



City of Fort Bragg

416 N Franklin Street
Fort Bragg, CA 95437
Phone: (707) 961-2823
Fax: (707) 961-2802

Meeting Agenda Community Development Committee

Tuesday, June 25, 2024

4:00 PM

Town Hall, 363 N. Main Street and Via Video
Conference

MEETING CALLED TO ORDER

ROLL CALL

COMMITTEE MEMBERS PLEASE TAKE NOTICE

Committee Members are reminded that pursuant to the Council policy regarding use of electronic devices during public meetings adopted on November 28, 2022, all cell phones are to be turned off and there shall be no electronic communications during the meeting. All e-communications such as texts or emails from members of the public received during a meeting are to be forwarded to the City Clerk after the meeting is adjourned.

ZOOM WEBINAR INVITATION

This meeting is being presented in a hybrid format, both in person at Town Hall and via Zoom.

When: Jun 25, 2024 04:00 PM Pacific Time (US and Canada)

Topic: Community Development Committee

Please click the link below to join the webinar:

<https://us06web.zoom.us/j/83468051715>

Or One tap mobile :

+16694449171,,83468051715# US

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 669 444 9171 US

Webinar ID: 834 6805 1715

International numbers available: <https://us06web.zoom.us/j/83468051715>

To speak during public comment portions of the agenda via zoom, please join the meeting and use the raise hand feature when the Chair or Acting Chair calls for public comment on the item you wish to address. Written public comments may be submitted to cdd@fortbragg.com.

1. APPROVAL OF MINUTES

- 1A. [24-796](#) Approve the Minutes of the May 28, 2024 Community Development Committee Meeting

Attachments: [05282024 CDC Minutes](#)

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

3. CONDUCT OF BUSINESS

- 3A. [24-795](#) Receive Oral Update on Central Business District Revitalization Report

Attachments: [06252024 CBD Revitalization Plan Update.docx](#)

- 3B. [24-794](#) Provide Direction to Staff Regarding Improvement of the Town Hall Restrooms, Located at 343 & 363 N. Main St. (APNs 008-151-21-05, 008-151-01-00, & 008-151-02-00)

Attachments: [06252024 Fort Bragg Town Hall Memo CDC](#)

[Att 1 - Town Hall Plan and Elevations](#)

- 3C. [24-823](#) Presentation from the Mendocino County Tobacco Prevention Coalition regarding Tobacco Retail Licenses

Attachments: [FB.Comm.Dev.Com_6.25](#)

[1pg.policy.rec.6.25.24 FB Com.Dev.Com.Mtg_TRL Update BZP, MCPH, MCTF](#)

[Fort Bragg TRL_12102012](#)

[Mendocino County Tobacco Ordinance Summary 4.5](#)

[Mendocino County Tobacco Ordinance \(clean\) 4.5 \(2\)](#)

[Mendocino County Tobacco Ordinance \(redline\) 4.5](#)

[CYTS individual reports Group A CYTS-2023 county report Group A Trini](#)

4. MATTERS FROM COMMITTEE / STAFF

ADJOURNMENT

STATE OF CALIFORNIA)
)ss.
COUNTY OF MENDOCINO)

I declare, under penalty of perjury, that I am employed by the City of Fort Bragg and that I caused this agenda to be posted in the City Hall notice case on Friday, June 21, 2024.

Maria Flynn, Administrative Assistant

NOTICE TO THE PUBLIC

DISTRIBUTION OF ADDITIONAL INFORMATION FOLLOWING AGENDA PACKET DISTRIBUTION:

- *Materials related to an item on this Agenda submitted to the Council/District/Agency after distribution of the agenda packet are available for public inspection in the lobby of City Hall at 416 N. Franklin Street during normal business hours.*
- *Such documents are also available on the City of Fort Bragg's website at <http://city.fortbragg.com> subject to staff's ability to post the documents before the meeting*

ADA NOTICE AND HEARING IMPAIRED PROVISIONS:

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If you need assistance to ensure your full participation, please contact the City Clerk at (707) 961-2823. Notification 48 hours in advance of any need for assistance will enable the City to make reasonable arrangements to ensure accessibility.

This notice is in compliance with the Americans with Disabilities Act (28 CFR, 35.102-35.104 ADA Title II).



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Text File

File Number: 24-796

Agenda Date: 6/25/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Committee Minutes

Agenda Number: 1A.

Approve the Minutes of the May 28, 2024 Community Development Committee Meeting



City of Fort Bragg

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Meeting Minutes Community Development Committee

Tuesday, May 28, 2024

4:00 PM Town Hall, 363 N. Main Street and Via Video Conference

MEETING CALLED TO ORDER

Chair Godeke called the meeting to order at 4:00 p.m.

ROLL CALL

Staff Present: Assistant Planner Peters, Government Accountant Bianchi-Limbird, Administrative Assistant Flynn, Consultant Jones.

Present: 2 - Mayor Bernie Norvell and Vice Mayor Jason Godeke

1. APPROVAL OF MINUTES

A motion was made by Committee Member Godeke, seconded by Committee Member Norvell that the minutes of the April 23, 2024 Community Development Committee be approved for Council Review. The motion carried by the following votes:

Aye: 2 - Mayor Norvell and Vice Mayor Godeke

- 1A. [24-640](#) Approve the Minutes of the April 23, 2024 Community Development Committee Meeting

2. PUBLIC COMMENTS ON NON-AGENDA ITEMS

None.

3. CONDUCT OF BUSINESS

- 3A. [24-746](#) Memo to the Community Development Committee Regarding Procedure for Capturing Business License Fees

Consultant Jones presented the memo.

Public Comment: None.

Discussion: Committee members asked clarifying questions regarding the origin of the memo; scope of work subject to a building permit. Consultant Jones clarified that the memo was brought forward for several reasons including the staff concern with the efficiency and accuracy of the current process. Committee members directed staff to move forward with bringing the recommended action to Council.

- 3B. [24-762](#) Receive Oral Update on Central Business District Revitalization Report

Assistant Planner Peters presented the report.

Public Comment: None.

Discussion: Chair Godeke gave an update regarding Public Art that there will be over 200 students working on art for the receptacles. Chair Godeke also noted that the Senior Center will be hosting 4th Friday events this summer.

3C. [24-776](#) Receive Oral Update on Tree Planting around the City

Chair Godeke gave an update that the two Conservation Works Climate Action Fellows have identified two Forestry Advisors and three planting locations, each with its own review board. Fellows have met with Assistant City Engineer O'Neal to confirm support from the City and offer resources for success.

Public Comment: None

Discussion: Consultant Jones recommended the efforts be highlighted in the City Manager's monthly newsletter. Chair Godeke noted that efforts are focused on public and non profit sites and this year's grant could act as a pilot program for tree planting in future years.

4. MATTERS FROM COMMITTEE / STAFF

None.

ADJOURNMENT

Chair Godeke adjourned the meeting at 4:26 p.m.



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Text File

File Number: 24-795

Agenda Date: 6/25/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3A.

Receive Oral Update on Central Business District Revitalization Report

Central Business District Revitalization Toolkit – June 2024 Update

Economic Development Tool	Committee	Staff	Status	Updates
Coordinate Ongoing Downtown Business Conversations	CDC	Cristal	On-going	This will be moving to the Economic Development Dept.
Improve Town Hall Restrooms	PW&F	Alfredo	In Design	The project has passed the 60% stage with the design team is actively working on elevation views for the new bathroom entrances. We expect to have completed plans by the end of June 2024. Presentation to follow.
Increased Pedestrian Dedications	CDC	Not identified	In process	Mobile Vending to be brought forward to City Council for discussion of centralized mobile vending locations and possible code amendments.
Public Art	CDC	Kevin	On-going	All artwork supplied by FBUSD has been submitted, copyright releases have been obtained and finalization of file conversion is underway. The new receptacle order will be ready to be placed at the beginning of the new FY.
Improve Business Directory & Directional Signage	VFB	Cristal	HOLD	This is currently on hold.
Reconsider Allowable Land Uses	CDC	Consultant/Staff	In process	Allowable land uses - new or in process of modification: Outdoor Dining, Tiny Homes and Tiny Home Communities, Parking, Planned Unit Development, ADUs and Urban Lot Splits, Mobile Vending.
Employ Code Enforcement Actions	CDC	TBD	On-going	Code Enforcement moving to Community Development in a reduced capacity.
Establish regular Walking Patrol to build positive public relations while deterring nuisances	PS	Chief Cervenka	On-going	Patrols occurring regularly.
Create Public Gathering Space	CDC	Not identified	In process	Improvements to two gathering spaces are in the works: Bainbridge Park and the area just South of Town Hall. Dedicated mobile vending area with picnic tables up for discussion.
Install Trees, Planters and Landscaping Downtown & Citywide	PW&F	Vice Mayor	In process	Update to follow.
Downtown Parking	CDC	Sarah P	In process	LCP update for CLUDC amendment.
Walking Tours	VFB	Sarah M. Cristal	Complete	Mural Walking Tour available on the VFB website and fortbraggalleywayart.org Hard copies of maps are available in City Hall.
Install Bollards to Block Vehicular Traffic for Special Events	PW&F	Chantell	Complete	
Temporary Waiver of Water/Sewer Capacity Fees	F&A	Tabatha Sarah	Complete	



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Text File

File Number: 24-794

Agenda Date: 6/25/2024

Version: 2

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3B.

Provide Direction to Staff Regarding Improvement of the Town Hall Restrooms, Located at 343 & 363 N. Main St. (APNs 008-151-21-05, 008-151-01-00, & 008-151-02-00)



CITY OF FORT BRAGG
416 N. FRANKLIN, FORT BRAGG, CA 95437
PHONE 707/961-2823 FAX 707/961-2802

MEMORANDUM

MEETING DATE: JUNE 25, 2024

TO: COMMUNITY DEVELOPMENT COMMITTEE

FROM: PUBLIC WORKS STAFF

SUBJECT: PROVIDE DIRECTION TO STAFF REGARDING DESIGN OF THE TOWN HALL BATHROOM REMODEL PROJECT

BACKGROUND AND OVERVIEW:

The Town Hall building was constructed in 1912 as the Fort Bragg Commercial Bank building. Over the years, the building has been used as a County Court House and Sheriff's Office. The City acquired the building in 1989 after it was damaged in the September 1987 fires. In 1990, the City completed fire damage repairs and remodeled Town Hall for use as a meeting and public gathering venue with updates to wall coverings and window coverings were completed in 1992. In 2009, the exterior of the building was painted and the parapets were replaced. In 2011, Town Hall lights were retrofitted as part of a citywide energy efficiency project. In 2014, improvements were made to the meeting hall including sound and video for public meetings, energy efficiency and lighting at the Council dais, flooring and window coverings, and interior paint.

Based on an expected 10-year life-cycle for exterior paint, the outside of Town Hall was due to be repainted in FY 21/22. In addition to paint, the current Town Hall Project will repair damage caused by moisture near doors and windows, update storage and A/V areas and retrofit the restrooms to make them more accessible and visible for public use.

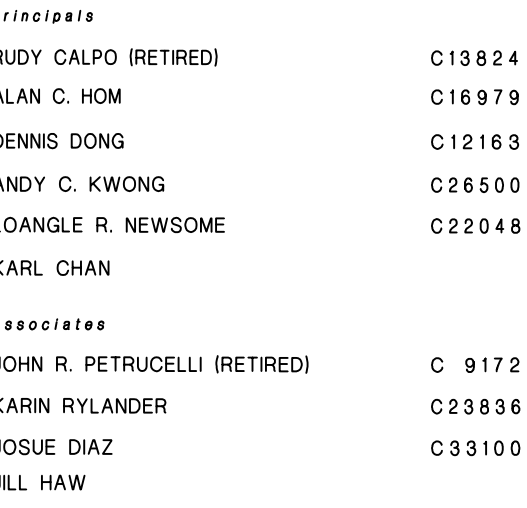
Calpo Hom & Dong Architects (CH&D) was awarded the contract in April 2023 in conjunction with two other facilities projects. The Town Hall portion of the contract is currently in design. The design team has generated a Floor Plan, to which minor adjustments may occur as we finalize any specialized needs/requests. Along with Floor Plans, CH&D has provided the attached elevations for review and feedback (Att-1).

REQUEST:

Review the attached floor plan and elevations to provide direction to city staff and the design team to ensure that the project can proceed to the satisfaction of all parties involved.

ATTACHMENTS:

Attachment 1: Design Floor Plan and Elevations



Project

Fort Bragg
Town Hall

the undersigned architect does not represent that these plans or the specifications in connection therewith are suitable, whether or not modified for any other site than the one for which they were specifically prepared. The architect disclaims responsibility for these plans and specifications if they are used in whole or in part at any other site.

This drawing is not final or to be used for construction until signed by the architect and owner.

Architect		
Drawn By		
Revisions		
NO.	DATE	DESCRIPTION
Job No.	C23032.00	
Date		

Drawing No.

.....
OF SHEETS





principals
RUDY CALPO (RETIRED) C13824
ALAN C. HOM C16979
DENNIS DONG C12163
ANDY C. KWONG C26500
LOANGLE R. NEWSOME C22048
KARL CHAN

associates
JOHN R. PETRUCELLI (RETIRED) C 9172
KARIN RYLANDER C23836
JOSUE DIAZ C33100
JILL HAW

2120 20th STREET, SUITE ONE
SACRAMENTO, CALIFORNIA 95818
TEL. 916/446-7741 FAX 916/446-0457
.....
C o n s u l t a n t

Project

Town Hall Rehab and Bathrooms Remodel

Fort Bragg
Town Hall

363 N. Main Street
Fort Bragg, California 95437

.....
The undersigned architect does not represent that these plans or the specifications in connection therewith are suitable, whether or not modified for any other site than the one for which they were specifically prepared. The architect disclaims responsibility for these plans and specifications if they are used in whole or in part at any other site.

The contractor shall verify and be responsible for all dimensions and conditions on the job and this office must be notified in writing of any variation from the dimensions and conditions shown by these drawings.

This drawing is not final or to be used for construction until signed by the architect and owner.

All drawings and written material appearing herein constitute the original and unpublished work of the Architect and the same may not be duplicated, used or disclosed without written consent of the Architect.

Architect
Drawn By

Revisions

NO.	DATE	DESCRIPTION

Job No. C23032.00
Date

Drawing No.

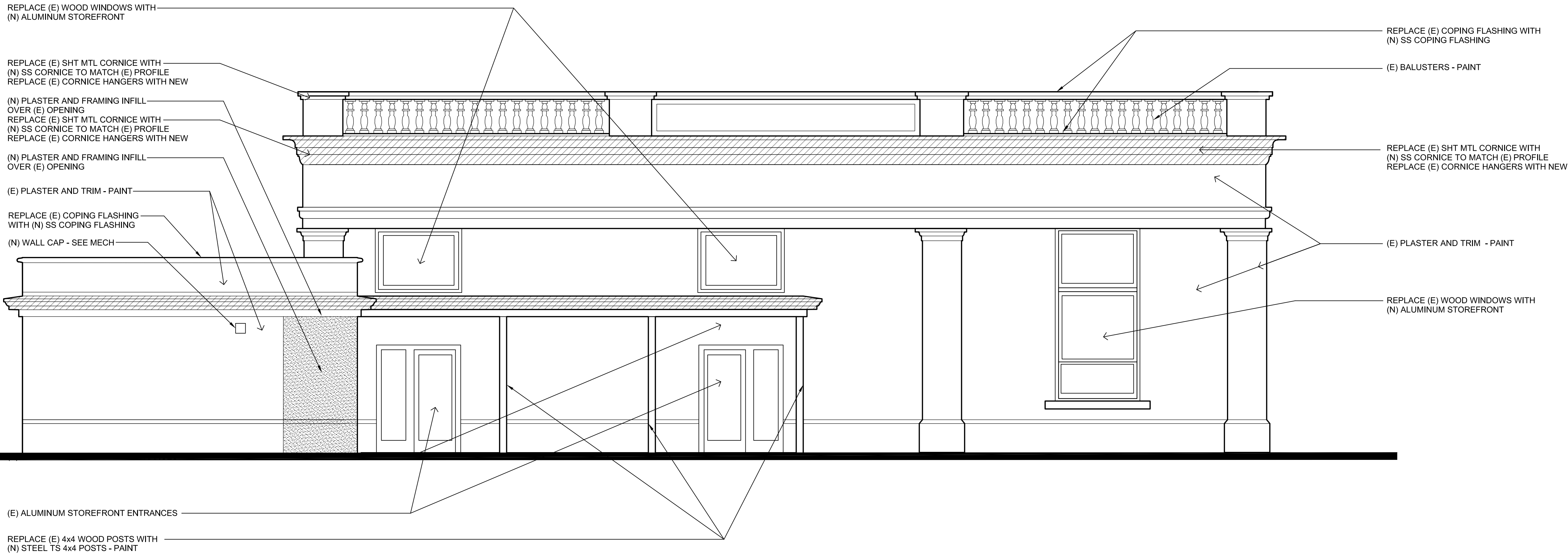
A3-1

.....
OF SHEETS



EAST ELEVATION

1/4" = 1'-0"



SOUTH ELEVATION

1/4" = 1'-0"



principals
RUDY CALPO (RETIRED) C13824
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.....
Consultant

Project

Town Hall Rehab and Bathrooms Remodel

Fort Bragg
Town Hall

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Architect

Drawn By

Revisions

NO.	DATE	DESCRIPTION

Job No. C23032.00
Date

Drawing No.

A3-2

.....
OF SHEETS

REPLACE (E) COPING FLASHING WITH
(N) SS COPING FLASHING

(E) BALUSTERS - PAINT

REPLACE (E) SHT MTL CORNICE WITH
(N) SS CORNICE TO MATCH (E) PROFILE
REPLACE (E) CORNICE HANGERS WITH NEW

(E) PLASTER AND TRIM - PAINT

REPLACE (E) SHT MTL CORNICE WITH
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WEST ELEVATION

1/4" : 1'-0"

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(N) SS COPING FLASHING

(E) BALUSTERS - PAINT

REPLACE (E) SHT MTL CORNICE WITH
(N) SS CORNICE TO MATCH (E) PROFILE
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(N) SS COPING FLASHING

(E) PLASTER AND TRIM - PAINT

REPLACE (E) SHT MTL CORNICE WITH
(N) SS CORNICE TO MATCH (E) PROFILE
REPLACE (E) CORNICE HANGERS WITH NEW

(E) DOOR AND FRAME - PAINT

REPLACE (E) WOOD WINDOWS WITH
(N) ALUMINUM STOREFRONT
TYP OF 3 THIS ELEVATION

NORTH ELEVATION

1/4" : 1'-0"



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Text File

File Number: 24-823

Agenda Date: 6/25/2024

Version: 1

Status: Business

In Control: Community Development Committee

File Type: Staff Report

Agenda Number: 3C.

Presentation from the Mendocino County Tobacco Prevention Coalition regarding Tobacco Retail Licenses

TOBACCO RETAIL LICENSE ORDINANCE UPDATE DISCUSSION

Community Development Committee Meeting, City of Fort Bragg
4 pm Tuesday, June 25, 2024

**Nicole Graumann,
Program Specialist II,
Mendocino County Public Health
Community Wellness
Tobacco Prevention and Control**

**Larry Olson,
Chair,
MCTPC**

**Lucy Bartholomew,
Public Policy Advocate,
Blue Zones Project**

**Co-Chair,
MCTPC**

Thank you for having us

MCTPC

Our Purpose:

MCTPC implements culturally responsive strategies for a healthier Mendocino County by informing on nicotine products, supporting freedom from addiction, raising support for local actions and policies to address commercial tobacco, and empowering local leadership.



Agenda



Introduction



Context & History



Model TRL Policies



Support and Resources



Best Practices to Craft,
Pass, and Implement



Next Steps



Tobacco Retail Licenses (TRL)

- ❖ Required to be held by every purveyor of tobacco, tobacco products, or nicotine delivery systems
- ❖ TRL articulates local codes and regulations
- ❖ A small fee paid by the vendor upon licensing is used to fund enforcement and control in many cases
- ❖ License revocation risks encourage rule-following
- ❖ TRLs have been historic changemakers in tobacco control efforts

What Brings us Here?

California's Flavored Tobacco
Retail Laws: AB 935 (2023) and
SB 793 (2024)

Local Policy Patchwork:
Unincorporated County, City of
Willits, City of Ukiah in compliance

After three generations of waning
addictions, innovations in nicotine
have resulted in an epidemic

Our community deserves and
needs this intervention

TRLs work! They are a time-tested
effective strategy to mitigate
commercial tobacco provocation
on local communities

Model TRL Ordinances

- ❖ Review of Fort Bragg's Current Policy
- ❖ Key components from the three recently updated local TRLs
- ❖ County compared to Fort Bragg: What should be the same? Different?
- ❖ Revenue Neutrality

- ❖ County of Mendocino
- ❖ City of Ukiah
- ❖ City of Willits

SUPPORT AND RESOURCES

The County of Mendocino

- Technical Assistance
- Cooperative development
- Lessons learned
- Shared resources

Advocacy Groups & Experts

- Mendocino County Tobacco Prevention Coalition
- Blue Zones Project
- Public Health Law Center

Local Municipalities

- Willits
- Ukiah
- Point Arena

Best Practices to Craft, Pass, and Implement TRL Update

- ❖ Adapt (or adopt) well-crafted TRLs recently passed by like communities
- ❖ Fee Structuring ([TRL Fee Calculator, Public Health Law Center](#))
- ❖ Enforcement roles and strategies
- ❖ Public education and outreach
- ❖ Vendor Education
- ❖ Young Adult Tobacco Purchase Surveys (YATPS)
- ❖ Partnering and sharing resources with local governments



[This Photo](#) by Unknown Author is licensed under [CC BY-SA-NC](#)

We are more than happy
to assist at every step
along the way

- ❖ Polish a fresh TRL draft
- ❖ Fort Bragg City Council to consider updated TRL adoption
- ❖ Please let us know what the City of Fort Bragg may need or want in this process
- ❖ Does anything stand out that we should adjust to be more palatable?
- ❖ Did you notice us having blind spots? Please let us know.

Now What?

THANK YOU

Larry Olson

707-498-2328

Excel@humboldt1.com

Lucy Bartholomew

949-306-5454

Lucy.Bartholomew@sharecare.com

Nicole Graumann

707-472-7013

Graumann@mendocinocounty.gov

June 25 , 2024

Community Development Committee for The City of Fort Bragg ,

Thank you for your time and consideration . We are grateful to collaborate on supporting a more just and healthy community .

Rationale/Policy Context:

The City of Fort Bragg has long been exemplar in protecting the health , safety , and environment of its residents . Via AB 935 and SB 793 , California has mandated a statewide flavored tobacco retail ban effective 2024 . Fort Bragg's active TRL was adopted in 2012 and amended in 2020; however , it is out of compliance with the state and at odds with neighboring communities , which creates a confusing landscape of rules .

Helpful Resources:

- [CA Flavor Ban Fact Sheet , Public Health Law Center](#)
- [TRL Fee Calculator , Public Health Law Center](#)
- Ongoing Technical Assistance: Tobacco Prevention Control Program, County of Mendocino (i.e., policymaking, implementation, enforcement, public and retailer education best practices, etc. .)

Outstanding considerations for policy making and implementation:

- Fee structure for revenue neutrality
- Enforcement best practices
- Retailer education
- Public education and perception

Provided Documents:

- Current TRL for The City of Fort Bragg
- Current TRL for The County of Mendocino (3 versions)
- Current TRL for The City of Ukiah
- Current TRL for The City of Willits
- The California Youth Tobacco Survey (CYTS) 2023 Data Summary

Recommended Actions/Partner Requests:

- Recommend an updated Tobacco Retail License compliant with SB 793 and AB 935 for the City of Fort Bragg
- Please let us know what questions remain or what support is anticipated.

Lucy Bartholomew ,
Public Policy Advocate , BZP Mendocino
County
Co-Chair , MCTPC
949-306-5454
Lucy.Bartholomew@sharecare .com

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Nicole Graumann
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CHAPTER 6.14

LICENSING OF TOBACCO SELLERS

Section

- 6.14.010 Definitions.**
- 6.14.020 Requirement for Tobacco Seller's license.**
- 6.14.022 Performance standards – Deemed approved activities.**
- 6.14.030 Application procedures.**
- 6.14.040 Issuance of license.**
- 6.14.050 Display of license.**
- 6.14.060 License fee.**
- 6.14.070 License nontransferable.**
- 6.14.080 License violation.**
- 6.14.090 Suspension, termination or revocation of license.**
- 6.14.100 Administrative fine.**
- 6.14.110 Enforcement.**

6.14.010 DEFINITIONS.

The following words and phrases, whenever used in this Chapter, shall have the meaning provided in this section unless the context clearly requires otherwise:

PERSON. Natural person, joint venture, joint stock company, organization, partnership, association, club, company, corporation, business, trust, or the manager, lessee, agent, servant, officer, or employee of any of them.

TOBACCO PRODUCT. Means any of the following:

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 device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.
3. Any component, part, or accessory of a Tobacco Product, whether or not sold separately.

4. "Tobacco Product" does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for an approved purpose.

TOBACCO SELLER. Any Person who sells, offers for sale, or offers to exchange, Tobacco Products, as defined in this section, for any form of consideration. "Tobacco Selling" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco or Tobacco Products sold, offered for sale, exchanged, or offered for exchange.

YOUTH DECOY. A participant in a compliance check who is under the age of 18, reasonably appears under the age of 18 and who has participated in the Mendocino County Health and Human Services Agency, Public Health Branch training for youth involved with the tobacco control program compliance surveys.

(Ord. 905, §2, passed 12-10-2012; Am. Ord. 926, § 2, passed 11-14-2016)

6.14.020 REQUIREMENT FOR TOBACCO SELLER'S LICENSE.

- A. It shall be unlawful for any Person to act as a Tobacco Seller without first obtaining and maintaining a valid Tobacco Seller's license pursuant to this Chapter for each location at which that activity is to occur. No license may be issued to authorize Tobacco Selling at other than a fixed location. For example, Tobacco Selling by Persons on foot or from vehicles is prohibited.
- B. The term of a license is one year from the date of issuance, unless earlier suspended, terminated or revoked pursuant to § [6.14.090](#). Each licensed Tobacco Seller shall apply for the renewal of his or her Tobacco Seller's license no later than thirty (30) days prior to its expiration.
- C. Nothing in this Chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Seller's license any status or right other than the right to act as a Tobacco Seller at the location in the City identified on the face of the license. For example, nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by Cal. Labor Code § [6404.5](#).
- D. It is the responsibility of each licensed Tobacco Seller to be informed regarding all laws applicable to Tobacco Selling, including those laws affecting the issuance of a tobacco and E-cigarette seller's license. No licensed Tobacco Seller may rely on the issuance of a license as a determination by the City that the Tobacco Seller has complied with all laws applicable to Tobacco Selling.

(Ord. 905, §2, passed 12-10-2012; Am. Ord. 926, § 2, passed 11-14-2016)

6.14.022 PERFORMANCE STANDARDS – DEEMED APPROVED ACTIVITIES.

An activity shall retain its “deemed approved” status only if it conforms to all of the following deemed approved performance standards:

- A. The Tobacco Seller does not offer illegal paraphernalia for sale. The offering of sale of such items shall result in immediate suspension of a Tobacco Seller’s license;
- B. The Tobacco Seller does not sell Tobacco Products to a Person under the minimum age for purchase pursuant to state and federal laws;
- C. The Tobacco Seller does not adversely affect the peace or safety of Persons residing or working in the surrounding area;
- D. The Tobacco Seller’s activities do not result in repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, harassment of passersby, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, curfew violations, or police detentions and arrests;
- E. The Tobacco Seller’s activities do not result in violations to any applicable provision of any other City, state, or federal regulation, ordinance or statute;
- F. The Tobacco Seller’s upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development of the surrounding neighborhood.

(Ord. 926, § 2, passed 11-14-2016)

6.14.030 APPLICATION PROCEDURES.

Application for a Tobacco Seller’s license shall be submitted for the location sought in the name of each Person proposing to hold the license and shall be signed by each Person or an authorized agent thereof. It is the responsibility of each Person to be informed of the laws affecting the issuance of a Tobacco Seller’s license. A license that is issued in error or on the basis of false or misleading information supplied by a Person may be revoked pursuant to Section [6.14.090](#). All applications shall be submitted on a form supplied by the City and shall contain the following information:

- A. The name, address, and telephone number of each Person intending to hold the license.
- B. The business name, address, and telephone number of each location for which a Tobacco

Seller's License is sought.

C. The name and mailing address authorized by each Person to receive all license-related communications and notices (the "Authorized Address"). If an Authorized Address is not supplied, each Person shall be understood to consent to the provision of notice at the business address specified pursuant to subparagraph B above.

D. Whether or not any Person has previously been issued a license pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.

E. Such other information as the City deems necessary for the administration or enforcement of this Chapter.

(Ord. 905, §2, passed 12-10-2012)

6.14.040 ISSUANCE OF LICENSE.

Upon the receipt of an application for a Tobacco Seller's license and the license fee, the City shall issue a license for the location sought unless substantial evidence in the record demonstrates one of the following bases for denial:

A. The application is incomplete or inaccurate; or

B. The application seeks authorization for Tobacco Selling by a Person for whom a suspension is in effect or whose license has been revoked pursuant to Section [6.14.090](#) of this Chapter.

(Ord. 905, §2, passed 12-10-2012)

6.14.050 DISPLAY OF LICENSE.

Each license shall be prominently displayed in a publicly visible location at the licensed premises.

(Ord. 905, §2, passed 12-10-2012)

6.14.060 LICENSE FEE.

The fee to issue or to renew a Tobacco Seller's license shall be established by resolution of the City Council.

(Ord. 905, §2, passed 12-10-2012)

6.14.070 LICENSE NONTRANSFERABLE.

A Tobacco Seller's license is nontransferable. If the information required in the license application

pursuant to Section [6.14.030](#), items A, B, or C changes, the licensed Tobacco Seller must notify the City within 14 days, and update all information on the license application form in order to continue to act as a licensed Tobacco Seller. For example, if a Tobacco Seller to whom a license has been issued changes business location, the Tobacco Seller must supply updated license information within 14 days of Tobacco Selling at the new location. If a business is sold, the new owner must apply for a license for that location before Tobacco Selling. The current licensee shall notify the City of the sale of the Tobacco Selling business.

(Ord. 905, §2, passed 12-10-2012)

6.14.080 LICENSE VIOLATION.

A. *Violation of Tobacco-Related Laws.* It shall be a violation of a Tobacco Seller's license for a licensed Tobacco Seller or his or her agent or employee to violate any local, state, or federal tobacco-related law.

B. *License Compliance Monitoring.* The City of Fort Bragg anticipates that compliance checks of each licensed Tobacco Seller will be conducted at least two (2) times during each twelve-month period by the Mendocino County Health and Human Services Agency, Public Health Branch. The City shall not enforce any tobacco-related minimum-age law against a person who otherwise would be in violation of such law because of the person's age (hereinafter "youth decoy") if the violation occurs when:

1. The youth decoy is participating in a compliance check supervised by a law enforcement official, a code enforcement official, or any peace officer; or
2. The youth decoy is participating in a compliance check funded or supervised in part by the County of Mendocino or, funded or supervised in any part by the California Department of Health Services.

(Ord. 905, §2, passed 12-10-2012)

6.14.090 SUSPENSION, TERMINATION OR REVOCATION OF LICENSE.

A. *Administrative Penalties.* The remedies provided by these provisions are cumulative and in addition to any other remedies available at law or in equity. Upon a determination by the City that a licensed Tobacco Seller has engaged in any conduct that violates the provisions of this Chapter, the City may impose the following administrative penalties.

1. Upon a finding by the City of a first license violation within any thirty-six (36)-month period, the licensed Tobacco Seller shall receive a Letter of Reprimand from the City which shall

advise the licensed Tobacco Seller that if the licensed Tobacco Seller trains all sales employees at the location of the sale in the laws pertaining to the sale of tobacco products to minors and techniques to ensure future compliance with said laws no penalty will be imposed. The licensed Tobacco Seller must file with the City, within thirty (30) days of receipt of the Letter of Reprimand, an affidavit signed by the licensed Tobacco Seller and each of its sales employees, affirming that said training has been completed. If licensed Tobacco Seller fails to timely submit the affidavit, the City shall impose a fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for a first violation in any thirty-six (36)-month period.

2. Upon a finding by the City of a second license violation within any thirty-six (36)-month period, the licensed Tobacco Seller shall pay a fine of not less than fifteen hundred dollars (\$1,500) and not exceeding two thousand dollars (\$2,000) or the license shall be suspended for not less than fourteen (14) days and not more than twenty-one (21) days.

3. Upon a finding by the City of a third license violation within any thirty-six (36)-month period, the licensed Tobacco Seller shall pay a fine not less than three thousand dollars (\$3,000) and not exceeding five thousand dollars (\$5,000) or the license shall be suspended for not less than thirty (30) nor more than sixty (60) days for a third violation.

4. Upon a finding by the City of a fourth license violation within any thirty-six (36)-month period, the licensed Tobacco Seller shall pay a fine of not less than ten thousand dollars (\$10,000) and not exceeding twenty thousand dollars (\$20,000) or the license shall be suspended for not less than ninety (90) nor more than one hundred eighty (180) days.

5. Upon a finding by the City of a fifth or subsequent license violation within any thirty-six (36)-month period licensed Tobacco Seller's license shall be revoked for not less than one (1) year.

B. *Notification of Violation and Administrative Penalties.* The City shall verbally notify a licensed Tobacco Seller found violating this Chapter within forty-eight (48) hours or by written Notice of Violation within five (5) days.

C. *Settlement of Administrative Penalties.* The City may engage in settlement discussions with the licensed Tobacco Seller regarding violations if a written request by the Tobacco Seller is received by the City within fifteen (15) calendar days of receipt of Notice of Violation. Settlement discussions may include imposition of fines, suspensions or other reasonable conditions intended to avoid future violations. A Notice of Settlement shall be memorialized if an agreement is reached and provided to

the City, and no appeal shall be taken. Settlements will not be confidential and will be conferred without approval from the City Council. Settlements will include 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.

D. *Appeal of Suspension, Penalties or Revocation.* A decision of the City to impose penalties or to revoke or suspend a license under this Section [6.14.090](#) is appealable in accordance with the procedures described in Chapter [1.08](#).

E. *License Suspension Requires the Removal of all Tobacco Products from Public View.* A Tobacco Seller whose license is suspended must remove from public view all Tobacco Products and tobacco advertising for the duration of the suspension. Failure to remove such items from view will be regarded as a violation of this ordinance equivalent to that of selling to minors.

F. *Revocation of License Obtained Under False Pretenses.* A Tobacco Seller whose license is obtained under false pretenses shall have that license revoked. This revocation shall be with prejudice. A licensee whose license is revoked pursuant to this subsection may not apply for a new license for a period of one (1) year from the date the license is revoked.

G. *Revocation of License Issued in Error.* A Tobacco Seller's license shall be revoked if the City finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under Section [6.14.040](#) existed at the time application was made or at any time before the license was issued. The revocation shall be without prejudice to the filing of a new application for a license.

H. *Termination of License for Failure to Pay Renewal Fees.* A Tobacco Seller's license which is not timely renewed pursuant to Section [6.14.020](#)(B) shall automatically be deemed terminated by operation of law. No Person shall engage in Tobacco Selling at such location until a new license has been issued for that location.

(Ord. 905, §2, passed 12-10-2012)

6.14.100 ADMINISTRATIVE FINE.

A. *Grounds for Fine.* If the City determines, based on substantial record evidence, that a Tobacco Seller, or any employee, contractor or agent of a Tobacco Seller, has engaged in Tobacco Selling without a license, or during a period when the Tobacco Seller's license is suspended, the City shall fine the Tobacco Seller a fine not exceeding five hundred dollars (\$500) per violation. Each day that the Tobacco Seller engages in Tobacco Selling in violation of this Section [6.14.100](#) shall constitute a separate violation.

B. *Notice of Violation.* A notice of violation and of intent to impose a fine shall be personally served on, or sent by certified mail to, the Tobacco Seller subject to the fine. The notice shall state the basis of the City's determinations and include an advisement of the right to request a hearing to contest the fine. A decision of the City to impose a fine under this Section [6.14.100](#) is appealable in accordance with the procedures described in Chapter [1.08](#).

(Ord. 905, §2, passed 12-10-2012)

6.14.110 ENFORCEMENT.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

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

B. In addition to the administrative enforcement procedures provided by Section [6.14.090](#), violations of this ordinance may, at the discretion of the District Attorney, be prosecuted as misdemeanors.

C. Violations of this Chapter are hereby declared to be public nuisances.

D. 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.

E. 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 Attorney or the District Attorney, including, for example, administrative or judicial nuisance abatement proceedings, other legally authorized enforcement proceedings, and suits for injunctive relief.

F. Any Person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.

(Ord. 905, §2, passed 12-10-2012)

The Fort Bragg Municipal Code is current through Ordinance 957, passed January 13, 2020.

Disclaimer: The city clerk's office has the official version of the Fort Bragg Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://city.fortbragg.com/>

City Telephone: (707) 961-2823

[Code Publishing Company](#)

SUMMARY

ORDINANCE AMENDING CHAPTER 6.20 OF THE MENDOCINO COUNTY CODE REGARDING LICENSURE OF TOBACCO RETAILERS

This ordinance amends the Tobacco Retail Ordinance in Chapter 6.20 of the Mendocino County Code. The proposed changes expand the prohibition of the sale of Flavored Tobacco Products by removing the exclusion of cigarettes from the definition to become consistent with many other jurisdictions in the State of California. Additionally, all references to “Youth Decoys” are replaced with the term “Young Adult Decoys” to reflect the focus of the State prevention programs on the demographic of young adults, and not just minors. Finally, the definition of “Agency” identifies the Public Health Department and removes reference to Health and Human Services.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 6.20 OF THE MENDOCINO COUNTY CODE REGARDING
LICENSURE OF TOBACCO RETAILERS**

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

“SECTION I. FINDINGS AND DECLARATIONS:

WHEREAS, four out of five children who use tobacco started with a flavored tobacco product;

WHEREAS, according to a Report of the Surgeon General, internal tobacco industry documents show that the industry uses flavors to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under the age of 18;

WHEREAS, the results of a California Statewide survey among students in 2018 by the Center for Research and Intervention in Tobacco Control indicate that flavored electronic smoking products are mainly responsible for a rapid increase in youth and young adult tobacco use;

WHEREAS, according to a fact sheet on Menthol and Cigarettes published by the California Department of Public Health, menthol flavorings are more popular with young smokers based on a national study finding that 54.5% of high school and 48.4% of middle school users of tobacco products smoke menthol cigarettes (as compared to 30-35% of adults);

WHEREAS, within a statewide survey of high school students in 2017-2018, the Northern Region of California, including the County of Mendocino, has among the highest prevalence of tobacco use;

WHEREAS, the results of the California Healthy Kids Survey for 2017-2019, indicate the rate of vape use among current tobacco users in Mendocino County are 9% for seventh grade, 22% for ninth grade, and 22% for eleventh grade;

NOW THEREFORE, it is the intent of the Board of Supervisors of the County of Mendocino, in enacting this ordinance, to join numerous other California jurisdictions, which have adopted comprehensive flavor bans:

SECTION II. Chapter 6.20 of the Mendocino County Code entitled “Licensure of Tobacco Retailers” is hereby amended to read as follows:

Sec. 6.20.010 - 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:

- (a) “Agency” means the Mendocino County Public Health Department or the duly authorized designee of the Public Health Department.
- (b) “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.

- (c) "Characterizing Flavor" means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product, including, but not limited to, tastes or aromas relating to any fruit, menthol, mint, wintergreen, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverages, herb, or spice. A Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of the ingredient information.
- (d) "Compliance Check" means the process in which the Agency sends a Young Adult Decoy into a Tobacco Retailer's establishment to attempt to purchase a Tobacco Product.
- (e) "Electronic Nicotine Delivery Systems (ENDS)" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately and includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
- (f) "Flavored Tobacco Product" means any tobacco product that contains a constituent that imparts a characterizing flavor
- (g) "Hearing Officer" means either the "County Hearing Officer" identified by Chapter 2.76 of the Mendocino County Code or a person assigned by the Agency to conduct a hearing pursuant to this Chapter, who is qualified by training and experience to conduct such an adjudicatory hearing.
- (h) "Person" shall mean any person, firm, partnership, trust, estate, association, corporation, or organization of any kind. Where a principal acts through an agent, the word "person" shall include both such principal and agent.
- (i) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.
- (j) "Tobacco paraphernalia" means cigarette papers or wrappers, blunt wraps as defined in Section 308 of the Penal Code, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of tobacco products.
- (k) "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, snuff; and
 - 2. Any Electronic Nicotine Device System (ENDS) that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. Including any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

3. Notwithstanding any provision of subsections 1. and 2. to the contrary, "Tobacco Product" includes any component, part, or accessory of a Tobacco Product, whether or not sold separately. "Tobacco Product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marked and sold solely for such an approved purpose.

- (l) "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco or Tobacco Products: "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco or Tobacco Products sold, offered for sale, exchanged, or offered for exchange.
- (m) "Young Adult Decoy" shall refer to a participant in a compliance check who is under the minimum age required for purchase pursuant to state and federal laws, reasonably appears under the same minimum age and who has participated in the Public Health Department training for young adults involved with the tobacco control program compliance surveys.

Sec. 6.20.015 - Sales of Flavored Tobacco Product Prohibited.

- (a) 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, any Flavored Tobacco Product.
- (b) There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including, but not limited to, individual Flavored Tobacco Products, Packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to Sell or offer for Sale.
- (c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:
 - 1. made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
 - 2. used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or
 - 3. taken action directed to Consumers that would be reasonably expected to cause Consumers to believe the Tobacco Product imparts a Characterizing Flavor.

Sec. 6.20.020 - Requirement for Tobacco Retailer License.

- (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. No license may be issued to authorize Tobacco Retailing at other than a fixed location.
- (b) The payment of the license fee designated in Section 6.20.060 confers paid status upon a license for a term of one year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license no later than thirty (30) days prior to expiration of the payment term.
- (c) A Person selling Tobacco Products without a valid tobacco retailer license, including a Person whose privilege to sell tobacco products has been suspended or revoked:

1. Shall keep all Tobacco Products out of public view. The public display of Tobacco Products in violation of this provision shall constitute Tobacco Retailing without a license under Section 6.20.090 and will incur administrative fines in accordance with 6.20.100.
 2. Shall not display any advertising relating to Tobacco Products 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.
- (d) 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 County of Mendocino identified on the face of the permit. For example, nothing in this Chapter shall be construed to render inapplicable, supersede, or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by Labor Code §6404.5.
- (e) It is the responsibility of each Tobacco Retailer to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer's license. No Retailer may rely on the issuance of a license as a determination by the Agency that the Retailer has complied with all laws applicable to Tobacco Retailing.

Sec. 6.20.030 - Application Procedure.

- (a) Application for a Tobacco Retailer's license shall be submitted to the Mendocino County Public Health Department, Tobacco Retail License Program in the name of each Person proposing to conduct retail tobacco sales and shall be signed by each Person or an authorized agent thereof on an annual basis. It is the responsibility of each Person to be informed of the laws affecting the issuance of a Tobacco Retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a Person may be revoked pursuant to Section 6.20.090(h) of this Chapter. All applications shall be submitted on a form supplied by the Agency and shall contain the following information:
1. The name, address, and telephone number of each Person.
 2. The business name, address, and telephone number of the single fixed location for which a Tobacco Retailer's License is sought.
 3. The name and mailing address authorized by each Person to receive all license-related communications and notices (the "Authorized Address"). If an Authorized Address is not supplied, each Person shall be understood to consent to the provision of notice at the business address specified pursuant to subparagraph 2 above.
 4. Whether or not any Person has previously been issued a license pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.
 5. Such other information as the Agency deems necessary for the administration or enforcement of this ordinance.
- (b) All licensed Tobacco Retailers shall inform the Agency in writing of any change in the information submitted on the application for a Tobacco Retailer's license within 14 days of a change.

Sec. 6.20.040 - Issuance of License.

Upon the receipt of an application for a Tobacco Retailer's license and the license fee, the Agency shall issue a license unless substantial evidence demonstrates one or more of the following bases for denial exists:

- (a) The information presented in the application is incomplete, inaccurate, or false. Intentionally supplying inaccurate or false information shall be a violation of this Chapter.
- (b) The application seeks authorization for Tobacco Retailing by a Person for which or whom a suspension is in effect pursuant to Section 6.20.090 of this Chapter; or by a Person which or who has had a license revoked pursuant to Section 6.20.090 of this Chapter.
- (c) The Tobacco Retailer at the time of the application is indebted to the County for any delinquent license fees or fines pursuant to this Chapter, unless such licensee, with the consent of the Agency enters into a written agreement with the County to pay such delinquent fees in at least monthly installments extending over a period not to exceed one year and is current with said installment payments.
- (d) The Tobacco Retailer has violated this Chapter or any other tobacco control law three (3) or more times within the previous sixty (60) months.

Sec. 6.20.050 - Display of License.

Each license shall be prominently displayed in a publicly visible location at the licensed premises.

Sec. 6.20.060 - Fees for License.

The fee to issue or to renew a Tobacco Retailer's license shall be paid annually and shall be established by resolution of Board of Supervisors of the County of Mendocino. The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and enforcement, but shall not exceed the cost of the regulatory program authorized by this Chapter. Annual fees shall not be pro-rated or refunded during the course of the year. The Agency may charge a re-inspection fee to offset the additional staff time required to handle non-compliant businesses. Additional inspections thereafter will be billed based on actual costs incurred.

Sec. 6.20.070 - Licenses Nontransferable.

A Tobacco Retailer's license is nontransferable from one Person to another or from one location to another. Whenever a Tobacco Retailing location has a change in ownership, a new Tobacco Retailer's license is required.

Sec. 6.20.080 - License Violation.

VIOLATION OF LAWS RELATED TO TOBACCO PRODUCTS. It shall be a violation of a Tobacco Retailer's license for a Person or his or her agent or employee to violate any local, state, or federal tobacco-related laws regarding the sales, advertising or display of Tobacco Products, including, but not limited to, the Stop Tobacco Access to Kids Enforcement Act ("STAKE Act"), California Businesses and Professions Code section 22958, and California Penal Code section 308.

Sec. 6.20.085 - Compliance Monitoring.

The County anticipates that compliance checks of each Tobacco Retailer will be conducted at least two (2) times during each twelve-month period by the Agency or its designee(s). The Mendocino County Sheriff's Office shall also have authority to assist in enforcement. Retailers may be subject to additional inspections based on random selection, past violation(s) or complaints. Nothing in this paragraph shall create a right of action in any licensee or other Person against the County or its agents. Compliance checks shall be carried out in an effort to enforce any local, state, or federal law related to tobacco sales and/or tobacco related sales, especially those related to a minimum age for tobacco purchases or possession. The County shall not enforce any tobacco-related minimum-age law against a person who otherwise would be in violation of such law because of the person's age (hereinafter "Young Adult Decoy") if the violation occurs when:

- (a) the Young Adult Decoy is participating in a compliance check supervised by a law enforcement official, a code enforcement official, or any peace officer; or
- (b) the Young Adult Decoy is participating in a compliance check funded or supervised in any part by the County or, funded or supervised in any part by the California Department of Health Services.

Sec. 6.20.090 - Suspension, Termination or Revocation of License.

- (a) **TOBACCO RETAILING WITHOUT A VALID LICENSE.** In addition to any other penalty authorized by law, including the application of Administrative Fines under Section 6.20.100, if the Agency finds based on a preponderance of the evidence, after notice and an opportunity to be heard pursuant to section 6.20.090(d) 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 to be issued, a Tobacco Retailer's license as follows:
 - 1. After a first violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until one (1) year has passed from the date of the violation.
 - 2. After a second violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until three (3) years have passed from the date of the violation.
 - 3. After a third violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location unless ownership of the business at the location has been transferred in an Arm's Length Transaction.
- (b) **VIOLATION OF MINIMUM AGE LAWS RELATED TO TOBACCO PRODUCTS: SUSPENSION, REVOCATION.** In addition to any other remedy authorized by law after notice and opportunity to be heard pursuant to section 6.20.090(d), a Tobacco Retailer's license may be suspended or revoked as provided in this section if the Agency finds, based on a preponderance of the evidence, that the licensee, or any of the licensee's agents or employees, has violated tobacco-related laws as indicated in Section 6.20.80. A Tobacco Retailer shall also be charged the following fines. All administrative penalties resulting from violation of this Chapter and collected by the Agency shall be maintained in a fund specifically designated for compliance monitoring, enforcement efforts and education related to the sale of Tobacco Products to those under the minimum age required by law.
 - 1. Upon a finding by the Agency of a first license violation within any thirty-six (36) month period, the Person shall receive a letter of reprimand from the Agency which shall advise

2. the Person that if Person trains all sales employees at the location of the sale in the laws pertaining to the sale of Tobacco Products to persons under the minimum age allowed by state law to purchase Tobacco Products, and techniques to ensure future compliance with said laws, no penalty will be imposed. Person must submit to the Department, within 30 days, an affidavit signed by Person and the sales employees that said training has been completed. If Person fails to timely submit the affidavit, the Agency shall impose a fine of one thousand dollars (\$1,000.00) for a first violation in any thirty-six (36) month period.
3. Upon a finding by the Agency of a second license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of two thousand dollars (\$2,000.00) and the Person's license shall be suspended for twenty-one (21) days.
4. Upon a finding by the Agency of a third license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of five thousand (\$5,000.00) and the Person's license shall be suspended for sixty (60) days.
5. Upon a finding by the Agency of a fourth license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of ten thousand dollars (\$10,000.00) and the Person's license shall be suspended for one hundred eighty (180) days.
6. Upon a finding by the Agency of a fifth or subsequent license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of twenty thousand dollars (\$20,000.00) and the Person's license shall be revoked for not less than one year.

(c) **NO DISPLAY OR ADVERTISING.** During any period of suspension or revocation the licensee:

1. Shall remove all Tobacco Products from public view. Failure to do so shall result in an administrative fine pursuant to Section 6.20.100, with each day constituting a separate violation.
2. Shall not display any advertising relating to Tobacco Products 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. Failure to do so shall result in an administrative fine pursuant to Section 6.20.100, with each day constituting a separate violation.

(d) **NOTICE OF INTENDED DECISION.** Upon the existence of any of the grounds for ineligibility, denial, suspension, or revocation of a license pursuant to this chapter, the Agency shall issue to the license applicant or holder a notice of intended decision. The notice of intended decision shall state the grounds upon which the denial, revocation, or suspension is based. The notice of intended decision shall specify the effective date of the action. The notice of intended decision shall advise the license applicant or holder that the suspension or revocation shall become final unless the person files a written request for administrative review within 10 calendar days of the date of service of the notice of intended decision.

(e) **SERVICE PROCEDURES.** The Agency's decision to impose a suspension or revocation may be served by personal service or by certified mail, postage prepaid with a return receipt requested. Simultaneously, the decision may be sent by first class mail, postage prepaid with certificate of mailing requested. Certified and first class mail will be addressed to the Tobacco Retailer at the address shown on the license application. If the decision is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the decision sent by first class mail is not returned by the United States Postal Service undelivered. In the case of service by certified mail for which a signed receipt is returned, the date of service shall be the date of signing of the receipt. In the case of service by regular first class mail, the date of service shall be the date upon which such mail was deposited in the United States Mail with postage prepaid, plus five days.

- (f) **TERMINATION OF LICENSE FOR FAILURE TO PAY RENEWAL FEES.** A Tobacco Retailer's license which is not timely renewed pursuant to §6.20.020(b) shall automatically be deemed terminated by operation of law.
- (g) **REVOCAION OF LICENSE ISSUED IN ERROR.** A Tobacco Retailer's license shall be revoked if the Agency finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under §6.20.040 existed at the time application was made or at any time before the license issued. The decision by the Agency shall be the final decision of the County. The revocation shall be without prejudice to the filing of a new application for a license.
- (h) **REVOCAION OF LICENSE OBTAINED UNDER FALSE PRETENSES.** Tobacco Retailers whose licenses are obtained under false pretenses shall have their license revoked. This revocation shall be with prejudice. One calendar year must elapse between any revocation pursuant to this subsection and any subsequent application.
- (i) **APPEAL OF SUSPENSION, PENALTIES OR REVOCATION.** Requests for appeal must be filed with the Agency within ten (10) calendar days from the date of a properly served decision under 6.20.090(e). With respect to suspensions or revocations, if such an appeal is timely made it shall stay enforcement of the appealed action. An appeal is not available for a revocation made pursuant to 6.20.090(f) above. The Agency may engage in settlement negotiations and may enter into a settlement agreement with a Tobacco Retailer alleged to have violated this Chapter; provided a timely appeal has been filed. Settlements shall not be confidential.

Sec. 6.20.100 - Administrative Fine.

- (a) **GROUND FOR FINE.** If the Agency finds, based on a preponderance of the evidence, that any unlicensed person, including a person named on a revoked or suspended license, has engaged in Tobacco Retailing without a valid license, including the failure to remove Tobacco Products from public view and failure to remove advertising promoting the sale of Tobacco Products, the Agency shall fine that Person:
 1. a fine not exceeding one hundred dollars (\$100) for a first violation in any thirty-six (36) month period; or
 2. a fine not exceeding two hundred dollars (\$200) for a second violation in any thirty-six (36) month period; or
 3. a fine not exceeding five hundred dollars (\$500) for a third or subsequent violation in any thirty-six (36) month period.

Each and every day a violation of this provision exists shall constitute a separate violation.

- (b) **NOTICE OF VIOLATION.** A notice of violation and of intent to impose a fine shall state the basis of the Agency's determinations as identified below and include an advisement of the right to appeal. Any appeal must be made in accordance with the procedure identified in Section 6.20.105 below. The notice of violation shall contain the following:
 1. The name and address of the responsible Tobacco Retailer;
 2. The basis of the Agency's determinations;
 3. A statement explaining how, where, to whom, and within what number of days the penalty shall be paid;
 4. A statement explaining that the fine is effective immediately with the understanding that any subsequent Notice of Violation would be considered a repeat violation subject to a higher penalty;

5. Identification of appeal rights, including the time within which the Notice of Violation may be contested.

- (c) **SERVICE OF NOTICE OF VIOLATION.** The notice of violation and of intent to impose a fine may be served by personal service or by certified mail, postage prepaid with a return receipt requested. Simultaneously, the decision may be sent by first class mail, postage prepaid with certificate of mailing requested. Certified and first class mail will be addressed to the Tobacco Retailer at the address shown on the license application. If the decision is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the decision sent by first class mail is not returned by the United States Postal Service undelivered. In the case of service by certified mail for which a signed receipt is returned, the date of service shall be the date of signing of the receipt. In the case of service by regular first class mail, the date of service shall be the date upon which such mail was deposited in the United States Mail with postage prepaid, plus five days.
- (d) **IMPOSITION OF FINE.** If no appeal is timely received, the Agency's determination on the violation and the imposition of a fine shall be final and payment 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 attorney's fees incurred by the County in collecting the fine.
- (e) **FAILURE TO PAY FINE.** The Agency or County may impose any remedy authorized by law to collect the administrative fine if not paid timely pursuant to the provisions of this Chapter.

Sec. 6.20.105. Appeal Procedure.

Whenever this Chapter provides for a right to appeal, the recipient must give notice to the Agency within 10 calendar days from the date of service by providing a document in writing, bearing the title, "Appeal of Tobacco Retail Decision", containing the name, address, and phone number of the appellant and the grounds on which the decision is being contested.

- (a) The notice of appeal shall be accompanied by an advance deposit in the amount of the total administrative penalty. If the Board of Supervisors has established a hearing fee, the hearing fee shall also be provided.
- (b) Any notice of appeal filed without providing the advance deposit and hearing fee (if applicable) shall be deemed incomplete.
- (c) The Agency receiving a timely and properly filed appeal, shall then cause the matter to be set for hearing before a Hearing Officer by notifying the Hearing Officer directly or by requesting County Counsel to coordinate the Hearing Officer.
- (d) A hearing before a Hearing Officer shall be set for a date that is not less than ten (10) and not more than (30) days from the date that the notice of appeal is filed.
- (e) Either the Hearing Officer or County Counsel in cooperation with the Hearing Officer, shall notify the parties in writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal.

- (f) At the prescribed time and place, the Hearing Officer shall consider relevant evidence from all parties as to whether the violation of tobacco-related laws occurred. The Agency's notice of violation, intended decision and any additional documents submitted by the Agency shall constitute prima facie evidence of the respective facts contained in those documents.
- (g) Parties may choose to be represented by an attorney. However, the Administrative Procedure Act (commencing with Government Code Section 11500) shall not be applicable to such hearing nor shall formal rules of evidence in civil or criminal proceedings be applicable.
- (h) The failure of any appellant to appear at the scheduled hearing shall constitute an abandonment of the appeal.
- (i) The Hearing Officer may continue the hearing and request additional information from the parties prior to issuing a written decision.
- (j) The Agency has the burden of proving by a preponderance of the evidence that the alleged violation occurred.
- (k) Following conclusion of the hearing and based on the evidence before it, the Hearing Officer shall prepare a written decision that either grants or denies the appeal, contains findings of facts and conclusions of law in support of the Hearing Officer's decision to impose fines, a license suspension, condition or some combination thereof. The Hearing Officer's written decision shall be the final decision of the County and shall become final upon the date notice thereof is mailed to the appellant by certified mail.
- (l) If the Hearing Officer determines that the Tobacco Retail Decision shall be upheld, then the fine amount identified, or as otherwise adjusted by the Hearing Officer, shall be immediately collectable by the Agency. If the Hearing Officer determines the Tobacco Retail Decision should not be upheld, the Hearing Officer shall order the Citation dismissed, and the Agency shall return the advance deposit.
- (m) Any determination of the Hearing Officer shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

Sec. 6.20.110 - Enforcement.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- (a) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance shall constitute a violation.
- (b) In addition to the administrative enforcement procedures provided by this Chapter, violations of this ordinance may, at the discretion of the District Attorney, be prosecuted as misdemeanors.
- (c) Violations of this ordinance are hereby declared to be public nuisances.
- (d) Violations of this ordinance 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.
- (e) In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the County Counsel or the District Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

- (f) Any Person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.
- (g) Any person who is found to have violated this Chapter shall be liable for such costs, expenses and disbursements paid or incurred by the County or any of its contractors in the correction, abatement, prosecution of, or administrative hearing, on the violation. Re-inspection fees to ascertain compliance with previously noticed violations shall be charged to the owner of the establishment and may be set by the Board of Supervisors in the Master Fee Schedule.

Sec. 6.20.120 - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase 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 of this Ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION III. Effective Date, Publication, and Codification. This Ordinance shall take effect thirty (30) days after adoption. This Ordinance (or Ordinance Summary) shall be published once within 15 days of its passage. Section II shall be codified and all remaining sections shall not be codified.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2022, by the following roll call vote:

AYES:
 NOES:
 ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
 Interim Clerk of the Board

 TED WILLIAMS, Chair
 Mendocino County Board of Supervisors

 Deputy

APPROVED AS TO FORM:
 CHRISTIAN M. CURTIS,
 County Counsel

I hereby certify that according to the Provisions of Government Code section 25103, delivery of this document has been made.

BY: DARCIE ANTLE
 Interim Clerk of the Board

 Deputy

ORDINANCE NO. ____

AN ORDINANCE AMENDING CHAPTER 6.20 OF THE MENDOCINO COUNTY CODE REGARDING LICENSURE OF TOBACCO RETAILERS

The Board of Supervisors of the County of Mendocino, State of California, ordains as follows:

“SECTION I. FINDINGS AND DECLARATIONS:

WHEREAS, four out of five children who use tobacco started with a flavored tobacco product;

WHEREAS, according to a Report of the Surgeon General, internal tobacco industry documents show that the industry uses flavors to reduce the harshness of their products to make them more appealing to new users, almost all of whom are under the age of 18;

WHEREAS, the results of a California Statewide survey among students in 2018 by the Center for Research and Intervention in Tobacco Control indicate that flavored electronic smoking products are mainly responsible for a rapid increase in youth and young adult tobacco use;

WHEREAS, according to a fact sheet on Menthol and Cigarettes published by the California Department of Public Health, menthol flavorings are more popular with young smokers based on a national study finding that 54.5% of high school and 48.4% of middle school users of tobacco products smoke menthol cigarettes (as compared to 30-35% of adults);

WHEREAS, within a statewide survey of high school students in 2017-2018, the Northern Region of California, including the County of Mendocino, has among the highest prevalence of tobacco use;

WHEREAS, the results of the California Health Kids Survey for 2017-2019, indicate the rate of vape use among current tobacco users in Mendocino County are 9% for seventh grade, 22% for ninth grade, and 22% for eleventh grade;

NOW THEREFORE, it is the intent of the Board of Supervisors of the County of Mendocino, in enacting this ordinance, to join numerous other California jurisdictions, which have adopted comprehensive flavor bans;

SECTION II. Chapter 6.20 of the Mendocino County Code entitled “Licensure of Tobacco Retailers” is hereby amended to read as follows:

Sec. 6.20.010 - 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:

- (a) “Agency” means the Mendocino County Health and Human Services Agency, Public Health Branch Department or the duly authorized designee of the County Health and Human Services Agency, Public Health Branch Department.
- (b) “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.
- (c) “Characterizing Flavor” means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product, including, but not limited to, tastes or aromas relating to any fruit, menthol, mint, wintergreen, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverages, herb, or spice. A Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of the ingredient information.
- (d) “Compliance Check” means the process in which the Agency sends a Youth-Young Adult Decoy into a Tobacco Retailer’s establishment to attempt to purchase a Tobacco Product.
- (e) “Electronic Nicotine Delivery Systems (ENDS)” means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately and includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
- (f) “Flavored Tobacco Product” means any tobacco product ~~(other than cigarettes as defined by federal law)~~ that contains a constituent that imparts a characterizing flavor
- (g) ”Hearing Officer” means either the “County Hearing Officer” identified by Chapter 2.76 of the Mendocino County Code or a person assigned by the Agency to conduct a hearing pursuant to this Chapter, who is qualified by training and experience to conduct such an adjudicatory hearing.
- (h) “Person” shall mean any person, firm, partnership, trust, estate, association, corporation, or organization of any kind. Where a principal acts through an agent, the word "person" shall include both such principal and agent.
- (i) “Smoking” means inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated tobacco or plant product intended for inhalation, whether natural or synthetic, in any manner or in any form. “Smoking”

includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking.

- (j) “Tobacco paraphernalia” means cigarette papers or wrappers, blunt wraps as defined in Section 308 of the Penal Code, pipes, holders of smoking materials of all types, cigarette rolling machines, or other instruments or things designed for the smoking or ingestion of tobacco products.
- (k) “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, snuff; and
 - 2. Any Electronic Nicotine Device System (ENDS) that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. Including any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
 - 3. Notwithstanding any provision of subsections 1. and 2. to the contrary, “Tobacco Product” includes any component, part, or accessory of a Tobacco Product, whether or not sold separately. “Tobacco Product” does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marked and sold solely for such an approved purpose.
- (l) “Tobacco Retailer” means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco or Tobacco Products: "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco or Tobacco Products sold, offered for sale, exchanged, or offered for exchange.
- (m) “~~Youth~~Young Adult Decoy” shall refer to a participant in a compliance check who is under the minimum age required for purchase pursuant to state and federal laws, reasonably appears under the same minimum age and who has participated in the Public Health ~~Branch~~Department training for ~~youth~~young adults involved with the tobacco control program compliance surveys.

Sec. 6.20.015 - Sales of Flavored Tobacco Product Prohibited.

- (a) 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, any Flavored Tobacco Product.

- (b) There shall be a rebuttable presumption that a Tobacco Retailer in possession of four or more Flavored Tobacco Products, including, but not limited to, individual Flavored Tobacco Products, Packages of Flavored Tobacco Products, or any combination thereof, possesses such Flavored Tobacco Products with intent to Sell or offer for Sale.
- (c) There shall be a rebuttable presumption that a Tobacco Product is a Flavored Tobacco Product if a Tobacco Retailer, Manufacturer, or any employee or agent of a Tobacco Retailer or Manufacturer has:
 - 1. made a public statement or claim that the Tobacco Product imparts a Characterizing Flavor;
 - 2. used text and/or images on the Tobacco Product's Labeling or Packaging to explicitly or implicitly indicate that the Tobacco Product imparts a Characterizing Flavor; or
 - 3. taken action directed to Consumers that would be reasonably expected to cause Consumers to believe the Tobacco Product imparts a Characterizing Flavor.

Sec. 6.20.020 - Requirement for Tobacco Retailer License.

- (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. No license may be issued to authorize Tobacco Retailing at other than a fixed location.
- (b) The payment of the license fee designated in Section 6.20.060 confers paid status upon a license for a term of one year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license no later than thirty (30) days prior to expiration of the payment term.
- (c) A Person selling Tobacco Products without a valid tobacco retailer license, including a Person whose privilege to sell tobacco products has been suspended or revoked:
 - 1. Shall keep all Tobacco Products out of public view. The public display of Tobacco Products in violation of this provision shall constitute Tobacco Retailing without a license under Section 6.20.090 and will incur administrative fines in accordance with 6.20.100.
 - 2. Shall not display any advertising relating to Tobacco Products 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.
- (d) 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 County of Mendocino identified on the face of the permit. For example, nothing in this Chapter shall be construed to render inapplicable, supersede,

or apply in lieu of any other provision of applicable law, including, without limitation, any condition or limitation on smoking in enclosed places of employment made applicable to business establishments by Labor Code §6404.5.

- (e) It is the responsibility of each Tobacco Retailer to be informed regarding all laws applicable to Tobacco Retailing, including those laws affecting the issuance of a Tobacco Retailer's license. No Retailer may rely on the issuance of a license as a determination by the Agency that the Retailer has complied with all laws applicable to Tobacco Retailing.

Sec. 6.20.030 - Application Procedure.

- (a) Application for a Tobacco Retailer's license shall be submitted to ~~Health and Human Services Agency, the Mendocino County~~ Public Health Department, Tobacco Retail License Program in the name of each Person proposing to conduct retail tobacco sales and shall be signed by each Person or an authorized agent thereof on an annual basis. It is the responsibility of each Person to be informed of the laws affecting the issuance of a Tobacco Retailer's license. A license that is issued in error or on the basis of false or misleading information supplied by a Person may be revoked pursuant to Section 6.20.090(h) of this Chapter. All applications shall be submitted on a form supplied by the Agency and shall contain the following information:
 - 1. The name, address, and telephone number of each Person.
 - 2. The business name, address, and telephone number of the single fixed location for which a Tobacco Retailer's License is sought.
 - 3. The name and mailing address authorized by each Person to receive all license-related communications and notices (the "Authorized Address"). If an Authorized Address is not supplied, each Person shall be understood to consent to the provision of notice at the business address specified pursuant to subparagraph 2 above.
 - 4. Whether or not any Person has previously been issued a license pursuant to this Chapter that is, or was at any time, suspended or revoked and, if so, the dates of the suspension period or the date of revocation.
 - 5. Such other information as the Agency deems necessary for the administration or enforcement of this ordinance.
- (b) All licensed Tobacco Retailers shall inform the Agency in writing of any change in the information submitted on the application for a Tobacco Retailer's license within 14 days of a change.

Sec. 6.20.040 - Issuance of License.

Upon the receipt of an application for a Tobacco Retailer's license and the license fee, the Agency shall issue a license unless substantial evidence demonstrates one or more of the following bases for denial exists:

- (a) The information presented in the application is incomplete, inaccurate, or false. Intentionally supplying inaccurate or false information shall be a violation of this Chapter.
- (b) The application seeks authorization for Tobacco Retailing by a Person for which or whom a suspension is in effect pursuant to Section 6.20.090 of this Chapter; or by a Person which or who has had a license revoked pursuant to Section 6.20.090 of this Chapter.
- (c) The Tobacco Retailer at the time of the application is indebted to the County for any delinquent license fees or fines pursuant to this Chapter, unless such licensee, with the consent of the Agency enters into a written agreement with the County to pay such delinquent fees in at least monthly installments extending over a period not to exceed one year and is current with said installment payments.
- (d) The Tobacco Retailer has violated this Chapter or any other tobacco control law three (3) or more times within the previous sixty (60) months.

Sec. 6.20.050 - Display of License.

Each license shall be prominently displayed in a publicly visible location at the licensed premises.

Sec. 6.20.060 - Fees for License.

The fee to issue or to renew a Tobacco Retailer's license shall be paid annually and shall be established by resolution of Board of Supervisors of the County of Mendocino. The fee shall be calculated so as to recover the cost of administration and enforcement of this Chapter, including, for example, issuing a license, administering the license program, retailer education, retailer inspection and compliance checks, documentation of violations, and enforcement, but shall not exceed the cost of the regulatory program authorized by this Chapter. Annual fees shall not be pro-rated or refunded during the course of the year. The Agency may charge a re-inspection fee to offset the additional staff time required to handle non-compliant businesses. Additional inspections thereafter will be billed based on actual costs incurred.

Sec. 6.20.070 - Licenses Nontransferable.

A Tobacco Retailer's license is nontransferable from one Person to another or from one location to another. Whenever a Tobacco Retailing location has a change in ownership, a new Tobacco Retailer's license is required.

Sec. 6.20.080 - License Violation.

VIOLATION OF LAWS RELATED TO TOBACCO PRODUCTS. It shall be a violation of a Tobacco Retailer's license for a Person or his or her agent or employee to violate any local, state, or federal tobacco-related laws regarding the sales, advertising or display of Tobacco Products, including, but not limited to, the Stop Tobacco Access to Kids Enforcement Act ("STAKE Act"), California Businesses and Professions Code section 22958, and California Penal Code section 308.

Sec. 6.20.085 - Compliance Monitoring.

The County anticipates that compliance checks of each Tobacco Retailer will be conducted at least two (2) times during each twelve-month period by the Agency or its designee(s). The Mendocino County Sheriff's Office shall also have authority to assist in enforcement. Retailers may be subject to additional inspections based on random selection, past violation(s) or complaints. Nothing in this paragraph shall create a right of action in any licensee or other Person against the County or its agents. Compliance checks shall be carried out in an effort to enforce any local, state, or federal law related to tobacco sales and/or tobacco related sales, especially those related to a minimum age for tobacco purchases or possession. The County shall not enforce any tobacco-related minimum-age law against a person who otherwise would be in violation of such law because of the person's age (hereinafter "~~Youth~~-Young Adult Decoy") if the violation occurs when:

- (a) the ~~Youth~~-Young Adult Decoy is participating in a compliance check supervised by a law enforcement official, a code enforcement official, or any peace officer; or
- (b) the ~~Youth~~-Young Adult Decoy is participating in a compliance check funded or supervised in any part by the County or, funded or supervised in any part by the California Department of Health Services.

Sec. 6.20.090 - Suspension, Termination or Revocation of License.

- (a) TOBACCO RETAILING WITHOUT A VALID LICENSE. In addition to any other penalty authorized by law, including the application of Administrative Fines under Section 6.20.100, if the Agency finds based on a preponderance of the evidence, after notice and an opportunity to be heard pursuant to section 6.20.090(d) 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 to be issued, a Tobacco Retailer's license as follows:
 - 1. After a first violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until one (1) year has passed from the date of the violation.
 - 2. After a second violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location (unless ownership of the

business at the location has been transferred in an Arm's Length Transaction), until three (3) years have passed from the date of the violation.

3. After a third violation at a location within any sixty (60) month period, no new license may be issued for the Person or the location unless ownership of the business at the location has been transferred in an Arm's Length Transaction.

(b) **VIOLATION OF MINIMUM AGE LAWS RELATED TO TOBACCO PRODUCTS: SUSPENSION, REVOCATION.** In addition to any other remedy authorized by law after notice and opportunity to be heard pursuant to section 6.20.090(d), a Tobacco Retailer's license may be suspended or revoked as provided in this section if the Agency finds, based on a preponderance of the evidence, that the licensee, or any of the licensee's agents or employees, has violated tobacco-related laws as indicated in Section 6.20.80. A Tobacco Retailer shall also be charged the following fines. All administrative penalties resulting from violation of this Chapter and collected by the Agency shall be maintained in a fund specifically designated for compliance monitoring, enforcement efforts and education related to the sale of Tobacco Products to ~~youth~~those under the minimum age required by law.

1. Upon a finding by the Agency of a first license violation within any thirty-six (36) month period, the Person shall receive a letter of reprimand from the Agency which shall advise the Person that if Person trains all sales employees at the location of the sale in the laws pertaining to the sale of Tobacco Products to persons under the minimum age allowed by state law to purchase Tobacco Products, and techniques to ensure future compliance with said laws, no penalty will be imposed. Person must submit to the Department, within 30 days, an affidavit signed by Person and the sales employees that said training has been completed. If Person fails to timely submit the affidavit, the Agency shall impose a fine of one thousand dollars (\$1,000.00) for a first violation in any thirty-six (36) month period.
2. Upon a finding by the Agency of a second license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of two thousand dollars (\$2,000.00) and the Person's license shall be suspended for twenty-one (21) days.
3. Upon a finding by the Agency of a third license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of five thousand (\$5,000.00) and the Person's license shall be suspended for sixty (60) days.
4. Upon a finding by the Agency of a fourth license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of ten thousand dollars (\$10,000.00) and the Person's license shall be suspended for one hundred eighty (180) days.
5. Upon a finding by the Agency of a fifth or subsequent license violation within any thirty-six (36) month period, the Tobacco Retailer shall pay a fine of twenty thousand dollars (\$20,000.00) and the Person's license shall be revoked for not less than one year.

- (c) **NO DISPLAY OR ADVERTISING.** During any period of suspension or revocation the licensee:
1. Shall remove all Tobacco Products from public view. Failure to do so shall result in an administrative fine pursuant to Section 6.20.100, with each day constituting a separate violation.
 2. Shall not display any advertising relating to Tobacco Products 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. Failure to do so shall result in an administrative fine pursuant to Section 6.20.100, with each day constituting a separate violation.
- (d) **NOTICE OF INTENDED DECISION.** Upon the existence of any of the grounds for ineligibility, denial, suspension, or revocation of a license pursuant to this chapter, the Agency shall issue to the license applicant or holder a notice of intended decision. The notice of intended decision shall state the grounds upon which the denial, revocation, or suspension is based. The notice of intended decision shall specify the effective date of the action. The notice of intended decision shall advise the license applicant or holder that the suspension or revocation shall become final unless the person files a written request for administrative review within 10 calendar days of the date of service of the notice of intended decision.
- (e) **SERVICE PROCEDURES.** The Agency's decision to impose a suspension or revocation may be served by personal service or by certified mail, postage prepaid with a return receipt requested. Simultaneously, the decision may be sent by first class mail, postage prepaid with certificate of mailing requested. Certified and first class mail will be addressed to the Tobacco Retailer at the address shown on the license application. If the decision is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the decision sent by first class mail is not returned by the United States Postal Service undelivered. In the case of service by certified mail for which a signed receipt is returned, the date of service shall be the date of signing of the receipt. In the case of service by regular first class mail, the date of service shall be the date upon which such mail was deposited in the United States Mail with postage prepaid, plus five days.
- (f) **TERMINATION OF LICENSE FOR FAILURE TO PAY RENEWAL FEES.** A Tobacco Retailer's license which is not timely renewed pursuant to §6.20.020(b) shall automatically be deemed terminated by operation of law.
- (g) **REVOCATION OF LICENSE ISSUED IN ERROR.** A Tobacco Retailer's license shall be revoked if the Agency finds, after notice and opportunity to be heard, that one or more of the bases for denial of a license under §6.20.040 existed at the time application was made or at any time before the license issued. The decision by the Agency shall be the final decision of the County. The revocation shall be without prejudice to the filing of a new application for a license.

- (h) **REVOCATION OF LICENSE OBTAINED UNDER FALSE PRETENSES.** Tobacco Retailers whose licenses are obtained under false pretenses shall have their license revoked. This revocation shall be with prejudice. One calendar year must elapse between any revocation pursuant to this subsection and any subsequent application.
- (i) **APPEAL OF SUSPENSION, PENALTIES OR REVOCATION.** Requests for appeal must be filed with the Agency within ten (10) calendar days from the date of a properly served decision under 6.20.090(e). With respect to suspensions or revocations, if such an appeal is timely made it shall stay enforcement of the appealed action. An appeal is not available for a revocation made pursuant to 6.20.090(f) above. The Agency may engage in settlement negotiations and may enter into a settlement agreement with a Tobacco Retailer alleged to have violated this Chapter; provided a timely appeal has been filed. Settlements shall not be confidential.

Sec. 6.20.100 - Administrative Fine.

- (a) **GROUND FOR FINE.** If the Agency finds, based on a preponderance of the evidence, that any unlicensed person, including a person named on a revoked or suspended license, has engaged in Tobacco Retailing without a valid license, including the failure to remove Tobacco Products from public view and failure to remove advertising promoting the sale of Tobacco Products, the Agency shall fine that Person:
 - 1. a fine not exceeding one hundred dollars (\$100) for a first violation in any thirty-six (36) month period; or
 - 2. a fine not exceeding two hundred dollars (\$200) for a second violation in any thirty-six (36) month period; or
 - 3. a fine not exceeding five hundred dollars (\$500) for a third or subsequent violation in any thirty-six (36) month period.

Each and every day a violation of this provision exists shall constitute a separate violation.

- (b) **NOTICE OF VIOLATION.** A notice of violation and of intent to impose a fine shall state the basis of the Agency's determinations as identified below and include an advisement of the right to appeal. Any appeal must be made in accordance with the procedure identified in Section 6.20.105 below. The notice of violation shall contain the following:
 - 1. The name and address of the responsible Tobacco Retailer;
 - 2. The basis of the Agency's determinations;
 - 3. A statement explaining how, where, to whom, and within what number of days the penalty shall be paid;
 - 4. A statement explaining that the fine is effective immediately with the understanding that any subsequent Notice of Violation would be considered a repeat violation subject to a higher penalty;
 - 5. Identification of appeal rights, including the time within which the Notice of Violation may be contested.

- (c) **SERVICE OF NOTICE OF VIOLATION.** The notice of violation and of intent to impose a fine may be served by personal service or by certified mail, postage prepaid with a return receipt requested. Simultaneously, the decision may be sent by first class mail, postage prepaid with certificate of mailing requested. Certified and first class mail will be addressed to the Tobacco Retailer at the address shown on the license application. If the decision is sent by certified mail and returned unsigned, then service shall be deemed effective pursuant to first class mail, provided the decision sent by first class mail is not returned by the United States Postal Service undelivered. In the case of service by certified mail for which a signed receipt is returned, the date of service shall be the date of signing of the receipt. In the case of service by regular first class mail, the date of service shall be the date upon which such mail was deposited in the United States Mail with postage prepaid, plus five days.
- (d) **IMPOSITION OF FINE.** If no appeal is timely received, the Agency's determination on the violation and the imposition of a fine shall be final and payment 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 attorney's fees incurred by the County in collecting the fine.
- (e) **FAILURE TO PAY FINE.** The Agency or County may impose any remedy authorized by law to collect the administrative fine if not paid timely pursuant to the provisions of this Chapter.

Sec. 6.20.105. Appeal Procedure.

Whenever this Chapter provides for a right to appeal, the recipient must give notice to the Agency within 10 calendar days from the date of service by providing a document in writing, bearing the title, "Appeal of Tobacco Retail Decision", containing the name, address, and phone number of the appellant and the grounds on which the decision is being contested.

- (a) The notice of appeal shall be accompanied by an advance deposit in the amount of the total administrative penalty. If the Board of Supervisors has established a hearing fee, the hearing fee shall also be provided.
- (b) Any notice of appeal filed without providing the advance deposit and hearing fee (if applicable) shall be deemed incomplete.
- (c) The Agency receiving a timely and properly filed appeal, shall then cause the matter to be set for hearing before a Hearing Officer by notifying the Hearing Officer directly or by requesting County Counsel to coordinate the Hearing Officer.

- (d) A hearing before a Hearing Officer shall be set for a date that is not less than ten (10) and not more than (30) days from the date that the notice of appeal is filed.
- (e) Either the Hearing Officer or County Counsel in cooperation with the Hearing Officer, shall notify the parties in writing, at least ten (10) days prior to the hearing date, of the date and location of the hearing. It shall be sufficient to provide notice to the appellant by using the address listed in the request for appeal.
- (f) At the prescribed time and place, the Hearing Officer shall consider relevant evidence from all parties as to whether the violation of tobacco-related laws occurred. The Agency's notice of violation, intended decision and any additional documents submitted by the Agency shall constitute prima facie evidence of the respective facts contained in those documents.
- (g) Parties may choose to be represented by an attorney. However, the Administrative Procedure Act (commencing with Government Code Section 11500) shall not be applicable to such hearing nor shall formal rules of evidence in civil or criminal proceedings be applicable.
- (h) The failure of any appellant to appear at the scheduled hearing shall constitute an abandonment of the appeal.
- (i) The Hearing Officer may continue the hearing and request additional information from the parties prior to issuing a written decision.
- (j) The Agency has the burden of proving by a preponderance of the evidence that the alleged violation occurred.
- (k) Following conclusion of the hearing and based on the evidence before it, the Hearing Officer shall prepare a written decision that either grants or denies the appeal, contains findings of facts and conclusions of law in support of the Hearing Officer's decision to impose fines, a license suspension, condition or some combination thereof. The Hearing Officer's written decision shall be the final decision of the County and shall become final upon the date notice thereof is mailed to the appellant by certified mail.
- (l) If the Hearing Officer determines that the Tobacco Retail Decision shall be upheld, then the fine amount identified, or as otherwise adjusted by the Hearing Officer, shall be immediately collectable by the Agency. If the Hearing Officer determines the Tobacco Retail Decision should not be upheld, the Hearing Officer shall order the Citation dismissed, and the Agency shall return the advance deposit.
- (m) Any determination of the Hearing Officer shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

Sec. 6.20.110 - Enforcement.

The remedies provided by this Chapter are cumulative and in addition to any other remedies available at law or in equity.

- (a) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this ordinance shall constitute a violation.
- (b) In addition to the administrative enforcement procedures provided by this Chapter, violations of this ordinance may, at the discretion of the District Attorney, be prosecuted as misdemeanors.
- (c) Violations of this ordinance are hereby declared to be public nuisances.
- (d) Violations of this ordinance 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.
- (e) In addition to other remedies provided by this Chapter or by other law, any violation of this ordinance may be remedied by a civil action brought by the County Counsel or the District Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.
- (f) Any Person acting for the interests of itself, its members, or the general public may bring an action for injunctive relief to prevent future such violations or to recover such actual damages as he or she may prove.
- (g) Any person who is found to have violated this Chapter shall be liable for such costs, expenses and disbursements paid or incurred by the County or any of its contractors in the correction, abatement, prosecution of, or administrative hearing, on the violation. Re-inspection fees to ascertain compliance with previously noticed violations shall be charged to the owner of the establishment and may be set by the Board of Supervisors in the Master Fee Schedule.

Sec. 6.20.120 - Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase 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 of this Ordinance, or its application to any other person or circumstance. The Board of Supervisors of the County of Mendocino hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION III. Effective Date, Publication, and Codification. This Ordinance shall take effect thirty (30) days after adoption. This Ordinance (or Ordinance Summary) shall be published once within 15 days of its passage. Section II shall be codified and all remaining sections shall not be codified.

PASSED AND ADOPTED by the Board of Supervisors of the County of Mendocino, State of California, on this _____ day of _____, 2022, by the following roll call vote:

AYES:

NOES:

ABSENT:

WHEREUPON, the Chair declared the Ordinance passed and adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
 Interim Clerk of the Board

TED WILLIAMS, Chair
Mendocino County Board of Supervisors

Deputy

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS,
County Counsel

I hereby certify that according to the Provisions of Government Code section 25103, delivery of this document has been made.

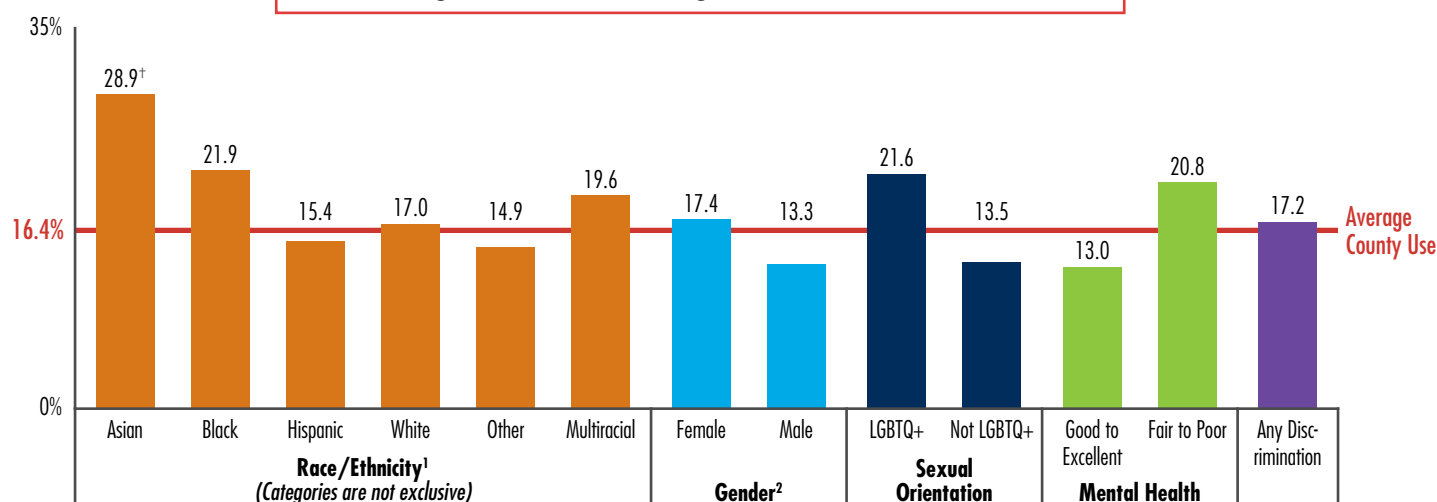
BY: DARCIE ANTLE
 Interim Clerk of the Board

Deputy

The California Youth Tobacco Survey (CYTS) is a project of the California Department of Public Health's California Tobacco Prevention Program. It aims to obtain statewide estimates of use for various tobacco products by middle and high school students in California to inform statewide prevention and intervention efforts. For these counties in 2023, 810 students in 10th or 12th grades at 10 high schools completed the survey. This report summarizes their key responses.

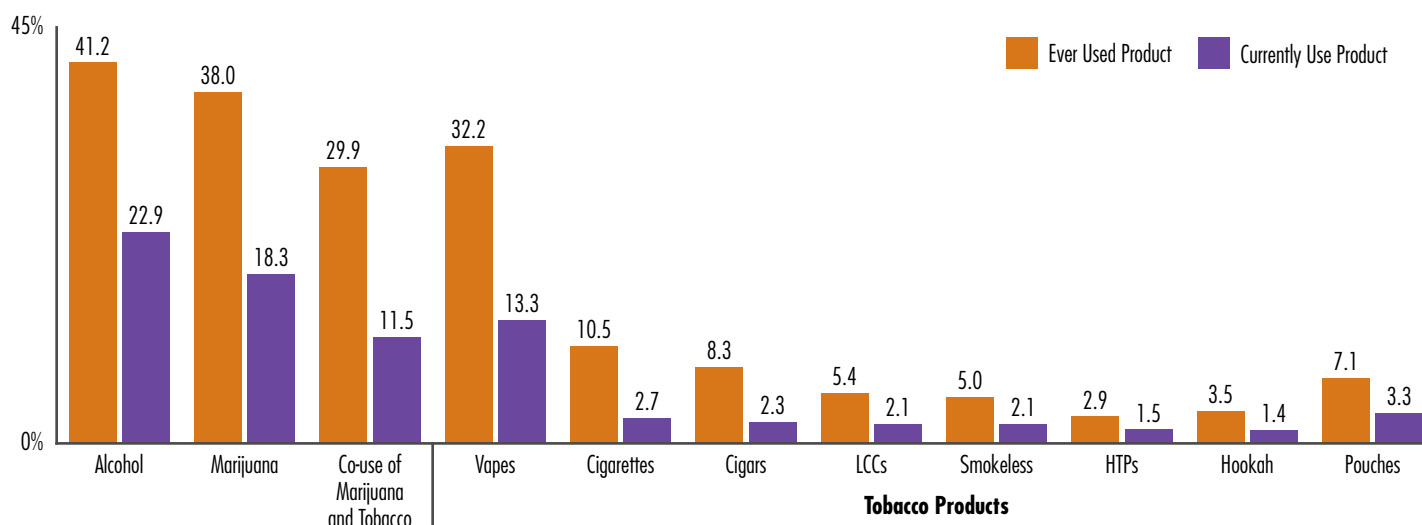
Current Use of Any Tobacco Product by Demographic or Risk Factors

Approximately **16.4%** of students in these counties reported using a tobacco product in the last 30 days. This is higher than the average use in California of 7.3%.^{††}



[†]Estimate is unstable. ^{††}The difference between this county's and all other counties' estimates was statistically significant to $p < 0.05$. ¹All races and ethnicities reported by each respondent are shown. For example, someone who reports being Black and Hispanic is shown in both the Black and Hispanic categories. ²No estimates reported for other gender identities due to low response rates.

Ever and Current Use by Product



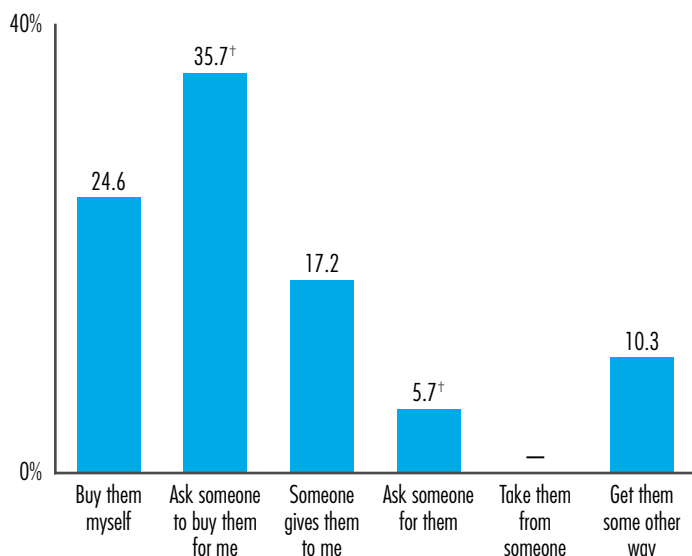
LCCs = Little cigars and cigarillos. HTPs = Heated tobacco products/heat-not-burn. Pouches = nicotine pouches. Co-use is defined as use of both products in the student's lifetime (ever) or in the past 30 days (current). Use of alcohol or marijuana and co-use of marijuana and tobacco are included for comparison only and are not included in rates of overall tobacco use.

2023 CYTS Data Summary for Del Norte, Humboldt, Lake, Lassen, Mendocino, Modoc, Plumas, Siskiyou, Tehama, and Trinity Counties

44.9% of students who ever vaped tried to stop using within the last year.

How Students Obtained Their Vapes

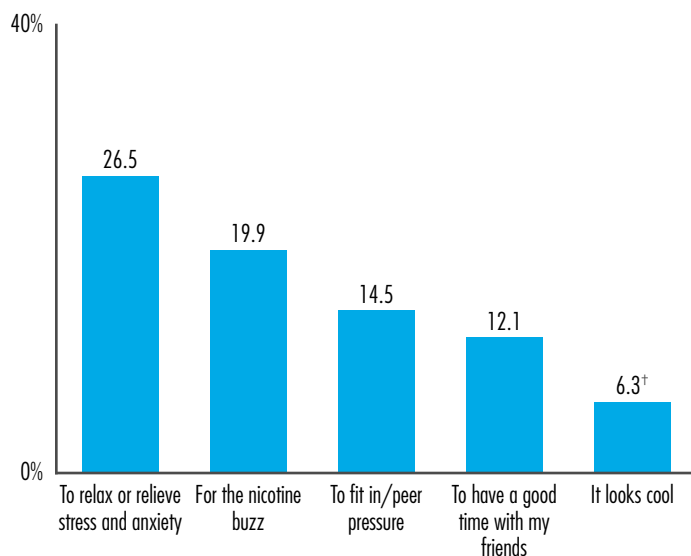
Most common way students who vape report getting their vapes, pods, or e-liquid.



— Small sample size; no estimate reported. ⁺Estimate is unstable.

Most Selected Reason for Vaping

Among students who vape, the most common reason for vaping.



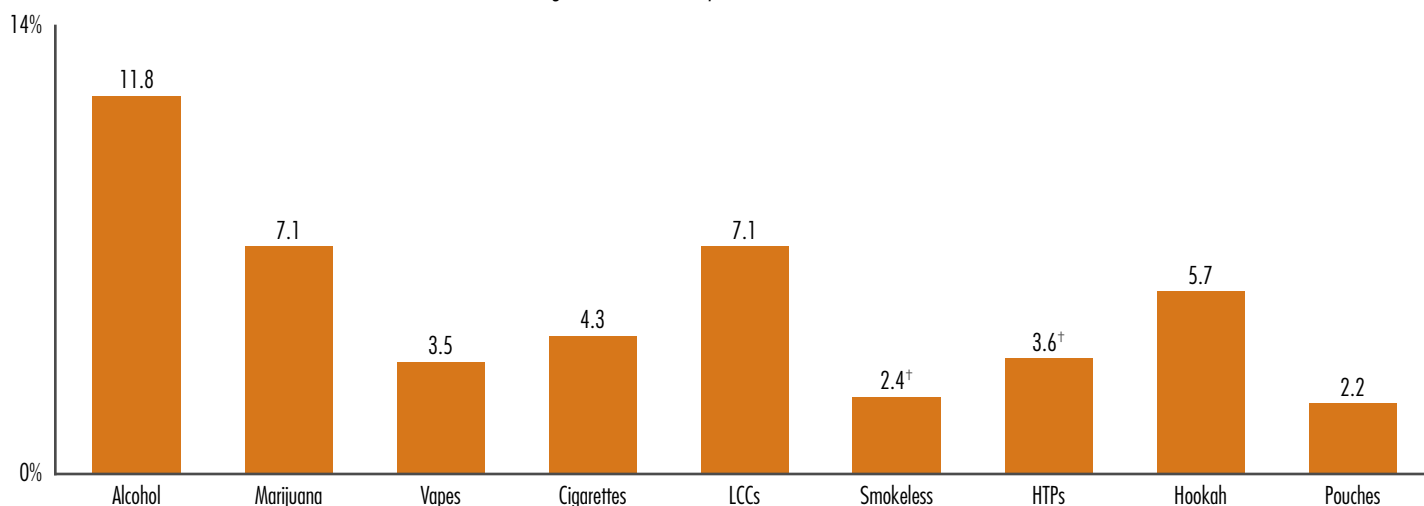
⁺Estimate is unstable.

82.3% of students who ever used tobacco reported trying **vapes** as their first tobacco product.

On average, students first reported using tobacco at age **13**.

Susceptibility to Product Use

Self-reported likelihood of trying a product if it were offered to them by the student's best friend (among never users of the product).

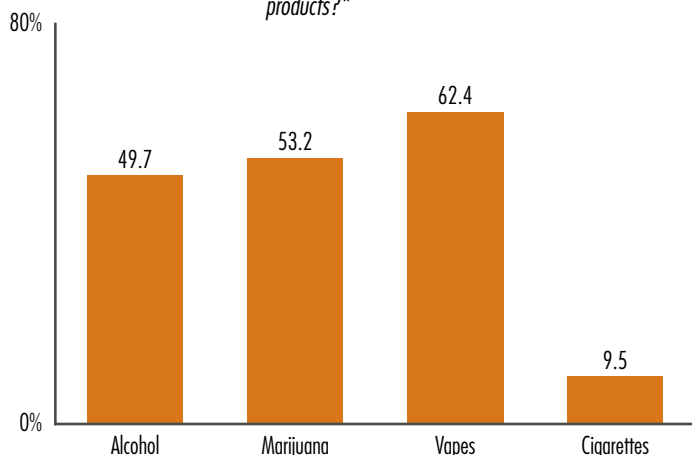


⁺Estimate is unstable. LCCs = Little cigars and cigarillos. HTPs = Heated tobacco products/heat-not-burn. Pouches = nicotine pouches. Alcohol and marijuana use are included for comparison only and are not included in rates of overall tobacco use.

2023 CYTS Data Summary for Del Norte, Humboldt, Lake, Lassen, Mendocino, Modoc, Plumas, Siskiyou, Tehama, and Trinity Counties

Perceived Use

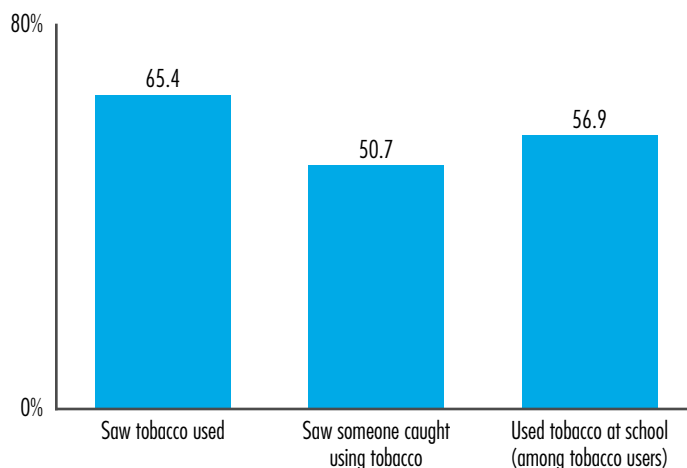
Percent responding **"Most"** or **"All"** to "How many students **at your school** use the following products?"



Alcohol and marijuana use are included for comparison only and are not included in rates of overall tobacco use.

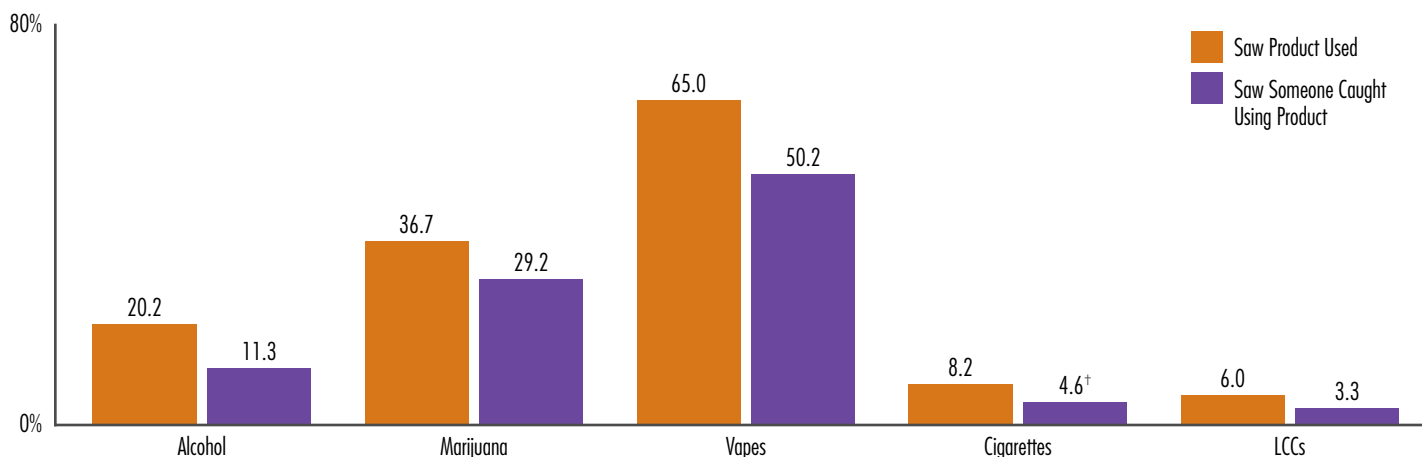
Tobacco Use at School in Past 30 Days

Last 30-day prevalence of use of tobacco products **at school**.



Saw Use vs Saw Someone Caught

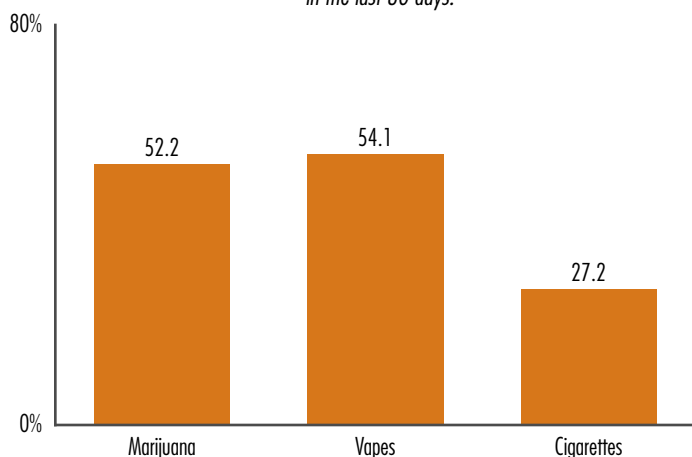
Levels of use **at school** and consequences for use for each product in the past 30 days.



[†]Estimate is unstable. LCCs = Little cigars and cigarillos. Alcohol and marijuana use are included for comparison only and are not included in rates of overall tobacco use.

Saw Product Use on Social Media

Reported **"Sometimes," "Often,"** or **"Always"** seeing someone on social media use these products in the last 30 days.



Marijuana use is included for comparison only and is not included in rates of overall tobacco use.

CYTS CALIFORNIA
YOUTH
TOBACCO
SURVEY

For more information on tobacco use in California, see the full [California Youth Tobacco Survey report](#). This can be found by searching online for CDPH Tobacco Control Fact Sheets and Reports.