25 years old and each year is raised by 1 year, all
flavored tobacco products that are targeted towards youth to be banned, smoke-free areas that
are in public or are for common use. There may be opposition to this type of policy from
tobacco users and the tobacco industry, however, the health of our constituents needs to be
first. Those choosing to not smoke should have the ability to live in a healthy environment.
Therefore, comprehensive tobacco control policies are needed.

**Implications & Discussions**

Improving tobacco control policies in local jurisdictions has a broad implication for
public health in the context of youth and young adult health. There is opportunity to address and even mitigate youth and young adult tobacco usage by ensuring that stricter local policies are in place regarding tobacco. However, there are also important limitations to consider when pursuing tobacco control policies to protect youth and young adults (Figure 4).

**Figure 4. Summary of Implications**

<table>
<thead>
<tr>
<th>Public Health Opportunities</th>
<th>Public Health Challenges</th>
<th>Future Directions</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Healthier communities.</td>
<td>• Financial burden on retailers.</td>
<td>• Creating more cessation programs/resources in the community = more jobs.</td>
</tr>
<tr>
<td>• Access to smoke-free environments.</td>
<td>• Infringing on people’s rights.</td>
<td>• Safer, healthier environments for our youth and young adults who are the future.</td>
</tr>
<tr>
<td>• Better living conditions (i.e., no Secondhand smoke, thirdhand smoke).</td>
<td>• Lack of support from policymakers.</td>
<td>• Insurances/ taxes being lower since there are not as many tobacco related diseases or illnesses.</td>
</tr>
<tr>
<td>• Less smoking illness.</td>
<td>• Not enough resources (i.e., cessation services).</td>
<td></td>
</tr>
<tr>
<td>• Less tobacco related deaths.</td>
<td>• More money needed from enforcement agencies.</td>
<td></td>
</tr>
</tbody>
</table>

Healthier communities allow for the reduction of inequality among residents. This is because community health is crucial to closing health disparities brought on by inequalities in location, social position, income, race, and other health-related factors (CDC, 2019). Without tobacco products, the health of the community improves. Tobacco products do not only affect the health of the consumers, but also the community through secondhand smoke and thirdhand smoke. When smokers smoke in the community, the smoke is not only affecting the smokers but
also the community around them especially since most smoker’s smoke in common areas. Tobacco related diseases do not only affect smokers but also those around those who smoke. Research will show lower rates of oral cancer, lung disease, COPD, lung cancer, and cardiovascular diseases caused by tobacco. The elimination of tobacco products allows for a healthier community and environment.

Both tobacco control and preventing juvenile access to tobacco products are crucial areas that the public health field must prioritize if it is to halt the tobacco epidemic. In the end, this research can help develop new approaches to tobacco control and safeguard young people from developing an addiction, as well as research on how tobacco is used to attract children and young adults, harm the environment, and hurt communities.

Banning tobacco products also breaks the harmful addiction cycle of generations to come. Tobacco products have been around for more than 8,000 years. Tobacco products adapt to the generations to come. The history of tobacco was to hook the older populations through cigarettes which used to be a social norm. Overtime, tobacco products have progressed in which they adapted to today’s generation which is technology based (i.e., e-cigarettes, mods, tanks). They have yet again become a social norm among today’s generation which is hooking them to a harmful lifelong addiction. Banning the tobacco products will break the cycle and the continuing harmful cycle of the tobacco industry to hook new generations through moderation.

Stricter tobacco control laws would decrease tobacco taxes from Proposition 56 and Proposition 99 to go towards the programs funded. Programs sponsored by Propositions 56 and 99 include the Family Planning, Access, Care and Treatment program, women's health services, dental and physician services, developmental and trauma screenings, non-emergency medical
transportation, First 5, local county tobacco control programs, and more (California Tobacco Tax and Health Protection Act of 1988).

Retailers would be impacted financially because they will lose revenue from the tobacco product bans. For the period of 2017 to 2020, CDTFA provided information on 29,249 state-licensed CA tobacco establishments and 14,417 independent merchants. All those retailers would be affected through tobacco control policies. However, creating workgroups among the retailers to strategies how to gain the revenue lost from tobacco products would benefit the retailers and the community. Strategizing to find common needs in the community such as more WIC approved retailers, automobile products (oil, jumper cables, antifreeze), and more fresh produce would benefit the community.

Overall, this policy will protect the health of the community as a whole and allow them to have a healthier environment. There are limitations, as mentioned above but the benefits outweigh the limitations. Considering this, it is essential to continually assess the best ways to minimize unanticipated detrimental effects on public health, highlight positives, and maintain tobacco control measures that apply to all people regardless of their socioeconomic status.

Conclusion

According to data, flavored tobacco products are used by young people in communities of color more frequently than in other communities. More than 60% of tobacco shops in the City of Hollister sell flavored tobacco products. And flavored tobacco product was the first one used by 81% of young people who have ever smoked tobacco. 9.7% of high school students in California said they had used at least one tobacco product in the preceding 30 days. The most frequent users of tobacco and marijuana combined were young people who went to school in
rural areas. In San Benito County, 1 in 7 teenagers’ smoke. In the region, 6.3% of kids report using tobacco products, 5.2% report using electronic cigarettes, and 1.3% report using traditional cigarettes.

Therefore, it would be more beneficial to have a tobacco policy that forbids flavor tobacco that is promoted to children and young adults. The City of Hollister needs a comprehensive tobacco policy that calls for: local government to require any tobacco retailer to obtain a tobacco retail license (TRL), which will cost at least $400 in addition to the state's TRL, which is $265; a minimum age requirement of 25 years old that is raised annually by 1 year; a ban on all flavored tobacco products that are marketed toward children; and smoke-free areas that are open to the public or are used frequently.

Next steps are for research to prove these policies are effective. For programs to enforce the policies and help smokers find cessation services, and policy to be implemented equally throughout California. Pushback from retailers will be one of the biggest components that needs to be tackled. Therefore, creating workgroups with retailers prior to proposing policies is essential. Also, educating the community to gain support from the community and push for these policies to be in place. Once these steps have been completed then going to the board of supervisors or city council will be needed to have the board vote on the comprehensive tobacco policies proposed.
References


Roussos S, E Narciso, and Ocegueda M. 2021. Policy Change for a Tobacco Retailer License


US Food and Drug Administration. (2020). Family Smoking Prevention and Tobacco Control
Act—an overview. Food and Drug Administration.


RESOLUTION NO. 2006-137

A RESOLUTION OF THE CITY COUNCIL THE CITY OF HOLLISTER APPROVING A TOBACCO LICENSE FEE OF TWO HUNDRED SIXTY NINE DOLLARS ($269.00)

WHEREAS, State Law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age and provides procedures for using persons under 18 years of age to conduct onsite compliance checks of tobacco retailers; and

WHEREAS, The City of Hollister has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products; and in protecting children from being lured into illegal activity through the misconduct of adults; and

WHEREAS, The City of Hollister adopted Ordinance 1004 requiring the tobacco retailers to receive a license from the City; and

WHEREAS, Section 5.38.110 “License Fee” requires the City Council to adopt appropriate fee to recover all costs associated to the administration and enforcement of the Ordinance; and

WHEREAS, staff has determined the annual fee for the Tobacco Retail License in the amount of $269.00.

THEREFORE, BE IT RESOLVED BY THE CITY OF HOLLISTER CITY COUNCIL that the Tobacco Retail License fee is hereby established in the amount of Two Hundred Sixty Nine 00/100 Dollars ($269.00).

PASSED AND ADOPTED, this 16th Day of October 2006, by the following vote:

AYES: Council Members Emerson, Valdivia, Pike, Johnson and Mayor Scottini.
NOES: None.
ABSENT: None.
ABSTAINED: None.

ATTEST:

Gerr Johnson, City Clerk

APPROVED AS TO FORM:

Stéphanie Atigh, City Attorney
STAFF REPORT
CITY COUNCIL OR STUDY SESSION AGENDA

DATE: September 21, 2006
AGENDA ITEM: Consent
MEETING DATE: October 16, 2006

SESSION DATE

- TITLE OF ITEM: Retailers Tobacco License Fee
- BRIEF DESCRIPTION: The City Council will consider a Resolution establishing a license fee of Two Hundred Sixty Nine 00/100 ($269.00) pursuant to Section 5.38.110 of Ordinance 1004.
- STAFF RECOMMENDATION: Adoption of Resolution 2006-137

DEPARTMENT SUMMARY:
The City of Hollister City Council adopted Ordinance 1104 on May 15, 2006 which requires the licensing of tobacco retailers in an effort to regulate the sale of tobacco to minors. Section 5.38.110 of the Ordinance requires the City Council to adopt by Resolution the License Fee. The fee was calculated so as to recover all cost associated with administration and enforcement. For example, these costs can include issuing the license, retailer education, retailer inspection, compliance checks, documentation of violations, and prosecution of violators. All fees shall be used to fund the program and are not refundable except as may be required by law.

There are 34 tobacco retailers within the City of Hollister. Staff recommends the City Council adopt the attached Resolution establishing the Retail License Fee of $269.00 per year.

ATTACHMENTS: Resolution
FISCAL IMPACT: Revenue $9,146.00
DEPARTMENT: Development Services Department
CONTACT PERSON: Bill Avera
DEPARTMENT HEAD: Bill Avera
PHONE NUMBER: 636-4360
THIS REPORT WAS REVIEWED BY THE CITY MANAGER AND CONCURS WITH THE STAFF RECOMMENDATION:__________________________

Clint Quilter, City Manager
ORDINANCE NO. 1004

AN ORDINANCE OF THE CITY OF HOLLISTER ADDING CHAPTER 5.38 TO THE MUNICIPAL CODE TO REQUIRE THE LICENSING OF TOBACCO RETAILERS

THE CITY COUNCIL OF THE CITY OF HOLLISTER ORDAINS AS FOLLOWS:

Section 1. Chapter 5.38 added. New Chapter 5.38, entitled “Tobacco Retailers” is hereby added to the Municipal Code to read as follows:

“Chapter 5.38
Tobacco Retailers

5.38.010. Legislative Findings. The City Council finds and determines that:

A. State law prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Penal Code § 308).

B. State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under eighteen (18) years of age (Business & Professions Code § 22956) and provides procedures for using persons under eighteen (18) years of age to conduct onsite compliance checks of tobacco retailers (Business & Professions Code § 22952).

C. State law requires that tobacco retailers post a conspicuous notice at each point of sale stating that selling tobacco products to anyone under eighteen (18) years of age is illegal (Business & Professions Code § 22952, Penal Code § 308).

D. State law prohibits the sale or display of cigarettes through a self-service display and prohibits public access to cigarettes without the assistance of a clerk (Business & Professions Code § 22962).

E. State law prohibits the sale of “bidis” (hand-rolled filterless cigarettes imported primarily from India and Southeast Asian countries) except at those businesses that prohibit the presence of minors. (Penal Code § 308.1).

F. State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than twenty (20) and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than six tenths of an ounce of tobacco (Penal Code § 308.2).
G. State law prohibits public school students from smoking or using tobacco products while on campus, while attending school-sponsored activities, or while under the supervision or control of school district employees (Education Code § 48901(a)).

H. Eighty-eight (88) percent of adults who have ever smoked tried their first cigarette by the age of eighteen (18), and the average age at which smokers try their first cigarette is fourteen and a half (14½).

I. The City of Hollister has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and in protecting children from being lured into illegal activity through the misconduct of adults.

J. California courts in Cohen v. Board of Supervisors, 40 Cal. 3d 277 (1985), and Bravo Vending v. City of Rancho Mirage, 15 Cal. App. 4th 383 (1993), have affirmed the power of local jurisdictions to regulate business activity in order to discourage violations of law.

K. State law authorizes local tobacco retailer licensing laws to provide for the suspension or revocation of the local tobacco retailer license for any violation of a state tobacco control law (Business & Professions Code § 22971.3).

L. A requirement for a tobacco retailer license will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the city to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws.

5.38.020 Purpose. The purpose of this chapter is to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or distribution of tobacco products to minors, but not to expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or to alter the penalty provided for violations.

5.38.030 Definitions. The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

"Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.
"City manager" means the City Manager of the City of Hollister, or his or her designee.

"Department" means the Hollister Police Department.

"Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

"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 ten percent (10%) 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.

"Self-service display" means the open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

"Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

"Tobacco product" means: (1) any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and (2) any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body, but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco product dependence.

"Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low cost samples of tobacco products or tobacco paraphernalia.

"Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.
Ordinance No. 1004  
Page 4 of 12

5.38.040 Tobacco retailer license required.

A. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer’s license pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retailer’s license is a public nuisance.

B. A tobacco retailer or proprietor without a valid tobacco retailer license, including without limitation a person whose license has been revoked:

1. Shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a license and shall be subject to the penalties provided herein.

2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer’s location or that could lead a reasonable consumer to believe that such products can be obtained at that location.

C. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retailer’s license any status or right other than the right to act as a tobacco retailer at the location in the City identified on the face of the license.

5.38.050 Limits on tobacco retailer licenses. No license will be issued to authorize tobacco retailing at other than a fixed location. No license will be issued for itinerant tobacco retailing or tobacco retailing from vehicles.

5.38.060 Application procedure.

A. All applications for a license shall be submitted to the department in the name of each proprietor proposing to conduct tobacco retailing and shall be signed by each proprietor or an authorized agent thereof. A proprietor proposing to conduct tobacco retailing at more than one location shall submit a separate application for each location. All applications shall be submitted on a form supplied by the department and shall contain the following information:

1. The name, address, and telephone number of each proprietor;
2. The business name, address, and telephone number of the fixed location for which a license is sought;
3. Whether or not any proprietor has previously been issued a license pursuant to this chapter that is, or was at any time, revoked and, if so, the date of revocation; and...
4. Such other information as the department deems necessary for the administration or enforcement of this chapter.

B. All information required to be submitted in order to apply for a tobacco retailer’s license shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department in writing with any updates within ten (10) business days of a change.

C. The information specified in A 1) and 2) of this section shall be available to the public for all currently licensed tobacco retailers. Upon request, the department shall provide a compilation of this information to any person within a reasonable time and subject to a fee approximating the actual cost of compiling and presenting the information.

5.38.070 Issuance and renewal of license.

A. Upon the receipt of an application for a license and the applicable license fee, the department shall issue a license unless:

1. The application is incomplete or inaccurate;
2. The application seeks authorization for tobacco retailing at an address that appears on a license that has been revoked, or is subject to revocation proceedings for violation of any of the provisions of this chapter; provided, however, this subparagraph shall not constitute a basis for denial of a license if either or both of the following apply:
   i) The applicant provides the city with documentation demonstrating that the applicant has acquired or is acquiring the premises or business in an arm’s length transaction.
   ii) It has been more than five years since the most recent license for that location was revoked;
3. The application seeks authorization for tobacco retailing that is unlawful or unauthorized pursuant to this code, including applicable zoning regulations, or that is unlawful or unauthorized pursuant to any other local, state, or federal law; or,
4. The city has information that the applicant or his or her agents or employees has violated any local, state, or federal tobacco control law at the location for which the license or renewal of the license is sought within the preceding thirty-day (30) period.

B. A license shall be valid for one year and must be renewed not later than thirty (30) days prior to the expiration of the license, but no earlier than sixty (60) days prior to the expiration of the license. Unless revoked on an earlier date, all licenses shall expire one year after the date of issuance. A license may be renewed for additional periods of one year by submitting an application to the department and payment of the applicable license fee; provided, however, a license that has been revoked, or is subject to revocation proceedings shall not be renewed. The application and license fee shall be submitted at least thirty (30) days, but not more
Ordinance No. 1004
Page 6 of 12

than sixty (60) days, prior to the expiration of the current valid license. The applicant shall follow all of the procedures and provide all of the information required by Section 5.38.060.

C. Where the department does not approve a license or renewal of a license, the department shall notify the applicant of the specific grounds for the denial in writing. The notice of denial shall be served personally or by mail not later than five working days after the date of the denial. If by mail, the notice shall be placed in a sealed envelope, with postage paid, addressed to the applicant at the address as it appears on the application. The giving of notice shall be deemed complete at the time of deposit of the notice in the mail or at the time of personal service. Personal service to a corporation may be made by delivery of the notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

5.38.080. Expiration of license. A tobacco retailer’s license that is not timely renewed shall expire at the end of its term. To reinstate a license that has expired, or to renew a license not timely renewed, the proprietor must:

1. Submit the license fee plus a reinstatement fee of ten percent (10%) of the license fee; and
2. Submit a signed affidavit affirming that the proprietor:
   i. Has not sold and will not sell any tobacco product or tobacco paraphernalia after the license expiration date and before the license is renewed; or
   ii. Following the proprietor’s last act of tobacco retailing, has waited the appropriate ineligibility period established for tobacco retailing without a license before seeking renewal of the license.

5.38.090. Licenses nontransferable.

A. A tobacco retailer’s license may not be transferred from one person to another or from one location to another. Any attempt to do so shall constitute a violation of this chapter. Whenever a tobacco retailing location has a change in proprietors a new tobacco retailer’s license is required.

B. Notwithstanding any other provision of this chapter prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless:

1. The location has been fully transferred to a new proprietor, and
2. The new proprietor provides the department with clear and convincing evidence that the new proprietor has acquired or is acquiring the location in an arm’s length transaction.

5.38.100 Display of license. Each license shall be prominently displayed in a publicly visible location at the licensed premises.
5.38.110 License fee. The fee to issue or to renew a tobacco retailer’s license shall be established by resolution of the city council. The fee shall be calculated so as to recover the total cost of both license administration and license enforcement, including, for example, issuing the license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the total program. All fees shall be used to fund the program. Fees are non-refundable except as may be required by law.

5.38.120 License prohibitions.

A. No person engaged in tobacco retailing shall sell or transfer a tobacco product or tobacco paraphernalia to another person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under state law to purchase and possess the tobacco product or tobacco paraphernalia.

B. No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.

C. No tobacco retailer shall display tobacco products or tobacco paraphernalia by means of a self-service display or engage in tobacco retailing by means of a self-service display.

D. It shall be a violation of a tobacco retailer’s license for a licensee or his or her agent or employee to violate any provision of this chapter, or any other local, state or federal tobacco-related law.

5.38.130 Compliance monitoring.

A. Compliance with this chapter shall be monitored by the code enforcement division. Any peace officer or the code enforcement official may enforce the provisions of this chapter.

B. Each tobacco retailer shall be monitored for compliance at least once per twelve (12) month period. Nothing in this chapter shall create a right of action in any licensee or other person against the city or its agents by reason of such compliance checks.

C. Compliance checks shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco retailing.
D. The city shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "Youth Decoy") if the potential violation occurs when the Youth Decoy is participating in a compliance check which is supervised by a peace officer or a code enforcement official of the city, or participating in a compliance check funded directly or indirectly by any state or local agency, organization or department.

5.38.140 Revocation of license. In addition to any other penalty provided by law, a tobacco retailer's license shall be revoked if the department finds or any court of competent jurisdiction determines, after the licensee is afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this chapter or, in a different legal proceeding, has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of this chapter.

5.38.150 New license after revocation.

1. After revocation for a first violation of this chapter at a location within any five year period, no new license may issue for the location until ten (10) days have passed from the date of revocation.

2. After revocation for a second violation of this chapter at a location within any five year period, no new license may issue for the location until thirty (30) days have passed from the date of revocation. If the violation occurs within twelve months of the first violation the tobacco retailer shall be subject to an administrative fine of $250.

3. After revocation for a third violation of this chapter at a location within any five year period, no new license may issue for the location until ninety (90) days have passed from the date of revocation. If the violation occurs within twelve months of the second violation the tobacco retailer shall be subject to an administrative fine of $500.

4. After revocation for four or more violations of this chapter at a location within any five year period, no new license may issue for the location until five years have passed from the date of revocation. In addition, the tobacco retailer shall be subject to an administrative fine of $1,000.

5.38.160 Revocation of License Issued in Error. A tobacco retailer's license shall be revoked if the department finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license existed at the time application was made, or at anytime before the license was issued. The revocation shall be without prejudice to the filing of a new application for a license.
5.38.170 Appeals.

A. Notice of Violation. A notice of violation and of intent to revoke a license or impose a fine shall be personally served on, or sent by certified mail to, the person or persons subject to the revocation or fine. The address supplied pursuant to a tobacco retailer license application shall be deemed an appropriate address to provide such notice to any proprietor listed on the application. The notice shall state the basis of the department’s determinations and include an advisement of the right to request a hearing to contest the revocation or the fine. Any request for a hearing must be in writing and must be received by the department within ten (10) calendar days of personal service of the notice on the person or persons subject to a revocation or a fine or within fifteen (15) calendar days if the person or persons subject to a revocation or a fine are served by mail.

B. License Revocation and Imposition of Fine. If no request for a hearing is timely received, the department’s determination on the violation and the imposition of a revocation or a fine shall be final. Revocation shall be effective as of the date specified in the notice and payment of any fine shall be made within thirty (30) calendar days of written demand made in the manner specified above for a notice of violation. If the fine is not paid within that time, the fine may be collected, along with interest at the legal rate, in any manner provided by law. In the event that a judicial action is necessary to compel payment of the fine and accumulated interest, the person or persons subject to the fine shall also be liable for the costs of the suit and attorneys fees incurred by the city in collecting the fine.

C. Notice of Hearing. If a hearing is requested pursuant to subsection (A) of this section, the department shall provide written notice, within forty-five (45) calendar days of its receipt of the hearing request, to the person or persons subject to a revocation or a fine of the date, time, and place of the hearing in the manner specified above for a notice of violation.

D. Hearing Decision. The hearing officer shall render a written decision and findings within twenty (20) working days of the hearing. Copies of the decision and findings shall be provided to the person or persons subject to a revocation or a fine in the manner specified above for a notice of violation.

E. Finality of the Hearing Officers Decision. The decision of the hearing officer shall be the final decision of the city.
F. Appeal to Superior Court of Limited Jurisdiction. Notwithstanding the provisions of Section 1094.5 or Section 1094.6 of the Code of Civil Procedure, within twenty (20) days after personal service of the hearing officer's decision and findings, or within twenty-five (25) days if served by mail, any person subject to a revocation or a fine may seek review of the hearing officer's decision and findings by the superior court of limited jurisdiction. A copy of the notice of appeal to the superior court shall be timely served in person or by first-class mail upon the department by the contestant. The appeal shall be heard de novo, except that the contents of the department's file in the case shall be received in evidence. A copy of the records of the department of the notices of the violation and of the hearing officer's decision and findings shall be admitted into evidence as prima facie evidence of the facts stated therein.

5.38.180 Tobacco Retailing Without a License.

A. In addition to any other penalty authorized by law, if the department finds or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retailer's license, either directly or through the person's agents or employees, the person shall be ineligible to apply for or be issued a tobacco retailing license for that location as follows:

1. After a first violation of this chapter at a location within any five year period, no new license may issue for the person at the location until thirty (30) days have passed from the date of the violation.

2. After a second violation of this chapter at a location within any five year period, no new license may issue for the person at the location until ninety (90) days have passed from the date of the violation.

3. After a third or subsequent violation of this chapter at a location within any five year period, no new license may issue for the person at the location until five (5) years have passed from the date of the violation.

B. The notice and hearing procedures applicable to establishing an ineligibility period for a person engaging in tobacco retailing without a license shall be the same procedures set forth in section 5.38.170 above.

5.38.190 Settlement in lieu of hearing. For a first or second alleged violation of this chapter within any five year period, the city attorney may engage in settlement negotiations and is authorized to enter into a settlement agreement with a tobacco retailer alleged to have violated this chapter. Notice of any settlement shall be provided to the department and no hearing shall be held. Settlements shall not be confidential and shall contain the following minimum terms:

1. An agreement to stop acting as a tobacco retailer for a minimum period of time;

2. A settlement payment to the city; and

3. An admission that the violation occurred and a stipulation that the violation will be counted when considering what penalty will be assessed for any future violations.
5.38.200 Enforcement.

A. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity, including the provisions of Municipal Code Chapter 1.16.

B. Causing, permitting, aiding, abetting or concealing a violation of any provision of this chapter shall constitute a violation.

C. Any person violating this chapter is subject to the payment of civil penalties of up to one thousand dollars for each violation. Any continuing violation shall constitute a separate offense for each day of the violation.

D. Violations of this chapter are hereby declared to be public nuisances.

E. Violations of this chapter are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.

F. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the city including administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

G. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a person under the age of eighteen (18) years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

5.38. 210 Grace period. A tobacco retailer shall be required to obtain a tobacco retail license and comply with the provisions of this chapter no later than October 16, 2006.”

Section 2. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase (hereinafter “part”) of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases (“parts”) of this Ordinance, or its application to any other person or circumstance. The City Council hereby declares that it would have adopted each part hereof, irrespective of the fact that any one or more other parts hereof be declared invalid or unenforceable.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days from and after its final passage.
Section 4. Publication. Within 15 (fifteen) days after passage, the City Clerk shall cause this Ordinance to be published one time in the Free Lance, a newspaper of general circulation.

INTRODUCED this 15th day of May, 2006.
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Hollister duly held on the 5th day of June, 2006 by the following vote:
AYES: Council Members Emerson, Valdivia, Pike, Johnson and Mayor Scattini.
NOES: None.
ABSTAIN: None.
ABSENT: None.

Robert Scattini, Mayor

ATTEST:

Geri Johnson, City Clerk

APPROVED AS TO FORM

Elaine M. Cass, City Attorney
### Appendix B

<table>
<thead>
<tr>
<th>Competency Chosen from Foundational &amp; Concentration Competency List (To be completed at the beginning of the semester)</th>
<th>Specific Portion of Paper and/or Poster Creation &amp; Presentation Synthesizing Competency (To be completed at the end of the semester)</th>
<th>Confirmed by Faculty Y/N</th>
</tr>
</thead>
<tbody>
<tr>
<td>#19 Communicate audience-appropriate public health content, both in writing and through oral presentation</td>
<td>The creation of a capstone paper outlining comprehensive tobacco control strategies to stop the youth and young adult tobacco epidemic, as well as an oral presentation related to it, both of which are slated to take place on Friday, August 12, 2022, as part of Health Professions Day for students in the Master of Public Health program at the University of San Francisco.</td>
<td></td>
</tr>
<tr>
<td>#4 Interpret results of data analysis for public health research, policy, and practice</td>
<td>In my capstone paper, I analyze the results of neighborhood tobacco education initiatives and their tobacco control laws.</td>
<td></td>
</tr>
<tr>
<td>#7 Assess population needs, assets and capacities that affect communities' health</td>
<td>In my capstone paper, I emphasize the needs of youth and young adults as well as the necessity of safeguarding the health of one of our most vulnerable groups.</td>
<td></td>
</tr>
<tr>
<td>#14 Advocate for political, social and economic policies and programs that will improve health in diverse populations</td>
<td>In my capstone paper, I make the case for all-encompassing tobacco control measures that safeguard the health of our children and young adults while also having the ability to ameliorate the health outcomes associated with the tobacco disparities that exist</td>
<td></td>
</tr>
<tr>
<td>Task</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>#15 Evaluate policies for their impact on public health and health</td>
<td>I evaluate in my capstone paper, the Tobacco Retail License (TRL) ordinance that the City of Hollister has had in place since 2006 and the public health implications.</td>
<td></td>
</tr>
<tr>
<td>equity</td>
<td></td>
<td></td>
</tr>
<tr>
<td>#4 Apply project management strategies to improve the quality of</td>
<td>In my capstone paper, I provide recommendations on tobacco control laws that would further protect the youth and young adults as well as the community through mixed methods used by the Tobacco Education Team of San Benito County.</td>
<td></td>
</tr>
<tr>
<td>programs and services in public health settings (MPH CPHC Concentration Competencies)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>#5 Identify environmental health risks in vulnerable communities and</td>
<td>In my capstone paper, I identify the secondhand smoke effects as well as the tobacco pollution caused and proposed a policy that would reduce exposure.</td>
<td></td>
</tr>
<tr>
<td>examine strategies to reduce exposures (MPH CPHC Concentration</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Competencies)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>