



AGENDA

REGULAR CITY COUNCIL MEETING

Tuesday, January 20, 2015 – 7:00 p.m.

City Council Chambers

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Mayor Pro Tem Greg Lyman
Councilmember Jan Bridges

Councilmember Janet Abelson
Councilmember Gabriel Quinto

ROLL CALL

7:00 p.m.

CONVENE REGULAR CITY COUNCIL MEETING

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE – *Councilmember Gabriel Quinto.*

2. COUNCIL / STAFF COMMUNICATIONS (*Reports of Closed Session, commission appointments and informational reports on matters of general interest which are announced by the City Council & City Staff.*)

3. ORAL COMMUNICATIONS FROM THE PUBLIC

All persons wishing to speak should sign up with the City Clerk. Remarks are typically limited to 3 minutes per person. The Mayor may reduce the time limit per speaker depending upon the number of speakers. Kindly state your name and city of residence for the record. Comments regarding non-agenda, presentation and consent calendar items will be heard first. Comments related to items appearing on the Public Hearing or Policy Matter portions of the Agenda are taken up at the time the City Council deliberates each action item. Individuals wishing to comment on any closed session scheduled after the regular meeting may do so during this public comment period or after formal announcement of the closed session.

4. PRESENTATION

A. Arts and Culture Commission Work Plan – *Presentation by Ruth Cazden, Chair of the Arts and Culture Commission.*

Receive a presentation regarding the Art and Culture Commission's accomplishments, goals and workplan.

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5D

A. Minutes for Approval

Approve the January 6, 2015 City Council special and regular meeting minutes.

B. Planning Commission and Design Review Board Interim Appointments

Adopt a resolution interpreting Section 2.04.220 of the El Cerrito Municipal Code to permit the extension of the terms of members of the Planning Commission and Design Review Board to maintain the full membership of those bodies during a gap period that has occurred as a result of recent amendments to the Municipal Code. The resolution would also extend the terms of specific members of the Planning Commission and Design Review Board.

C. Police Department Mobile Data Computer Purchase

Adopt a resolution authorizing the City Manager or his designee to enter into an agreement with C.D.C.E Incorporated in an amount not to exceed \$132,000.00 to purchase and install Mobile Data Computers and related equipment and amend the FY 2014-15 Adopted Budget to authorize the appropriation in an amount not to exceed \$105,000 from the C.O.P.S. Grant Fund and an amount not to exceed \$27,000 from the Vehicle Abatement Fund to complete the purchase and installation of the new MDCs.

D. Economic Development Committee Appointment

Approve an Economic Development Committee recommendation to reappoint Jean Shrem to the Economic Development Committee, effective January 21, 2015.

6. PUBLIC HEARINGS – None

7. POLICY MATTERS

A. Tobacco Retail Regulation Study Session

Convene a study session and provide direction to staff regarding the development of a tobacco retailer license program in El Cerrito, particularly regarding the separation requirements for tobacco retailers and the option to provide some exemptions for existing retailers.

B. Community Security Camera Registration

Receive a presentation and adopt a resolution supporting a proposed voluntary security camera registration program.

8. COUNCIL LOCAL AND REGIONAL LIAISON ASSIGNMENT REPORTS

Mayoral and City Council communications regarding local and regional liaison assignments and committee reports.

9. ADJOURN REGULAR CITY COUNCIL MEETING

The next regular City Council meeting is Tuesday, February 3, 2015 at 7:00 p.m. at City Hall, 10890 San Pablo Avenue, El Cerrito, California.

The City of El Cerrito serves, leads and supports our diverse community by providing exemplary and innovative services, public places and infrastructure, ensuring public safety and creating an economically and environmentally sustainable future.

- Council Meetings can be heard live on FM Radio, KECG – 88.1 and 97.7 FM and viewed live on Cable TV - KCRT-Channel 28 and AT&T Uverse Channel 99. The meetings are rebroadcast on Channel 28 the following Thursday and Monday at 12 noon, except on holidays. Live and On-Demand Webcast of the Council Meetings can be accessed from the City's website <http://www.el-cerrito.org/ind-ex.aspx?NID=114>. Copies of the agenda bills and other written documentation relating to items of business referred to on the agenda are on file and available for public inspection in the Office of the City Clerk, at the El Cerrito Library and posted on the City's website at www.el-cerrito.org prior to the

meeting.

- In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (510) 215-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. (28 CFR 35.102-35.104 ADA Title I).
- ***The Deadline for agenda items and communications*** is eight days prior to the next meeting by 12 noon, City Clerk's Office, 10890 San Pablo Avenue, El Cerrito, CA. Tel: 215-4305 Fax: 215-4379, email cmorse@ci.el-cerrito.ca.us
- IF YOU CHALLENGE A DECISION OF THE CITY COUNCIL IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE COUNCIL MEETING. ACTIONS CHALLENGING CITY COUNCIL DECISIONS SHALL BE SUBJECT TO THE TIME LIMITATIONS CONTAINED IN CODE OF CIVIL PROCEDURE SECTION 1094.6.
- The City Council believes that late night meetings deter public participation, can affect the Council's decision-making ability, and can be a burden to staff. City Council Meetings shall be adjourned by 10:30 p.m., unless extended to a specific time determined by a majority of the Council.



ARTS AND CULTURE COMMISSION

2015 WORK PLAN AND RECENT ACCOMPLISHMENTS

Current Members:

Chair Ruth Cazden, Vice Chair Christopher Sterba, Deb Danziger, George Gager, Mollie Hazen (Appointed 1/6/2015) and Heidi Rand.

MISSION STATEMENT:

In 2003, the City Council established the Arts & Culture Commission (ECMC 2.04.310) and charged the Commission with the following duties

1. To act in an advisory capacity to the city council in all matters pertaining to arts in the community;
2. Make recommendations to the city council concerning the resources and needs of the community on the subject of the arts, opportunities for participation of artists and performers in city-sponsored activities, and ways to encourage community involvement in the arts;
3. Work cooperatively with city boards and commissions and other public and private organizations in creating and promoting art and cultural programs and activities within the city;
4. Coordinate and strengthen existing organizations in the arts and develop cooperation with regional organizations;
5. Make recommendations to the city council regarding the funding of community art projects, including the search for private and public grants, and regarding the disbursement of revenues consistent with the needs of the community;
6. Review and make recommendations to the city council upon all works of art to be acquired by the city, either by purchase, gift or otherwise and exterior works of art installed in the city on public property;
7. Recommend to the City Council the adoption of such ordinances or policies as it may deem necessary for the administration and preservation of the arts and cultural development of the city.

HISTORICAL BACKGROUND:

The Arts & Culture Commission (“ACC”) consists of seven members who demonstrate a commitment to various arts disciplines, including but not limited to fine arts, visual arts, performing arts, literary arts, art history, and arts education. The ACC is responsible for acquisition, funding, and placement of public art in the City on public property. The ACC meets monthly at City Hall and meetings are open to the public.

Since the ACC was created in 2003, it has taken on a number of additional responsibilities:

- In 2005 when the Council adopted the Art in Public Places ordinance (ECMC 13.50), the ACC began oversight of the Arts in Public Places Program, which requires certain development projects to contribute 1% of construction costs to public art.
- Additionally, since the new City Hall building opened in 2008, the ACC juries the City Hall Gallery Space, located on the second floor of City Hall.

In 2013, the ACC adopted a Master Plan including the following Mission Statement:

It is the mission of the Arts and Culture Commission to advise the City Council of the needs of the artistic and cultural community; encourage and promote arts programs and events that engage community members and local businesses to build a flourishing and vibrant arts and cultural environment; provide advice to artists and arts/cultural organizations by sponsoring forums, programs, and events; carry out the Arts in Public Places program, and upon request, advise the City with respect to possible sources of funding.

The ACC's Master Plan is intended to shape a vision for arts and culture in the City of El Cerrito and guide commissioners on decisions regarding public art.

2015 WORK PLAN

GOAL/OBJECTIVE (not in any order)	PROPOSED ACTIVITIES	TIMELINE FOR COMPLETION
1. Increase access to public art in community	• Develop and adopt policies and procedures for utilization of 1% for Public Art monies; Prioritize how to spend Public Art Fund • Explore and identify potential sites for public art • Place visual art in public places throughout the community • Promote and participate in Arts & Humanities Month during October of each year • Identify ways to utilize the arts to enhance existing City resources towards enriching the lives of all people in our community • Host 2015 Music Performance Series • Consider co-sponsorship of Music for Madera (Fall 2015) & El Cerrito Free Folk Festival (Fall 2015)	Goal is to commission work(s) in 2015. Staff anticipates the ACC will participate in Arts Month (Oct 2015) Co-sponsoring performance by Lucas Valley Chamber Orchestra on May 9, 2015; Discussion in spring to sponsor other concerts.

GOAL/OBJECTIVE (not in any order)	PROPOSED ACTIVITIES	TIMELINE FOR COMPLETION
2. Support the local artistic and cultural community	- Consider development of an Artist-In-Residency Program at the Recycling + Environmental Resource Center - Consider development of Poet Laureate Program - Host local screening of “Domino: Caught in the Crisis” at Rialto Cinemas Cerrito	If Artist-In-Residency Program is established, goal is to select first artist by 10/15. Poet Laureate to be discussed in March. “Domino”screening on Jan 28, 2015.
3. Promote excellence in the arts	Administer the Public Art Fund and utilize the Public Art Fund to commission professional quality art.	

ONGOING PROJECTS

PROJECT	ACTIVITIES
Jury the City Hall Gallery Space	Issue a call for proposals; review proposals 2-3 times per year; select artists to show in the Gallery Space. Typically, there are about 7 shows per year.
Hold regular monthly meetings open to the public	Regular meetings are held on the fourth Monday of each month in the Council Chambers at City Hall.

RECENT ACCOMPLISHMENTS

GOAL/OBJECTIVE	ACTIVITIES SUPPORTING GOAL	STATUS
1. Adopt an “Arts & Culture Master Plan”	Adopted November 2013	Adopted
2. Support music events	- Co-sponsored LVCO performance in April 2014 and Nov 14 - Co-sponsored Music for Madera event in October 2014 - Co-sponsored El Cerrito Free Folk Festival in October 2014	Completed
3. Celebrate Arts Month – Oct 2014	2014: Developed and distributed flyer; Judged ECAA Art Show and awarded a ribbon; Co-sponsored music events 2013: Developed and distributed flyer; Judged ECAA Art Show and awarded a ribbon; Co-sponsored film events	Completed
4. Promote “12 Wind Sculptures” (1st City Commissioned public art using the 1% for Public Art Fund)	Developed and promoted self-guided tour of “12 Wind Sculptures” along San Pablo Avenue	Completed
5. Support film events	- Co-sponsored screening of “Coast Modern” at Rialto Cinemas Cerrito (Oct 2013) - Co-sponsored screening of “Sundar Shadi’s Gifts” at Rialto Cinemas Cerrito (Oct 2013) - Co-sponsored screening of “Nani” at El Cerrito High School (March 2013)	Completed
6. Community Outreach	- Informational table at City’s July 4th Festival (2013, 2014) - Sponsored art activity at City’s Earth Day celebration (April 2013 & 2014)	Completed

GOAL/OBJECTIVE	ACTIVITIES SUPPORTING GOAL	STATUS
7. Consider developing Artist-In-Residency Program at the Recycling + Environmental Resource Center	Discussed possible program and researched similar programs in other communities	Prioritized as goal for 2015

EL CERRITO CITY COUNCIL

MINUTES

SPECIAL CITY COUNCIL MEETING

Tuesday, January 6, 2015 – 6:00 p.m.

Hillside Conference Room

REGULAR CITY COUNCIL MEETING

Tuesday, January 6, 2015 – 7:00 p.m.

City Council Chambers

Council will move to the Hillside Conference Room to resume commissioner interviews after adoption of the Consent Calendar

Meeting Location

El Cerrito City Hall

10890 San Pablo Avenue, El Cerrito

Mark Friedman – Mayor

Councilmember Janet Abelson
Councilmember Jan Bridges

Mayor Pro Tem Greg Lyman
Councilmember Gabriel Quinto

ROLL CALL

Councilmembers Abelson, Bridges, Lyman, Quinto and Mayor Friedman.

6:00 p.m.

CONVENE SPECIAL CITY COUNCIL MEETING

Mayor Friedman convened the special City Council meeting at 6:07 p.m.

ORAL COMMUNICATIONS FROM THE PUBLIC – No speakers.

COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Conduct interviews of candidates for city boards and commissions. Interviews may result in an announcement of appointment at the meeting. The City Council may also discuss and determine the scheduling and structure of future interviews.

Action: Conducted interviews. Additional interviews continued upon conclusion of the Consent Calendar.

ADJOURNED SPECIAL CITY COUNCIL MEETING at 6:58 p.m.

7:00 p.m.

ROLL CALL

Councilmembers Abelson, Bridges, Lyman, Quinto and Mayor Friedman.

CONVENE REGULAR CITY COUNCIL MEETING

Mayor Friedman convened the regular City Council meeting at 7:01 p.m.

1. PLEDGE OF ALLEGIANCE TO THE FLAG OR OBSERVATION OF MOMENT OF SILENCE was led by Mayor Pro Tem Lyman

2. COUNCIL / STAFF COMMUNICATIONS

Mayor Pro Tem Lyman announced that the Writer Coach Connection Program is looking for volunteers to work in the schools. Those who are interested in being a writer coach or would like more information should contact the Community Alliance for Learning at 510-280-5640. Mayor Pro Tem Lyman also reminded all that California is still in a drought despite all the rain that has come down. In December 2014 councilmembers received a letter from the East Bay Municipal Utility District discussing the drought. There is still a need to for everyone to continue with water saving practices.

3. ORAL COMMUNICATIONS FROM THE PUBLIC

Howdy Gowdy, El Cerrito, asked the City Council to reconsider a different outcome for the 1715 Elm Street development due to concerns expressed by the recent Regional Water Quality Control Board (RWQCB) about the project. Mr. Gowdy asked the City Council to reconsider its decision regarding the project and direct staff to negotiate with the developer and the RWQCB regarding ways to widen the creek corridor setbacks, with the possibility of trading the value of the house donation for the cost associated with these changes to achieve a better outcome for the site based on concerns voiced by the public and the RWQCB.

4. PRESENTATIONS – *None*

5. ADOPTION OF THE CONSENT CALENDAR – Item Nos. 5A through 5E

Moved, seconded (Bridges/Abelson) and carried unanimously to adopt Consent Calendar Item Nos. 5A through 5E in one motion as indicated below.

A. Minutes for Approval

Approve the December 16, 2014 regular City Council meeting minutes.

Action: Approved minutes.

B. Adopt Zoning Text Amendment Ordinance

Approved by unanimous vote on December 16, 2014.

Waive any further reading and adopt Ordinance No. 2015–01 amending Title 19 of the El Cerrito Municipal Code to amend definitions relating to supportive housing, transitional housing and lot line types. Municipal Code Chapters 19.06, 19.07, 19.46 and 19.47 will be amended.

Action: Adopted Ordinance No. 2015–01.

C. Adopt Community Choice Aggregation Program Ordinance

Approved by unanimous vote on December 16, 2014

Waive any further reading and adopt Ordinance No. 2015–02 authorizing the implementation of a Community Choice Aggregation Program, approving the Marin Clean Energy Joint Powers Authority Agreement and authorizing the City Manager to execute the Joint Powers Authority Agreement with Marin Clean Energy.

Action: Adopted Ordinance No. 2015–02.

D. Storm Drain Easement Agreement with Ohlone Gardens, L.P.

Adopt a resolution authorizing the City Manager to execute an easement agreement with Ohlone Gardens, L.P. for public storm drain facilities located at 6493-6495 Portola Drive. *Exempt from CEQA.*

Action: Adopted Resolution No. 2015–01.

E. Annual Council Liaison Reorganization and Appointments

Approve Mayor Friedman’s recommendation to confirm a revised Council Liaison and Regional Appointment assignment list to reflect a change that assigns Councilmember Abelson to the Parks and Recreation Commission and Mayor Friedman to the Human Relations Commission.

Action: Approved recommendation.

6. RECESSED TO HILLSIDE CONFERENCE ROOM at 7:09 p.m.

7. COMMISSION INTERVIEWS, STATUS AND APPOINTMENTS

Resume interviews of candidates for city boards and commissions. Interviews may result in an announcement of appointment at the meeting. The City Council may also discuss and determine the scheduling and structure of future interviews.

Action: Additional interviews conducted. The City Council, by mutual consensus, appointed Mollie Hazen to the Arts and Culture Commission to fill an unexpired term ending March 1, 2017 and Glenn Wood to the Design Review Board for a term beginning on March 1, 2015 and ending March 1, 2019.

8. ADJOURNED REGULAR CITY COUNCIL MEETING at 9:26 p.m.

SUPPLEMENTAL COMMUNICATIONS

1. Comments regarding the development project located at 1715 Elm Street – *Submitted by Howdy Gowdy, El Cerrito.*



AGENDA BILL

Agenda Item No. 5(B)

Date: January 20, 2015
To: El Cerrito City Council
From: Sky Woodruff, City Attorney
Subject: Extension of Current Terms of Members of the Planning Commission and Design Review Board

ACTION REQUESTED

Adopt a resolution interpreting Section 2.04.220 of the El Cerrito Municipal Code to permit the extension of the terms of members of the Planning Commission and Design Review Board to maintain the full membership of those bodies during a gap period that has occurred as a result of recent amendments to the Municipal Code. The resolution would also extend the terms of specific members of the Planning Commission and Design Review Board.

BACKGROUND

On December 3, 2013, the City Council adopted Ordinance No. 2013-06, which among other things, changed the beginning of terms for members of boards and commissions from January 1 to March 1. At the time that the Council was considering the ordinance, it was anticipated that, as a result of some members' terms expiring on January 1, there would be a one-time gap before their or their successors' new terms began on March 1. The Development Services Department wishes to extend the terms of current members to minimize any disruption to business scheduled before the Planning Commission and Design Review Board during that gap period. Staff believes that the review process would benefit from full and experienced membership on both bodies. The Council last approved an interim appointment to resolve the gap in terms for both bodies in December 2013.

ANALYSIS

Under Section 2.04.220 of the Municipal Code, members of boards and commissions serve four-year terms starting on January 1. The Code outlines the process for appointing members of boards and commissions and their qualifications, among other things, and specifically notes that members serve at the pleasure of the City Council, which alludes to the power of the City Council to appoint and remove members. The Code does not expressly prohibit the Council from extending terms, and the City Attorney believes that it is within the Council's authority to extend the term of a sitting member of a board or commission, particularly under the circumstances outlined above. It would nevertheless be appropriate for the Council to adopt a resolution stating its interpretation of the Code for the record.

Agenda Item No. 5(B)

The proposed resolution also states that the extension would be counted as part of the current term of the affected members of the Planning Commission and Design Review Board. Members of boards and commissions are limited to no more than two consecutive full terms under Section 2.04.220(B)(2) of the Municipal Code. Thus, the extensions would have no effect on the ability of a member to seek appointment to another term.

STRATEGIC PLAN CONSIDERATIONS

Extension of the terms of the specified members of the Planning Commission and Design Review Board would further Goal A of the Strategic Plan (“Deliver exemplary government services”) by ensuring the Planning Commission and Design Review Board have full membership during consideration of important development applications.

FINANCIAL CONSIDERATIONS

The proposed resolution has no financial impacts.

LEGAL CONSIDERATIONS

As noted above, the City Attorney believes that the proposed interpretation and extension of the terms of the specified members of the Planning Commission and Design Review Board is allowable under the Municipal Code.

Reviewed by:

A handwritten signature in blue ink, appearing to read "Scott Hanin/csm", is written over a horizontal line.

Scott Hanin, City Manager

Attachments:

1. Resolution

RESOLUTION 2013--XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO INTERPRETING SECTION 2.04.220 OF THE EL CERRITO MUNICIPAL CODE TO PERMIT THE EXTENSION OF THE TERMS OF MEMBERS OF THE PLANNING COMMISSION AND DESIGN REVIEW BOARD TO MAINTAIN THE FULL MEMBERSHIP OF THOSE BODIES DURING A GAP PERIOD THAT WILL OCCUR AS A RESULT OF RECENT AMENDMENTS TO THE MUNICIPAL CODE

WHEREAS, on December 3, 2013, the City Council adopted Ordinance No. 2013-06, which among other things, changed the beginning of terms for members of boards and commissions from January 1 to March 1; and

WHEREAS, at the time that the Council was considering the ordinance, it was anticipated that, as a result of some members' terms expiring on January 1, there would be a gap before their or their successors' new terms began on March 1. It has since come to the Council's attention that the Planning Commission and Design Review Board will continue to review and consider projects during that gap period. The Council believes that the review process would benefit from full and experienced membership on both bodies; and

WHEREAS, under Section 2.04.220 of the Municipal Code, in its current form, members of boards and commissions serve four-year terms starting on January 1. The Municipal Code outlines the process for appointing members of boards and commissions and their qualifications, among other things, and specifically notes that members serve at the pleasure of the City Council, which alludes to the power of the City Council to appoint and remove members; and

WHEREAS, the Municipal Code does not expressly prohibit the City Council from extending terms, and the City Council believes that it is within the Council's authority to extend the term of a sitting member of a board or commission, particularly under the circumstances outlined herein. The City Council therefore adopts this resolution stating its interpretation of the Code for the record.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby interprets Section 2.04.220 of the Municipal Code to permit the short-term extension of the term of a sitting member of a board or commission ("advisory body") under unusual circumstances to ensure the full membership of an advisory body during a period when an advisory body otherwise would not have full membership and is likely to consider significant matters.

BE IT FURTHER RESOLVED, that the terms of Planning Commissioner Andrea Lucas and Design Review Board Member Glenn Wood, which expired on January 1, 2015, are hereby extended until March 1, 2015. The approved extensions shall be counted as part of their current terms, such that their ability to serve additional terms under Section 2.04.220(B)(2) of the Municipal Code shall not be affected.

Agenda Item No. 5(B)

Attachment 1

BE IT FURTHER RESOLVED, that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on January 20, 2015, the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ___, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor



AGENDA BILL

Agenda Item No. 5(C)

Date: January 20, 2015
To: El Cerrito City Council
From: Sylvia M. Moir, Chief of Police
Michael Regan, Police Captain
Subject: Police Department Purchase of Mobile Data Computers

ACTION REQUESTED

Adopt a resolution authorizing the City Manager or his designee to enter into an agreement with C.D.C.E Incorporated in an amount not to exceed \$132,000.00 to purchase and install Mobile Data Computers and related equipment and amend the FY 2014-15 Adopted Budget to authorize the appropriation in an amount not to exceed \$105,000 from the C.O.P.S. Grant Fund and an amount not to exceed \$27,000 from the Vehicle Abatement Fund to complete the purchase and installation of the new MDCs.

BACKGROUND

Mobile Data Computers (MDCs) allow officers to receive calls for service, check on pending calls for service, send messages to dispatch and other officers as well as access several data bases when conducting inquiries on persons, property and vehicles. The MDCs are currently installed in all marked patrol vehicles, as well as some of the Investigations Division and Parking Enforcement vehicles.

In August of 2008, pursuant to Council Resolution 2008-66, the Police Department entered into an agreement with Motorola, Inc. to purchase Seventeen MDCs for Police Department vehicles.

In 2013, the Police Department was informed that the current MDCs were nearing the end of their “supportable” life cycle. However Motorola renewed the Police Department’s maintenance contract for the MDCs one additional year. Earlier this year, the Police Department was informed that parts to repair our current MDCs are no longer available. The current MDCs are being supported by City staff with what few spare parts are on hand. The Department has used the one year extension of the maintenance contract and the hard work of the City Information Technology staff as an opportunity to research and select replacement MDCs.

In an effort to meet the expanding information sharing and transmitting needs, the Police Department partnered with the other member agencies from the West County Consortium to identify a suitable replacement for our aging MDCs. The group was formed for two purposes; to achieve uniformity of equipment amongst the neighboring agencies and to increase the number of units ordered from a single manufacturer in an effort to reduce the per unit price.

Several different platforms were examined and evaluated on function as well as cost of purchase, operation and maintenance. The GTAC F110 tablet was selected by the group based upon its capabilities, expandability, survivability in a rugged use environment and price point.

Once the GTAC F110 tablet was selected, requests for bids were made to multiple vendors. The bid was structured so that the total number of units to be ordered by the five participating agencies would be factored into a single purchase regardless of the number of units purchased by a single agency or when the purchase actually took place. After examination of the bids, C.D.C.E. Incorporated was selected as the vendor.

The passage of this resolution will allow the Police Department to purchase new MDCs and the appropriate service contract. This purchase will allow the Police Department to maintain consistency with the other members of the West County Radio Consortium and allow for future anticipated technological developments within the Consortium.

Required funds will be appropriated from available fund balances in the C.O.P.S. and Vehicle Abatement Funds for the purchase and installation of the equipment. The selection of the vendor for the installation services was also the product of the competitive bid process with the selected vendor providing a competitive bid for the services as well as possessing a proven performance record with the Police Department and other surrounding agencies for similar work performed.

STRATEGIC PLAN CONSIDERATIONS

In keeping with the City's Strategic Plan, throughout this process the Department has attempted to exercise the following City Values:

- Ethics and Integrity
- Fiscal Responsibility
- Innovation and Creativity
- Professional Excellence
- Transparency and Open Communications

By working with surrounding agencies and individuals both within and outside the Department to select a solution which will meet Department needs, we have endeavored to act with a sense of inclusiveness at the same time focusing on fiscal responsibility and transparency during the selection process.

ENVIRONMENTAL CONSIDERATIONS

The Police Department will ensure that the MDCs will be responsibly recycled in an approved manner if they cannot be repurposed for use by another agency or entity..

FINANCIAL CONSIDERATIONS

The total not to exceed cost of \$132,000 to purchase the MDCs, the extended warranty and installation will be funded by an appropriation of \$105,000 in the C.O.P.S. fund and \$27,000 in the Vehicle Abatement Fund through an amendment to the FY 2014-15 adopted budget. Attachment "2" provides a price breakdown of each of these costs.

Sufficient funds were not available this or last budget year to accommodate the replacement of the MDCs using monies from the General Fund. As a contingency, the Department has opted to make very few purchases utilizing the C.O.P.S. and Vehicle Abatement Funds over the last few years, anticipating that such an unfunded need may arise, however the current status of the Department's MDCs make such an expenditure warranted and prudent.

Competitive bidding is not required because the purchase is being made as part of a "cooperative purchasing arrangement with other governmental agencies that have competitively bid to establish a vendor list" as provided in section D.1 of the City's procurement policy.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approved this agreement and appropriation.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution 2015-XX
2. Cost Breakdown

RESOLUTION 2015-XX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO ENTER INTO A PURCHASE AGREEMENT WITH C.D.C.E. FOR THE PURCHASE OF MOBILE DATA COMPUTERS AND AUTHORIZING THE NECESSARY APPROPRIATIONS TO ACCOMPLISH THE PURCHASE

WHEREAS, the El Cerrito Police Department utilizes Mobile Data Computers as an integral component of providing Police Services; and

WHEREAS, the Police Department's current Mobile Data Computers have reached the end of their serviceability; and

WHEREAS, The GTAC Mobile Data Computer and C.D.C.E. were selected as vendors pursuant to a competitive process; and

WHEREAS, an amendment of the FY 2014-15 adopted budget to appropriate \$105,000 in the C.O.P.S. grant fund and \$27,000 in the Vehicle Abatement fund from the available fund balance in each fund is required to complete the purchase.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby authorizes the City Manager or his designee to enter into an agreement with C.D.C.E. Incorporated to purchase Mobile Data Computers and related equipment. This resolution also authorizes the appropriation of the necessary funds from the Police Department's C.O.P.S. and the Vehicle Abatement Fund to accomplish this purchase.

I CERTIFY that at a regular meeting on January 20, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January X, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

CDCE Inc.
22641 Old Canal Road
Yorba Linda, CA 92887-4601
USA

Quote
Q410CD10.LT

Phone: 800-373-5353 Fax: 714-282-1501

Bill To:

Ship To:

City of El Cerrito Police Department
10900 San Pablo Ave
El Cerrito, Ca 94530
Contra Costa
Michael Regan
510-237-3233

City of El Cerrito Police Department
10900 San Pablo Ave
El Cerrito, Ca 94530
Contra Costa
Michael Regan
510-237-3233

Order Date	Ship Via	Ship Date	PO	Terms	FOB
23-Oct-14	UPS Ground			TBD	

Qty	Item ID	Description	Unit Price	Amount
23	GET-800005	Getac F110 Intel i7-4600U 2.1GHz Processor, 4MB Cache, 4GB DDR3 RAM, 128GB SSD, 800 NITs LumiBond Touchscreen Display, Dual batteries, 5MP camera, 802.11AC Wireless, Bluetooth, 4G LTE (Verizon/AT&T), Tri Pass-thru (WWAN/WLAN/GPS), GPS, 461F Ready, -21C, IP65, WIN7 64-bit Pro, 3 Year B2B	2,295.000	52,785.00
23	MM-240030	Getac F110 Tablet Upgrade RAM to 8GB	235.000	5,405.00
23	NA-211001	Getac F110 Tablet Contactless SmartCard/RFID	130.000	2,990.00
23	FEE-100001	Recycle Fee for Monitors 4"-15"	3.000	69.00
20	PR-320052	Veh Docking Station for Getac F110 w/Triple Pass Thru	455.000	9,100.00
4	PR-320058	Cradle for Getac F110 Tablet (no dock)	200.000	800.00
20	NA-210020	Backlit Keyboard with Integrated Touchpad 12 Function Keys 88-Key Functionality Integrated Backlighting Integrated Touchpad Mobile Mounting Holes One-Touch Emergency Key	335.000	6,700.00
23	WR-175001	F110 & V110 Bumper-to-Bumper Year 4&5	550.000	12,650.00
20	PK-212004	Veh. Pwr Kit 6-Pos, Voltage-Sense F110 P470	295.000	5,900.00
8	PS-200044	DC Cig Adpt GETAC F110,V110, B300,P470,S400 Series	95.000	760.00
1	NA-270004	USB Dual Monitor adapter - USB to VGA	75.000	75.00
1	FEE-100004	Freight and insurance - TBD	0.000	0.00

Sub Total	\$97,234.00
Tax	\$8,028.93
Total	\$105,262.93

900 Brookside Dr.
Richmond, CA. 94801
BAR# ARD00275944

Date	Estimate #
12/3/2014	2403

Name / Address
EL CERRITO POLICE DEPT 10900 SAN PABLO AVE EL CERRITO, CA. 94530

year & make	mileage	vin

Qty	Description	Rate	Total
22	STRIP OUT OLD COMPUTER SYSTEM. INSTALL PASS. SIDE MOUNT ASSEMBLY, INSTALL TABLET DOCKING STATION, MODIFY MOUNTS NEEDED FOR PASS SEAT CLEARANCE. INSTALL AND WIRE POWER SUPPLY FOR TABLET. CUSTOMER TO SUPPLY ALL PARTS. INSTALL PRICE IS PER VEHICLE LIST OF 22 . S&S RV UNDERSTANDS THERE ARE A RANGE OF DIFFERENT VEHICLES. TWO TECHS WILL BE ON SITE DAILY, SOME DAY WILL HAVE THREE TECHS, APPROX THREE CARS COMPLETED PER DAY EXCLUDING WEEKENDS. S&S RV UNDERSTAND POLICY FOR LEASED VEHICLES, 12V PLUG WILL BE INSTALLED IN PLACE OF HARD WIRE. Sales Tax9.25 SALES TAX	800.00 9.25%	17,600.00 0.00
		Total	\$17,600.00

Phone #	Fax #	E-mail
510-232-4602	510-232-1433	SSRVSSRV1@YAHOO.COM



AGENDA BILL

Agenda Item No. 5(D)

Date: January 20, 2015
To: El Cerrito City Council
From: Melanie Mintz, Community Development Director
Subject: Economic Development Committee Appointment

ACTION REQUESTED

Approve an Economic Development Committee recommendation to reappoint Jean Shrem to the Economic Development Committee, effective January 21, 2015.

BACKGROUND

An application to be reappointed to the Economic Development Committee (EDC) was recently received from Jean Shrem, who has served on the EDC since November 2011. During a Special Committee Meeting on December 18, 2014 the Committee voted unanimously to recommend to the Council that Ms. Shrem be reappointed to the Economic Development Committee.

Ms. Shrem is a local attorney and was an active El Cerrito realtor for 6 years. She has demonstrated through her application and participation in EDC meetings that she is committed to economic prosperity and community in keeping with the mission of the Committee. She has the skills necessary to support the activities of the Committee.

If the Council approves this recommendation, the number of Committee members will be 7 out of a possible membership total of 15, as established by Resolution 2013-66.

Reviewed by:

Scott Hanin, City Manager

Attachment:

1. Application



**January 20, 2015
City Council Meeting**

**Agenda Item 5(D)
Economic Development Committee Appointment
Attachment 1 - Application**

Hardcopies are available for review at:

Office of the City Clerk
10890 San Pablo Avenue
El Cerrito, CA
(510) 215-4305

and

The El Cerrito Library
6510 Stockton Avenue
El Cerrito, CA



DRAFT AGENDA BILL

Agenda Item No. 7(A)

Date: January 20, 2015
To: El Cerrito City Council
From: Suzanne Iarla, Community Outreach Specialist
Margaret Kavanaugh-Lynch, Development Services
Subject: Tobacco Retail Regulation Study Session

ACTION REQUESTED

Convene a study session and provide direction to staff regarding the development of a tobacco retailer license program in El Cerrito, particularly regarding the separation requirements for tobacco retailers and the option to provide some exemptions for existing retailers.

BACKGROUND

Tobacco use continues to be an urgent public health matter. Tobacco use is the number one preventable cause of death and disease in California, killing nearly 40,000 Californians every year. Typically, tobacco use is initiated and established during adolescence and the Centers for Disease Control and Prevention (CDC) reports that each day in the United States, more than 3,200 people younger than 18 years of age smoke their first cigarette. Although cigarette smoking among middle school and high school youth declined between 2000 and 2011, there has been an increase in electronic cigarette use and hookah use among youth in recent years.

On October 7, 2014, the City Council approved a comprehensive Smoking Pollution Protection Ordinance (ECMC 2014-05) that requires 100% smoke free public places, commercial areas, and multi-unit residences within the City of El Cerrito. During the Council study session on May 20, 2014 about the Smoking Pollution Protection ordinance, staff was directed to also develop an ordinance to address regulating the sales of tobacco by businesses in El Cerrito and research raising the minimum legal sale age (“MLSA”) for the purchase of tobacco products and electronic cigarettes to 21 years old.

Minimum Legal Sale Age (MLSA)

The federal nationwide minimum age to purchase cigarette and smokeless tobacco is 18 years of age. In researching the matter, the City Attorney’s office found that cities in California are preempted under State law (Penal Code section 308) from raising the MLSA. California cities may regulate some details about the manner of the sales, and revoke a license if the business sells to a minor, but California cities cannot raise the MLSA.

CURRENT CONDITIONS IN EL CERRITO

Studies have shown that limiting where tobacco is sold can curtail youth access to tobacco products, target enforcement of the licensing provisions, and combat social perceptions that tobacco use is normal or acceptable. Requiring a local tobacco retailer license generally increases compliance rates of tobacco sales laws and provides revenue to cover administration of license and enforcement efforts.

The Contra Costa Tobacco Prevention Coalition (“Coalition”), American Lung Association (“ALA”), and the American Cancer Society (“ACS”) have all encouraged the City to establish a tobacco retailer license with an annual licensing fee that is high enough to fund effective enforcement programs that include compliance checks and to cover the actual costs of administering and enforcing the license requirements.

Currently, there are 18 tobacco retailers in El Cerrito, including two retailers whose apparent core business is the sale of tobacco products. See attachment 2 for a map of existing tobacco retailers in El Cerrito.

The City’s zoning code currently provides some land use regulations and standards regarding the sale of tobacco by some tobacco retailers but does not require a tobacco retailer license (See ECMC 19.20.210). The current restrictions will be discussed in more detail later in this report.

The City already requires businesses to obtain a business license annually, and certain business types are required to obtain an additional license or permit, such as a Taxicab permit, Peddler/Solicitors Permit, Firearms Retailer Permit, etc. The City does not currently inquire if a retailer sells tobacco or tobacco products and does not currently require a tobacco retailer license.

American Lung Association’s State of Tobacco Control Report

The ALA annually issues their “State of Tobacco Control-California” report that includes grades for all 482 cities and 58 counties in California on policies for smokefree outdoor air, smoke free housing, and reducing sales of tobacco products. When grading communities on tobacco sales, the ALA looks at tobacco retailer license policies that include the following provisions:

- (1) Require tobacco retailers to pay an annual fee that sufficiently covers administration and enforcement efforts, including compliance checks;
- (2) Requirement that all retailers obtain a license to sell tobacco and renew it annually;
- (3) Provision that any violation of a local, state or federal tobacco law is considered a violation of the license;
- (4) Financial deterrent through fines and penalties for violations that includes suspension and revocation of the license.
- (5) Bonus points are given for policies that:
 - Prohibit retailers near schools and/or parks
 - Prohibit sales at some pharmacies
 - Prohibit sampling or nominal cost distribution of tobacco products

El Cerrito has received an “F” grade while the neighboring communities of Berkeley, Alameda, Richmond and unincorporated Contra Costa County (including Kensington) all received an “A” grade in 2014. See attachment 3.

ORDINANCE DEVELOPMENT PROCESS TO DATE

Over the past few months, staff from the City Manager’s Office, Community Development and the Police Department have met multiple times regarding development of a tobacco retailer license program. Staff has researched best practices in other communities as well as researched

the location and business type of current tobacco retailers in El Cerrito, worked with the Coalition and ChangeLab Solutions (a national, nonpartisan nonprofit), solicited comments from the public and received input from the Planning Commission, the ALA, and the ACS. All current tobacco retailers were sent a brief survey. Members of the public who commented on the Smoking Pollution Protection ordinance were informed about the Planning Commission meetings.

The Planning Commission held a study session (October 2014) and opened a public hearing (November 2014). The Commission accepted public comment and provided input to staff regarding certain aspects of the level and type of regulations on tobacco sales that would be appropriate for a tobacco retailer license program in El Cerrito. (See attachment 4). Among the Commissioners, there was discussion and general consensus on pursuing a local tobacco retailer license, prohibiting the sale of flavored non-cigarette tobacco products (including e-cigarettes and other electronic nicotine delivery devices, or “eNDDs”), prohibiting vap shops, hookah lounges, and similar business types, establishing some point-of-sale limits to reduce youth access to tobacco, allowing some “grace period” for existing retailers to come into compliance, and establishing a buffer distance around schools to prohibit new retailers from opening in close proximity to schools. The Commission also discussed, but did not come to consensus on a number of factors:

- The specific size of the buffer around schools
- Density of retailers (number of tobacco retailers in any one area)
- Prohibition of new significant tobacco retailers
- Length of “grace period” for existing tobacco retailers to come into compliance

Many interested members of the public commented to the Planning Commission they were in support of additional restrictions to be put in place to discourage the sale of tobacco to minors. However, one local tobacco retailer questioned if any restrictions put in place by El Cerrito would be effective if Richmond did not also establish the same regulations along San Pablo Avenue.

Both staff and the Planning Commission desire more guidance from the City Council before the Commission is asked to consider making a recommendation to the Council about possible zoning code changes related to a tobacco retailer license ordinance.

OVERVIEW OF PROPOSED TOBACCO RETAILER LICENSE PROGRAM

Based on direction from the City Council, staff has been working on developing a proposed local licensing system for tobacco retailers to achieve the following goals:

1. Ensure responsible, legal sales of tobacco related products;
2. Ensure that minors are not encouraged to use tobacco;
3. Fund a local enforcement program for compliance monitoring; and
4. Close gaps in Federal and State laws that do not yet address electronic cigarettes or electronic nicotine delivery systems and other products marketed to youth

If the program is established, it is anticipated that multiple City Departments will be involved in carrying out the program:

- City Manager's Office - oversee implementation of the program
- Finance Department - collect license fee and issue new/renewal Tobacco Retailer Licenses
- Community Development Department - the planning and building division will review development/use applications to ensure compliance with the municipal code; conduct annual inspections of tobacco retailer establishments; and respond to municipal code complaints and violations
- Police Department - conduct annual decoy operations to detect tobacco sales to minors. The program would likely be modeled after the youth decoy program used to detect alcohol sales to minors

At the Planning Commission, there was general consensus about establishing provisions that may help further reduce the initiation of tobacco use among young people. Currently, staff is drafting an ordinance that will include the following programmatic elements:

- Require every tobacco retailer to have a city tobacco retailer license.
- License Fee set at an appropriate rate to fund effective programs that include compliance checks, and to cover the actual costs of administering and enforcing the license requirements.
- Prohibit the sale of flavored tobacco products¹ (other than cigarettes) and single and small-pack cigars, except for single cigars priced over \$5 each.
- Prohibit tobacco retailing (including e-cigarettes & tobacco paraphernalia) by means of a self-service display.
- Prohibit employees younger than the MLSA from selling tobacco products.
- Ban mobile sales.
- Prohibit the distribution of samples of tobacco and tobacco-related products (including eNDDs) and coupons.
- Enforce remedies for violations through the City's Administrative Penalties procedure
- Charge a re-inspection fee in addition to fine or fee for a violation to off-set the additional staff time required to handle non-compliant businesses.
- Provide a grace period of 24 months to provide a transition period for existing tobacco retailers to comply with the new business requirements and prohibitions. Newly

¹ Flavored tobacco products are especially appealing to children because of their sweet flavors and bright packaging. Neither federal nor California laws restrict sales of flavored non-cigarette tobacco products, such as cigars, cigarillos, smokeless tobacco, hookah tobacco, and electronic smoking devices and the nicotine solutions used in these devices.

established businesses opening after the ordinance is adopted would be required to comply right away.

STUDY SESSION QUESTIONS

At this study session, staff is seeking input from the City Council regarding the restrictions to be included in the proposed tobacco retailer license program.

Current Zoning Code:

The current zoning code includes restrictions on the location, business size and hours of operation for retail establishments deriving 50 percent or more of gross sale receipts from the sale or exchange of tobacco related products (including but not limited to cigarettes, cigars, chewing tobacco and dipping tobacco, cigarette papers, pipes or any other instrument or paraphernalia for the smoking or ingestion of tobacco and products prepared from tobacco).

Generally speaking, stores that meet the current definition are prohibited from being located within 500 feet of a residential district, within 500 feet of an educational, cultural, or religious institution or public park or, within 1,000 feet of each other. They cannot exceed 5,000 square feet of floor area and can only be in operation between the hours of 8:00 a.m. to 10:00 p.m. daily.

The current tobacco sales regulations are outdated; they do not include all tobacco retailers, the “test” of percent of gross sale receipts is hard to measure, and they lack many elements of model policies that are intended to protect the public’s health and safety, particularly youth.

Separation requirements:

What buffer distances does the Council desire between tobacco retailers and schools, parks and other tobacco retailers?

Research shows that children are more likely to experiment with tobacco products when tobacco retailers are located near schools. Restricting tobacco sales around schools or other areas frequented by youth can help reduce youth initiation. The Coalition, ALA and the ACS all encouraged the City to restrict where prospective sellers of tobacco may be located (e.g., near schools, other sellers).

The Coalition has encouraged the City to prohibit new tobacco retailers from opening within at least 1000 feet of schools and other youth-sensitive areas such as parks. The 1,000-foot buffer is common in many other communities. One thousand feet is approximately two residential blocks.

For El Cerrito, as a built-out community with many schools, and a concentration of commercial activity along San Pablo Avenue, a 1,000-foot buffer presents a possible economic development challenge. Business types such as grocery stores are vital to serve the needs of existing and future residents, and existing city policies (including but not limited to the recently adopted San Pablo Avenue Specific Plan and the Climate Action Plan (adopted in 2013) encourage smart infill development, walkable neighborhoods and community nodes. In an effort to balance the need for economic development and the goals of the proposed program, staff is suggesting to establish a 500-foot buffer around schools and other youth-sensitive areas such as the Community Center and library, as well a 500-foot buffer around parks, excluding the Ohlone Greenway due to its proximity to San Pablo Avenue.

Attachment 5 includes maps showing 500- and 1,000-foot buffers around sensitive sites.

Another typical separation requirement is limiting proximity of tobacco retailers to one another in order to prevent a concentration of tobacco retailers in an area. A high density of tobacco retailers has been associated with increased smoking rates, particularly among youth. The Coalition encouraged the City to prohibit any new retailers from locating within 500 feet of each other.

Staff is suggesting a separation requirement for new tobacco retailers to be at least 1,000' from any existing tobacco retailer; this is the distance the current zoning code requires between significant tobacco retailers. Since this separation requirement may also pose economic development challenges, staff is proposing to allow retailers to apply for a Conditional Use Permit for relief from the 1,000-foot distance from other tobacco retailers – this would allow a specific situation to be considered on a case-by-case basis.

For example, in the Moeser Shopping Center, the gas station is an existing tobacco retailer; if a grocery store were to be developed in the vacant Safeway building, the grocery store operator would need to apply for relief from this requirement as part of their a Conditional Use Permit if they planned to sell tobacco products.

Significant Tobacco Retailers:

Does the Council desire to see the proposed ordinance distinguish between significant tobacco retailers and other tobacco retailers?

“Significant Tobacco Retailers”—which can include head shops, discount cigarette stores, and smoke shops – have a higher rate of illegally selling tobacco to minors than the statewide average. Further, stores whose core business is selling tobacco often sell items that are commonly known to be drug paraphernalia while claiming that such items are intended for tobacco use.

Some communities distinguish between “significant tobacco retailers” whose principal or core business is selling tobacco products and/or smoking paraphernalia, and stores like gas stations, grocery stores and convenient stores that sell tobacco along with other products.

ChangeLab Solutions, (a national, nonpartisan nonprofit) suggests one way to define and measure a “Significant Tobacco Retailer” is if the principal or core business is selling Tobacco Products, Tobacco Paraphernalia, or both, as evidenced by 20% or more of floor or display area is devoted to Tobacco products, Tobacco Paraphernalia, or both.

The City could define “significant tobacco retailer” to include any tobacco retailer for which the principal or core business is selling tobacco products, smoking paraphernalia, or both, as evidenced by any one of the following:

- self-disclosure
- more than twenty percent (20%) of display area is devoted to tobacco products, smoking paraphernalia, or both.
- fifty percent (50%) or more of gross sales receipts are derived from tobacco products, smoking paraphernalia, or both

Does the Council desire to include additional location restrictions between significant tobacco retailers and schools, parks and/or other tobacco retailers?

For example, the City could establish a buffer around schools and other youth-sensitive areas of 500 feet for tobacco retailers and a different buffer, i.e., 1,000 feet for significant tobacco retailers.

Does the Council desire to prohibit any new significant tobacco retailers from establishing in El Cerrito?

Allowing new significant tobacco retailers to open in El Cerrito may reinforce positive social perceptions of smoking and convey tacit approval of tobacco use.

Prohibit Cigar Lounges, Hookah Lounges, Vapor Lounges:

Does the Council desire to prohibit cigar lounges, hookah lounges, or vapor lounges from establishing in El Cerrito?

Currently, there are no cigar lounges, hookah lounges, or vapor lounges operating in El Cerrito.

Smoking or inhaling such products exposes customers and employees to potentially hazardous chemicals and undermines existing clean indoor air laws.

The City could close a loophole in California law that permits smoking in retail tobacco shops and private smokers' lounges by prohibiting any business from allowing customers to consume any amount of tobacco product, or where customers use an electronic smoking device or other apparatus to deliver an inhaled dose of nicotine or other substance.

The recently adopted Smoking Pollution Protection Ordinance (ECMC 2014-05) now requires 100% smoke free places of employment, however, including this specific prohibition in the zoning code would ensure it is clear to business owners and prospective business owners that this type of business is prohibited in El Cerrito.

Grandfather clause:

Should the proposed ordinance include a “grandfather clause” for any existing tobacco retailer, including significant tobacco retailers who currently operate near a school? Near a park and/or close to another tobacco retailer?

The City could exempt existing retailers from the separation requirements. This exception could include a provision to revoke the exception if the retailer lets its license lapse, closes for more than 60 days, changes its business operation significantly, or receives three or more violations within a 24 month period.

In providing an exemption, the City could distinguish between significant tobacco retailers and other tobacco retailers, and/or provide an exemption only as to some of the separation requirements.

Other Feedback:

Staff is also interested in feedback from the Council on the basic program, including elements such as the basic programmatic structure and point of sale limitations described elsewhere in this report.

STRATEGIC PLAN CONSIDERATIONS

Development of a tobacco retailer license program would help to fulfill the City of El Cerrito Strategic Plan goal to “Ensure the Public’s Health and Safety.”

FINANCIAL CONSIDERATIONS

If adopted, the licensing process, annual inspection of businesses selling tobacco products, and youth decoy operations are estimated to cost in the range of \$650-\$800 or more per year, per retailer. During the first year, more staff time will likely be required to establish the program, train staff and outreach to retailers, however, in future years, the cost of the program is anticipated to be recovered in full through the collection of the tobacco retailer license fee.

LEGAL CONSIDERATIONS

The City Attorney’s Office has been working with staff in developing an ordinance.

Reviewed by:

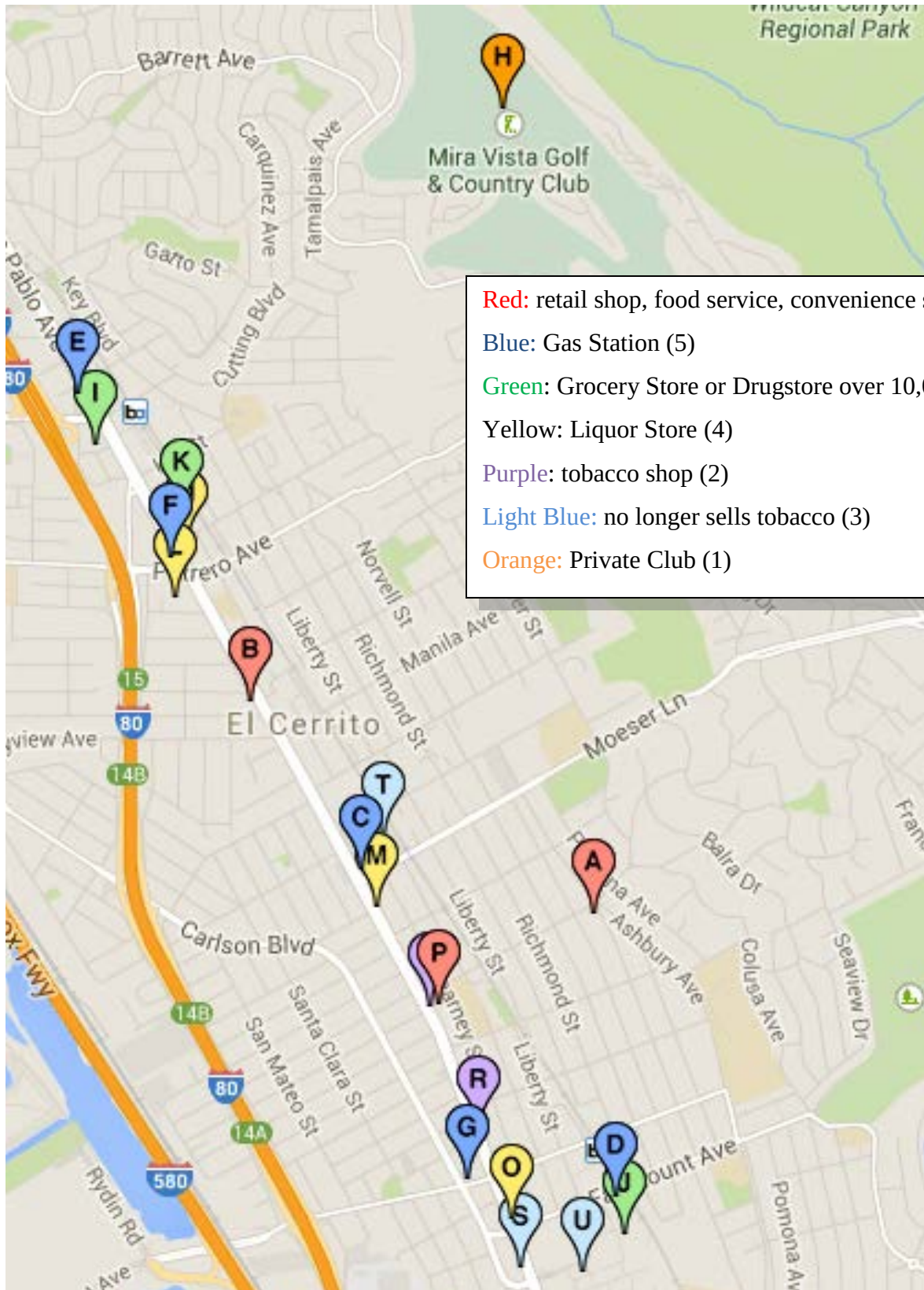
A handwritten signature in blue ink, appearing to read 'Scott Hanin', is written over a horizontal line.

Scott Hanin
City Manager

Attachments:

1. Existing tobacco retailers in El Cerrito
2. Summary of ALA State of Tobacco Control grades
3. Written public comments received
4. Maps showing proximity of existing tobacco retails to sensitive sites
5. Tobacco Prevention Coalition of Contra Costa County: “A Tool for Reducing Youth Access To Tobacco: The Tobacco Retailer License”
6. ChangeLab Solutions: “Tobacco Retailer Licensing: An Effective Tool for Public Health”

Current Tobacco Retailers in El Cerrito by Store Type



	Store type	Licensed Location	school within 500 '	school within 1000'	park within 500 '	park within 1000'	existing TR within 1000'
A	retail shop	7022 Stockton Ave	no	no	no	no	no
B	retail shop	10963 San Pablo Ave	no	yes	OG	OG	yes
C	gas station	10602 San Pablo Ave	no	no	OG	OG	yes
D	gas station	6700 Fairmount Ave	no	yes	OG	OG	yes
E	gas station	11687 San Pablo Ave	no	no	no	no	yes
F	gas station	11319 San Pablo Ave	yes	yes	OG	yes	yes
G	gas station	3160 Carlson Blvd	no	no	no	yes	yes
H	golf course	7901 Cutting Blvd	yes	yes	no	yes	no
I	Large Format Store	11565 San Pablo Ave	no	no	OG	OG	yes
J	Large Format Store	1000 El Cerrito Plaza	yes	yes	OG	yes	yes
K	Large Format Store	11450 San Pablo Ave	no	yes	OG	yes	yes
L	liquor store	11299 San Pablo Ave	yes	yes	OG	yes	yes
M	liquor store	10560 San Pablo Ave	no	no	OG	OG	yes
N	liquor store	11382 San Pablo Ave	no	yes	OG	yes	yes
O	liquor store	10012-14 San Pablo Ave	no	no	no	yes	yes
P	retail shop	10374 San Pablo Ave	yes	yes	yes	yes	yes
Q	tobacco shop	10382 San Pablo Ave	yes	yes	yes	yes	yes
R	tobacco shop	10170 San Pablo Ave	no	yes	no	OG	yes
S	NO LONGER SELLS TOBACCO	9937 San Pablo Ave	no	no	yes	yes	yes
T	NO LONGER SELLS TOBACCO	10650 San Pablo Ave	no	no	OG	OG	yes
U	NO LONGER SELLS TOBACCO	670 El Cerrito Plaza	no	yes	no	yes	yes
W	VACANT (former retailer)	10636 San Pablo Ave	no	no	OG	no	yes



State of Tobacco Control 2014 – California Local Grades

CONTRA COSTA COUNTY

		Possible Points	Antioch	Brentwood	Clayton	Concord	Danville	El Cerrito	Hercules	Lafayette	Martinez	Moraga	Oakley	Orinda	Pinole	Pittsburg	Pleasant Hill	Richmond	San Pablo	San Ramon	Walnut Creek	County Unincorporated
Overall Tobacco Control Grade		F	F	D	C	D	F	F	C	B	F	F	F	C	F	B	A	D	C	B	A	
Total Points	12	0	0	2	6	2	0	0	7	8	0	0	1	7	0	8	12	4	7	8	11	
Smokefree Outdoor Air		F	F	D	C	D	F	F	A	A	F	F	F	A	F	B	A	F	A	A	A	
Dining	4	0	0	0	2	0	0	0	4	4	0	0	0	4	0	2	4	0	4	4	4	
Entryways	4	0	0	0	0	0	0	0	4	4	0	0	0	4	0	3	4	0	4	4	4	
Public Events	4	0	0	0	2	0	0	0	4	4	0	0	0	4	0	3	4	0	4	0	4	
Recreation Areas	4	0	0	4	2	4	0	0	4	4	0	0	0	4	0	4	4	0	4	4	4	
Service Areas	4	0	0	0	2	0	0	0	4	4	0	0	0	4	0	4	4	0	4	4	4	
Sidewalks	1	0	0	0	1	0	0	0	1	0	0	0	0	0	0	0	0	0	0	1	0	
Worksites	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	0	0	0	1	0	
Total Points	22	0	0	4	9	4	0	0	21	21	0	0	0	20	0	16	20	0	20	18	20	
Smokefree Housing		F	F	F	F	F	F	F	C	B	F	F	F	C	F	A	A	F	D	A	B	
Nonsmoking Units	4	0	0	0	0	0	0	0	2	0	0	0	0	1	0	3	4	0	0	4	1	
Nonsmoking Common Areas	4	0	0	0	0	0	0	0	4	4	0	0	0	4	0	4	4	0	4	4	4	
Disclosure	4	0	0	0	0	0	0	0	0	3	0	0	0	0	0	3	4	0	0	4	3	
Nuisance	1	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1	0	0	0	1	0	
Housing Authority Units	1	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0	n/a	1	n/a	n/a	n/a	0	
Total Points	14	0	0	0	0	0	0	0	6	8	0	0	0	5	0	11	13	0	4	13	8	
Reducing Sales of Tobacco Products		F	F	D	A	D	F	F	D	D	F	F	D	D	F	D	A	A	C	F	A	
Tobacco Retailer Licensing	4	0	0	1	4	1	0	0	0	0	0	0	0	1	0	0	4	4	1	0	4	
Sales near Schools and Parks	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Sales in Pharmacies	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	
Sampling of Tobacco Products	1	0	0	0	0	0	0	0	1	1	0	0	1	0	0	1	1	0	1	0	1	
Total Points	7	0	0	1	4	1	0	0	1	1	0	0	1	1	0	1	6	4	2	0	5	

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1);
determined by grades and points from other three categories – A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)

Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

State of Tobacco Control 2014 – California Local Grades



ALAMEDA COUNTY

	Possible Points	Alameda	Albany	Berkeley	Dublin	Emeryville	Fremont	Hayward	Livermore	Newark	Oakland	Piedmont	Pleasanton	San Leandro	Union City	County Unincorporated
Overall Tobacco Control Grade		B	A	A	A	C	B	C	D	D	B	F	D	C	A	C
Total Points	12	9	11	12	12	5	8	5	3	4	10	0	4	6	12	5
Smokefree Outdoor Air		A	A	A	A	B	A	A	D	C	B	F	C	A	A	B
Dining	4	2	2	4	4	4	4	4	2	4	4	n/a	4	4	4	4
Entryways	4	4	4	4	4	4	4	4	2	4	4	0	2	4	4	4
Public Events	4	4	4	4	2	0	4	2	0	0	0	0	0	4	4	0
Recreation Areas	4	4	4	3	4	4	4	4	2	0	4	0	0	4	4	4
Service Areas	4	4	4	4	4	4	4	4	0	4	4	0	4	4	4	4
Sidewalks	1	1	1	1	0	0	1	1	0	0	0	0	0	0	0	0
Worksites	1	1	1	1	0	1	1	0	0	0	0	0	0	1	1	0
Total Points	22	20	20	21	18	17	22	19	6	12	16	0	10	21	21	16
Smokefree Housing		A	B	A	A	D	B	F	D	D	B	F	D	D	A	D
Nonsmoking Units	4	4	0	4	4	0	0	0	0	0	0	0	0	0	4	0
Nonsmoking Common Areas	4	4	4	4	4	4	4	0	2	2	4	0	2	2	4	2
Disclosure	4	4	4	4	3	0	3	0	0	0	4	0	0	0	3	0
Nuisance	1	0	0	0	1	0	1	0	0	0	0	0	0	1	1	0
Housing Authority Units	1	1	n/a	0	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	1	n/a	n/a	0
Total Points	14	13	8	12	12	4	8	0	2	2	8	0	3	3	12	2
Reducing Sales of Tobacco Products		D	A	A	A	D	D	D	D	D	A	F	D	D	A	D
Tobacco Retailer Licensing	4	0	4	4	3	0	0	0	0	0	4	0	0	0	4	0
Sales near Schools and Parks	1	1	1	1	1	0	0	0	0	0	1	0	0	1	1	0
Sales in Pharmacies	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sampling of Tobacco Products	1	0	0	1	1	1	1	1	1	1	1	0	1	0	1	1
Total Points	7	1	5	6	5	1	1	1	1	1	6	0	1	1	6	1

Overall Tobacco Control Grade: A (11-12), B (8-10), C (5-7), D (2-4), F (0-1);
determined by grades and points from other three categories – A (4), B (3), C (2), D (1), F (0)
Smokefree Outdoor Air Grade: A (18+), B (13-17), C (8-12), D (3-7), F (0-2)

Smokefree Housing Grade: A (11+), B (8-10), C (5-7), D (2-4), F (0-1)
Reducing Sales of Tobacco Products Grade: A (4+), B (3), C (2), D (1), F (0)

The following information is from the American Lung Association in California's Center for Tobacco Policy & Organizing report, "Matrix of Strong Local Tobacco Retailer Licensing Ordinances - September 2013" The full report (highlighting 110 ordinances) is online at <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Matrix-of-Strong-Local-Tobacco-Retailer-Licensing-Ordinances-September-2013.pdf>

Community/Date Passed	Fee	Enforcement Activities	Suspension/Revocation Schedule	Additional Provisions
City of Richmond June 2009 Population: 105,562	\$1,062.44/ Annual (combined alcohol and tobacco retailer fee)	Compliance shall be monitored by the Richmond Police Department. Underage sales investigations will be completed annually, while compliance inspections will be completed every two years.	1st violation within 5 years – 10 day revocation 2nd violation within 5 years – 30 day revocation 3rd violation within 5 years – 90 day revocation 4th violation within 5 years – 5 year revocation	Bans mobile sales. Requires retailers to check the age of purchasers who appear to be under the age of 27. Requires that clerks are the minimum legal age to purchase tobacco products (currently 18). Requires that all tobacco-related products and paraphernalia must be removed from public view during periods of suspension. Makes it a violation of the license to violate any law related to the sale of drug paraphernalia. Includes the sale of electronic cigarettes.
City of Albany February 2009 Population: 18,430	\$250/Annual	The Police Department is responsible for administration and enforcement.	1st violation within 5 years – 10 day revocation 2nd violation within 5 years – 30 day revocation (and \$250 fine if within 1 year of first violation) 3rd violation within 5 years – 90 day revocation (and \$500 fine if within 1 year of second violation) 4th violation within 5 years – 5 year revocation and \$1,000 fine	Bans mobile sales. Requires retailers to check the age of purchasers who appear to be under the age of 27. Requires that clerks are the minimum legal age to purchase tobacco products (currently 18). Requires that all tobacco-related products and advertising must be removed from public view during periods of suspension or revocation. Includes the sale of electronic cigarettes.

Community/Date Passed	Fee	Enforcement Activities	Suspension/Revocation Schedule	Additional Provisions
Contra Costa County January 2003 Population: 163,762 (in unincorporated areas)	\$287/Annual	Health Services Department (tobacco) staff will conduct site visits to the stores on an annual basis to enforce the licensing ordinance and self-service display ban. This activity is paid for through the license fee. The County contracts with the Food and Drug Branch of the California Department of Public Health to conduct sting operations each year using other funding sources.	1st violation – up to 30-day suspension. 2nd violation within 2 years – up to 90-day suspension. 3rd violation and subsequent violations within 2 years – up to one year suspension.	Bans mobile sales. Requires that all tobacco-related products must be removed from public view during periods of suspension or revocation. Includes the sale of electronic cigarettes.
City of Berkeley December 2002 Population: 115,716	\$427/Annual With a 3.5% annual increase for COLA	Environmental Health Specialists will conduct three visual site inspections per retailer per year. 0.5 FTE was added to the Environmental Health Department. (Note: Berkeley's fee does not pay for PC 308 compliance checks. The city's police department had an ongoing program to conduct bi-annual compliance checks of randomly selected stores. The police department absorbs the related costs of these operations.)	1st violation within 5 years – up to 30 day suspension. 2nd violation within 5 years – up to 90 day suspension. 3rd violation within 5 years – up to one year suspension. 4th violation within 5 years – the license may be revoked	Requires that all tobacco products must be removed from public view during periods of suspension or revocation.



333 Hegenberger Road
Suite 450
Oakland, CA 94621
510-638-5864 phone
510-638-8984 fax

lung.org/california

October 15, 2014

El Cerrito Planning Commission
10890 San Pablo Avenue
El Cerrito, CA

Dear Chairperson Lucas and Commissioners Hansen, Iswalt, Kuhlman, Motoyama and Pine:

The American Lung Association in California has been fighting for lung health and elimination of the causes of lung disease for over a century. Protecting residents from the known health hazards associated with secondhand smoke and keeping tobacco out of the hands of our youth are key elements to building lung healthy communities and we are pleased to see that the City of El Cerrito has chosen to address how tobacco is sold.

Every year, we look at every city's and county's municipal code in California to determine how many local protections are in place. We tabulate our findings into our local State of Tobacco Control report card to let local communities how well their cities are doing and what more can be done. Earlier this year, the El Cerrito City Council adopted one of the state's most comprehensive smokefree air protections in outdoor public places and in attached multi-unit housing. The third category of our report card is called "Reducing Access to Tobacco Products."

A basic comprehensive ordinance would include a requirement that all sellers of tobacco obtain a local license which would: 1) charge an annual fee which would cover the actual of administering and enforcing the license requirements; 2) require all tobacco product sellers to obtain a license annually; 3) consider any violation of a federal, state, or local tobacco control law to be considered a violation; and 4) the sanctions for violations would include fines and revocation.

In addition, we are encouraging cities to consider some or all of the following provisions:

1. Inclusion of emerging tobacco products like electronic smoking devices in secondhand smoke protections
2. Inclusion of emerging tobacco products as items to be covered in tobacco retailer licensing requirements
3. Restricting where prospective sellers of tobacco may be located (e.g., near schools, other sellers)
4. Prohibiting tobacco product giveaways (must close loopholes in existing state and federal laws)

5. Prohibit the sale of tobacco products in pharmacies
6. Setting restrictions prospectively on where flavored tobacco products may be sold
7. Establishing a minimum pack size for cigars to make them less affordable to youth.
Some are 3 for \$1 and \$.69 each.

Are tobacco retailer licenses effective in reducing sales? A review of cities that have adopted a strong license has shown that illegal sales to minors are reduced after implementation. <http://center4tobaccopolicy.org/wp-content/uploads/2013/09/Tobacco-Retailer-Licensing-is-Effective-September-2013.pdf>

As of September 2013, 110 local jurisdictions in California have strong tobacco retailer licenses, including Albany, Berkeley, Oakland, Richmond, San Pablo and Contra Costa County (unincorporated).

Adopting a strong tobacco retailer license that takes into consideration the emerging threats posed by unregulated electronic smoking devices and other emerging tobacco products designed to entice children would send a strong and powerful message to those who think that our children's lungs are for sale.

Best,

A handwritten signature in blue ink, appearing to read 'Serena Chen', with a stylized, cursive script.

Serena Chen
Regional Advocacy Director



CONTRA COSTA TOBACCO PREVENTION COALITION

AMERICAN CANCER
SOCIETY

AMERICAN HEART
ASSOCIATION

AMERICAN LUNG
ASSOCIATION

BAY AREA COMMUNITY
RESOURCES

CENTER FOR HUMAN
DEVELOPMENT

COMMUNITY CLINIC
CONSORTIUM OF CONTRA
COSTA COUNTY

CONTRA COSTA COUNTY
ALCOHOL AND OTHER
DRUGS ADVISORY BOARD

CONTRA COSTA COUNTY
BUILDING TRADES
COUNCIL

CONTRA COSTA CHILD
CARE COUNCIL

CONTRA COSTA COUNTY
OFFICE OF EDUCATION
In Partnership with Public School
District Tobacco Coordinators

CONTRA COSTA
HEALTH SERVICES

FIRST BAPTIST CHURCH OF
PITTSBURG

LOS MEDAÑOS
COMMUNITY HEALTHCARE
DISTRICT

PLANNED PARENTHOOD:
SHASTA DIABLO

PROJECT RIDE

RAINBOW COMMUNITY
CENTER

STAND! For Families
Free of Violence

UJIMA FAMILY
RECOVERY SERVICES

PARTICIPATING RESIDENTS
OF THE COUNTY

STAFF:
Tobacco Prevention Project
Community Wellness &
Prevention Program

October 15, 2014

El Cerrito Planning Commission
Andrea Lucas, Chair, El Cerrito Planning Commission
Carla Hansen, Vice Chair
Commissioner Michael Iswalt
Commissioner Bill Kuhlman
Commissioner Lisa Motoyama
Commissioner Tim Pine

Dear Chair Lucas and Commissioners,

The Tobacco Prevention Coalition thanks you for discussing tobacco control policies for the City of El Cerrito at your meeting tonight. The Tobacco Prevention Coalition is comprised of over 40 organizations and individuals in the County, all supporting model tobacco prevention policies that protect both youth and adults from tobacco influences in our communities.

El Cerrito is to be applauded for recently adopting one of the strongest secondhand smoke protections ordinances in the state, including prohibitions on the use of Electronic Smoking Devices, such as "e-cigarettes," "e-hookah" and "vape pens," where smoking is prohibited.

According to the recent Healthy Stores for a Healthy Community Survey, El Cerrito has 21 stores that sell tobacco products. One-third of these stores are within 1000 feet of schools. The Tobacco Prevention Coalition encourages the Planning Commission to consider additional regulations near schools and other youth sensitive areas to further protect youth from tobacco influences.

One of the goals stated by the City Council is to "ensure that minors are not encouraged to use tobacco". In order to accomplish this, the Coalition recommends the Planning Commission endorse the proposed "best practices" options of:

1. Regulating ALL tobacco retailers, not only Significant Tobacco Retailers, through tobacco retailer licensing, and establishing a fee that will fund ongoing youth decoy operations and a license suspension process.
2. Prohibiting new tobacco retailers from opening within at least 1000 feet of schools and other youth-sensitive areas such as parks and churches.

597 Center Avenue, Suite 125 • Martinez, CA 94553-4634

Ph (925) 313-6214 • Fax (925) 313-6840 • cctobaccopreventioncoalition@gmail.com



October 14, 2014

Andrea Lucas
Planning Commission Chair
10890 San Pablo Avenue
El Cerrito, CA 94530

Dear Ms. Lucas and Members of the El Cerrito Planning Commission:

The American Cancer Society Cancer Action Network (ACS CAN) is committed to protecting the health and well-being of the residents of El Cerrito through evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem. We are encouraged by the interest shown by the El Cerrito City Council in ending illegal sales of tobacco to minors, and preventing initiation of tobacco use among youth and young adults. ACS CAN supports creation and passage of a Tobacco Retail License, as an effective means to achieving those goals, thereby protecting young people from a deadly habit and the cancer it creates.

A new report released in 2014 by the Surgeon General found that more than 43 million Americans still smoke and tobacco will cause an estimated 480,000 deaths this year in the U.S. Both opponents of smoking and purveyors of cigarettes have long recognized the significance of adolescence and young adulthood as the period during which smoking behaviors are typically developed. According to the Centers for Disease Control and Prevention (CDC) more than 80 percent of adult tobacco users start smoking as teens, and 35 percent of those users become daily smokers by 18, while nearly 100% of smokers begin by the age of 26. There is evidence that reducing youth access protects youth from ever starting to smoke as adults.

Tobacco companies have a long history of marketing to vulnerable populations, including children and young adults. They market tobacco products in a variety of kid-friendly flavors that appeal to beginning smokers, which are widely available in local stores. Free samples and discount coupons are distributed at bars and clubs that are frequented by young adults. A growing body of research demonstrates that youth and young adults are particularly cost sensitive, and that discounting tobacco products leads to higher rates of tobacco use in this population.

The American Cancer Society Cancer Action Network encourages you to adopt a strong ordinance to reduce youth access to tobacco products. An effective TRL includes the following minimum components:



October 15, 2014

Andrea Lucas, Chair, El Cerrito Planning Commission
Commissioner Carla Hansen, Vice Chair
Commissioner Michael Iswalt
Commissioner Bill Kuhlman
Commissioner Lisa Motoyama
Commissioner Tim Pine

Dear Chair Lucas and Commissioners,

Thank you for considering options to strengthen the city's tobacco sales regulations in El Cerrito. I am writing as the Program Manager for the Contra Costa Health Services Tobacco Prevention Project to provide information on best practices for policies that may help achieve the City Council's goal of ending illegal sales of tobacco products to minors, including electronic smoking devices such as e-cigarettes, and preventing initiation of tobacco use among youth.

Tobacco Retailer Licensing (TRL) may be the most effective tool available for addressing illegal sales to minors, and has been adopted by over 100 communities in CA. Over seventy of these communities, including Contra Costa County, now also include electronic smoking devices in their ordinance of tobacco product, and require a retailer to obtain a license to sell electronic smoking devices in addition to tobacco products. Effective TRL policies:

1. require all tobacco retailers to purchase an annual license from the city in order to sell tobacco products, including electronic smoking devices;
2. set a licensing fee sufficient enough to fund administration and enforcement of the ordinance, including annual youth decoy operations to be conducted with the retailers; and
3. allow the jurisdiction to suspend the tobacco retailer license if the store is found to be in violation of any local, state or federal laws, such as the no sales to minors law.
4. Apply to ALL tobacco retailers, not only "Significant Tobacco Retailers".

Tobacco Retailer Licensing has resulted in decreasing the illegal sales rates of tobacco to minors to youth by holding owners accountable for compliance with tobacco control laws. For the unincorporated County, our illegal sales rate decreased from 37% to 7% within one year of implementation of the law.

The City is considering a number of best practice policies that are intended to "ensure that minors are not encouraged to use tobacco". Research has demonstrated that youth are more likely to experiment with tobacco products when retailers are located near schools, and that the number of tobacco retailers in a community affects youth smoking behaviors as well as access to tobacco products. Restricting the location of all tobacco retailers near schools and other youth sensitive

areas, as well as within a certain distance to each other, creates tobacco-free zones and reduces tobacco influences in the community.

There are two other tobacco retail issues that are strongly linked to youth uptake of tobacco use: flavored tobacco products, and small pack sizes of cigars and other tobacco products. A recent tobacco store survey in Contra Costa County found that over 80% of stores near schools sell flavored non-cigarette products like “watermelon” and “tropical blast” flavored cigarillos and little cigars. These products are clearly targeted to youth. Small packages of tobacco products may make these products more accessible to youth, who are generally a more price-sensitive market. Several jurisdictions across the country have adopted laws to regulate the sale of flavored tobacco products and address density issues. In the Bay Area, Santa Clara County and Hayward have adopted similar laws, and Berkeley is currently considering such regulations.

As strong Tobacco Retailer Licensing laws include compliance checks and enforcement, as well as suspension for violations of tobacco laws, it is also a mechanism for effective management of other tobacco regulations, such as density and location laws. Enforcement of these regulations has been most effective under tobacco retailer licensing laws, rather than a combination of regulatory mechanisms.

In order to address public health concerns related to tobacco, model practices also include regulation for ALL tobacco retailers, not only “Significant Tobacco Retailers”, which include Tobacco Shops, Hookah Lounges, and Cigar Shops. Cities have the option of prohibiting these type of stores all together by not allowing stores that primarily sell tobacco to obtain a tobacco retailer license. “Vape Shops”, which sell electronic smoking devices and often allow for use of these devices in their stores, can also be restricted from obtaining a tobacco retailer license.

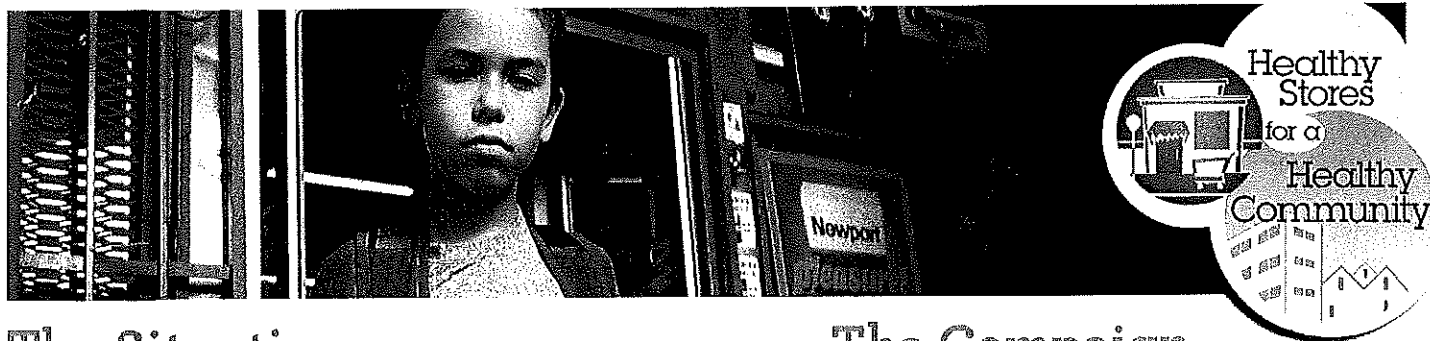
Tobacco Prevention Program staff are available for technical assistance and consultation as the City is considering these policy options.

Respectfully,

Denice A. Dennis, MPH
Tobacco Prevention Program Manager

Att: Contra Costa Healthy Stores Survey Summary

cc: Mark Friedman, City Council Liaison



The Situation

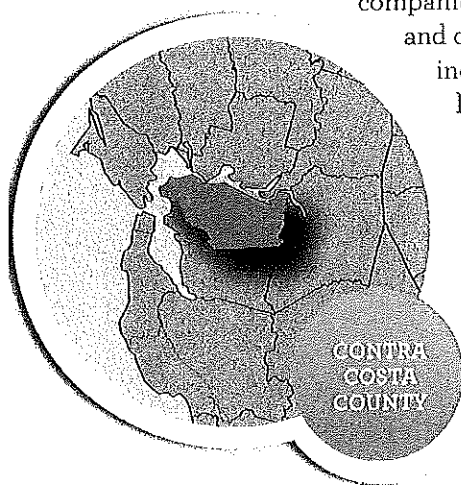
Stores in our communities play a critical role in our health.

They not only impact the economic well-being of neighborhoods, but also the physical health of the people who visit them. The types of products available, many of which contribute to chronic health issues, and how they're promoted influence us all, but especially our kids.

In 2011, the tobacco industry spent \$605 million¹ advertising and promoting tobacco products in California and our kids are paying the price. Exposure to tobacco marketing in stores increases tobacco experimentation and use by youth² and is more powerful than peer pressure.³

Marketing of unhealthy foods also has a great impact, particularly on kids. They consume more of it, more often because it's promoted heavily to them – \$1 million an hour is spent by

companies selling soda, candy, chips and other unhealthy foods.⁴ Low-income communities also have less access to fresh, affordable and nutritious food furthering the problem.⁵ Underage drinking also increases when youth are exposed to alcohol ads.⁶ In fact, 1 in 5 California high school students drink 5 or more alcoholic drinks in a row per month.⁷



WHAT WE KNOW...

	CONTRA COSTA	CA
% of adults who smoke (2011-12)	11.8%	13.8%
% of youth who smoke (2012, grades 9-12)	10.4%	10.5%
Cost of smoking (2012)	\$184,813,842	\$6.5B
% of adults who are overweight or obese (2011-12)	63.5%	59.8%
% of adults who ate 3+ fruits and vegetables yesterday (2011-12)	29.9%	27.2%
% of youth who used alcohol in the past 30 days (2009-11, 11th grade)	37%	35%
% of youth who binge drink (2009-11, 11th grade)	36%	22%

For sources, please see website

The Campaign

The **Healthy Stores for a Healthy Community** campaign is a statewide collaboration between tobacco use prevention, nutrition and alcohol prevention partners. The goal is to improve the health of Californians through changes in community stores and to educate people how in-store product marketing influences consumption of unhealthy products. Working together, we can make our community a healthier place and maintain a vibrant business community.

The Survey

Scientific surveys were recently conducted throughout California to assess product marketing and the availability of healthy and unhealthy options offered in stores that sell tobacco – **the first time** in California that tobacco, alcohol and food were analyzed together in stores. This is valuable information to help make the places we shop healthier.

More than 7,000 stores were surveyed in all 58 counties, which included convenience, supermarket, liquor, tobacco, small market, discount, drug and big-box stores. Approximately 700 individuals participated in gathering information statewide, including representatives from public health, community volunteers and youth.

FACT: CHRONIC DISEASES

Obesity, diabetes, heart disease, cancer and tobacco-related diseases account for more than 80% of all deaths in California. These deaths could be prevented by eliminating tobacco use, limiting alcohol intake, eating healthy and being physically active.

WHAT WE KNOW ABOUT STORES THAT SELL TOBACCO (2012)

	CONTRA COSTA	CA
Stores that sell tobacco products	819	36,777
% of stores near schools**	23.9%	27.4%
% of stores in low income areas (185% of federal poverty level)	22.8%	46.5%
Number of youth for every 1 store	318	251
Number of adult smokers for every 1 store	116	101

SURVEY RESULTS OF STORES THAT SELL TOBACCO (2013)

	CONTRA COSTA	CA
GENERAL		
Number of stores surveyed	226	7,393
% of stores that have <u>unhealthy</u> exterior advertising	67.3%	71%
% of stores that have <u>healthy</u> exterior advertising	11.9%	12.2%
TOBACCO		
Lowest price of cigarettes	\$4.26	\$4.30
e-cigarettes	51.8%	45.7%
candy, mint and liquor flavored non-cigarette tobacco products	82.3%	79.4%
candy, mint and liquor flavored non-cigarette tobacco products and <u>are near schools</u> **	82.4%	75.3%
candy, mint and liquor flavored non-cigarette tobacco products vs. alcopops	82.3%/84.9%	79.4%/82.4%
candy, mint and liquor flavored non-cigarette tobacco products vs. milk	82.3%/41%	79.4%/37.2%
chewing tobacco	54%	56.1%
little cigars and cigarillos	85%	83.7%
the most popular brand of cigarillos for under \$1	75.7%	78.1%
tobacco products near candy at the check-out	23.9%	39.1%
tobacco products near candy at the check-out <u>and are near schools</u> **	23.5%	40.5%
FOOD		
low- or non-fat milk	41%	37.2%
sugary drinks at the check-out	55.3%	56.9%
sugary drinks at the check-out <u>and are near schools</u> **	39.2%	55.6%
<u>any</u> fresh fruit or vegetable	45.1%	42.4%
a good selection of <u>good quality</u> fresh fruits and vegetables	49%	33.2%
a good selection of <u>good quality</u> fresh fruits and vegetables in low income vs. <u>not</u> low income areas	53.7%/45.9%	30.3%/36%
that accept CalFresh that sell a good selection of <u>good quality</u> fresh fruits and vegetables	53.5%	41%
that accept CalFresh or WIC	56.6%	53.7%
ALCOHOL		
overall % of stores that sell alcohol	73.5%	71.3%
that sell alcopops	84.9%	82.4%
with alcohol ads near candy/toys or below 3 feet	42.8%	36.7%
that sell malt liquor in low income vs. <u>not</u> low income areas	79.2%/66.1%	81.6%/71.4%
with alcohol exterior advertising	47.6%	54.3%

* = no information available ** = within 1,000 feet Reference the technical report for confidence intervals



Contra Costa Survey Highlights

Contra Costa survey findings confirm that unhealthy products such as tobacco, alcohol and sugary beverages are being promoted to youth.

Store Survey Highlights

- **Seven in 10 stores in Contra Costa have exterior advertising for *unhealthy* products** like tobacco, alcohol and sugary drinks. This compares with 1 in 10 stores with exterior advertising for *healthy* items including fruits, vegetables and non-fat/low-fat milk.
- **Over 80% of stores near schools in Contra Costa sell flavored non-cigarette products**, like "watermelon" and "tropical blast" flavored cigarillos and little cigars. Many of these products sell for under a dollar, making them very attractive and affordable for youth.
- **Sugary drinks are available at the check-out area at nearly 40% of stores near schools** in Contra Costa. The largest single source of calories for youth is sugary drinks, including sodas and sports drinks.
- Many of the Contra Costa communities with **high numbers of stores selling tobacco near schools** are low-income. Low-income communities have high rates of smoking and chronic diseases like heart disease, cancers and stroke. The Campaign for Tobacco Free Kids estimates that 441,000 kids now under the age of 18 in CA will ultimately die prematurely from smoking.
- **Close to half of all stores in Contra Costa sell e-cigarettes.** The number of stores that are selling e-cigarettes statewide has quadrupled in the last two years, from just over 10% in 2011 to over 45% in 2013. The percentage of high school students who reported ever using e-cigarettes doubled between 2011 and 2012. Many of these products are attractive to youth because they are relatively cheap and come in flavors like cherry-limeade, and mint.
- Of the stores that sell alcohol in Contra Costa, close to 85% are selling **Alcopops**, which are increasingly popular among young people because of their **fruity flavors and attractive containers**. These products are flavored malt beverages sold as 12 oz. can or bottles with typically a 12% alcohol content, or "supersized" at 23.5 oz. with 8% alcohol content.

Policy Options Potential solutions to reduce youth exposure to these products in our communities must be explored. Cities can adopt policies to reduce promotion of unhealthy products to youth, including limiting the amount of signage on storefronts, limiting the number of stores that sell these products near schools, and extending the federal government's ban on the sale of flavored cigarettes to all tobacco products.

The Survey

- Stores surveyed were randomly selected by zip code from a list of all stores that sell tobacco products in the County. These included convenience, supermarket, liquor, tobacco, small market, discount, drug and big box stores, except for stores that prohibit youth from entry or stores that require membership.
- Although some of the County, State, and Bay Area Region survey results look different, there are few that are "statistically different". Overall, there were few differences between the County store survey results the Bay Area Region, and the State.

For more information, contact:

Alcohol Prevention: Fatima Mata-Sol, 925-335-3307

Tobacco Prevention: Denice Dennis, 925-313-6825

Healthy Food and Beverages: Tracey Rattray, 925-313-6835

From: [Bhupinder Dhindsa](#)
To: [Margaret Kavanaugh-Lynch](#)
Cc: [Bhupinder Dhindsa](#)
Subject: Comments Ref: Hearing Nov 19,2014
Date: Friday, November 14, 2014 3:30:24 PM

Dear Margaret

I am in support for curbing smoking in city of el cerrito as residence and father of 2 kids. On other hand also I am local small business owner. My only concerned for one idea of raising the minimum age to purchase cigarettes from 18 to 21 in **Only city of el cerrito**. This because there many business otherside of san pablo ave which are in richmond city limits. It won't help that much as any one just go cross the street buy the ciggarettes if they are between 18-21. I will suport if this will be together with neighbouring cities like Albany, Richmond, San Pablo do together with El cerrito. Other city of el cerriot will just hurt thier own local small business with increase in city fees but losing business neighbourhood cities.

It will bad idea go for it on its own as city of el cerrito.

I along with other local business urge city to reconisder this option of raising age limit in only this city

Thanks

Bhupinder Dhindsa

A business enterprise

No virus found in this message.

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Version: 2014.0.4765 / Virus Database: 4189/8571 - Release Date: 11/14/14



November 19, 2014

Andrea Lucas, Chair, El Cerrito Planning Commission
Commissioner Carla Hansen, Vice Chair
Commissioner Michael Iswalt
Commissioner Bill Kuhlman
Commissioner Lisa Motoyama
Commissioner Tim Pine

Dear Chair Lucas and Commissioners,

Thank you for considering options to strengthen the city's tobacco sales regulations in El Cerrito. I am writing as the Program Manager for the Contra Costa Health Services Tobacco Prevention Project to provide information on best practices for policies that may help achieve the City Council's goal of ending illegal sales of tobacco products to minors, including electronic smoking devices such as e-cigarettes, and preventing initiation of tobacco use among youth.

Tobacco Retailer Licensing (TRL) may be the most effective tool available for addressing illegal sales to minors, and has been adopted by over 100 communities in CA. Over seventy of these communities, including Contra Costa County, now also include electronic smoking devices in their ordinance of tobacco product, and require a retailer to obtain a license to sell electronic smoking devices in addition to tobacco products. Effective TRL policies:

1. require all tobacco retailers to purchase an annual license from the city in order to sell tobacco products, including electronic smoking devices;
2. set a licensing fee sufficient enough to fund administration and enforcement of the ordinance, including annual youth decoy operations to be conducted with the retailers; and
3. allow the jurisdiction to suspend the tobacco retailer license if the store is found to be in violation of any local, state or federal laws, such as the no sales to minors law.
4. Apply to ALL tobacco retailers, not only "Significant Tobacco Retailers".

Tobacco Retailer Licensing has resulted in decreasing the illegal sales rates of tobacco to minors to youth by holding owners accountable for compliance with tobacco control laws. For the unincorporated County, our illegal sales rate decreased from 37% to 7% within one year of implementation of the law.

The City is considering a number of best practice policies that are intended to "ensure that minors are not encouraged to use tobacco". Research has demonstrated that youth are more likely to experiment with tobacco products when retailers are located near schools, and that the number of tobacco retailers in a community affects youth smoking behaviors as well as access to tobacco products. Restricting the location of all tobacco retailers near schools and other youth sensitive

areas, as well as within a certain distance to each other, creates tobacco-free zones and reduces tobacco influences in the community.

Flavored tobacco products, and small pack sizes of cigars and other tobacco products, are also strongly linked to youth uptake of tobacco use. A recent tobacco store survey in Contra Costa County found that over 80% of stores near schools sell flavored non-cigarette products like “watermelon” and “tropical blast” flavored cigarillos and little cigars. These products are clearly targeted to youth. Small packages of tobacco products may make these products more accessible to youth, who are generally a more price-sensitive market. Several jurisdictions across the country have adopted laws to regulate the sale of flavored tobacco products and address density issues. In the Bay Area, Santa Clara County and Hayward have adopted similar laws, and Berkeley is currently considering such regulations.

As strong Tobacco Retailer Licensing laws include compliance checks and enforcement, as well as suspension for violations of tobacco laws, it is also a mechanism for effective management of other tobacco regulations, such as density and location laws. Enforcement of these regulations has been most effective under tobacco retailer licensing laws, rather than a combination of regulatory mechanisms.

In order to address public health concerns related to tobacco, model practices also include regulation for ALL tobacco retailers, not only “Significant Tobacco Retailers”, which include Tobacco Shops, Hookah Lounges, and Cigar Shops. Cities have the option of prohibiting these type of stores all together by not allowing stores that primarily sell tobacco to obtain a tobacco retailer license. “Vape Shops”, which sell electronic smoking devices and often allow for use of these devices in their stores, can also be restricted from obtaining a tobacco retailer license.

ChangeLab Solutions, located in Oakland, is funded through the California Department of Public Health to provide technical assistance to California jurisdictions in development of tobacco prevention ordinances, and model ordinance language on these issues is available through their website. Staff attorneys are available at 510-302-3380 or <http://changelabsolutions.org/tobacco-control>. Tobacco Prevention Program staff are also available for technical assistance and consultation as the City is considering these policy options.

Respectfully,



Denice A. Dennis, MPH
Tobacco Prevention Program Manager

Att: Contra Costa Healthy Stores Survey Summary

cc: Mark Friedman, City Council Liaison



The Situation

Stores in our communities play a critical role in our health.

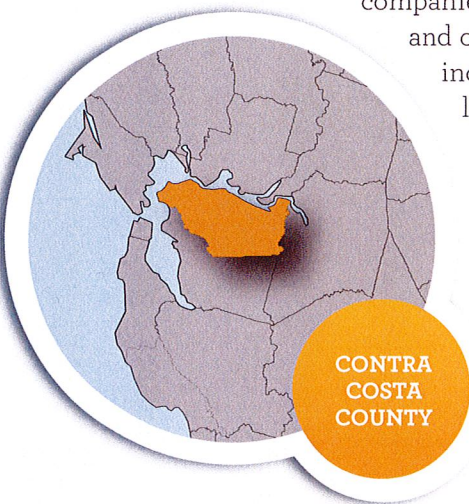
They not only impact the economic well-being of neighborhoods, but also the physical health of the people who visit them. The types of products available, many of which contribute to chronic health issues, and how they're promoted influence us all, but especially our kids.

In 2011, the tobacco industry spent \$605 million¹ advertising and promoting tobacco products in California and our kids are paying the price. Exposure to tobacco marketing in stores increases tobacco experimentation and use by youth² and is more powerful than peer pressure.³

Marketing of unhealthy foods also has a great impact, particularly on kids. They consume more of it, more often because it's promoted heavily to them – \$1 million an hour is spent by

companies selling soda, candy, chips and other unhealthy foods.⁴ Low-income communities also have less access to fresh, affordable and nutritious food furthering the problem.⁵

Underage drinking also increases when youth are exposed to alcohol ads.⁶ In fact, 1 in 5 California high school students drink 5 or more alcoholic drinks in a row per month.⁷



The Campaign

The **Healthy Stores for a Healthy Community** campaign is a statewide collaboration between tobacco use prevention, nutrition and alcohol prevention partners. The goal is to improve the health of Californians through changes in community stores and to educate people how in-store product marketing influences consumption of unhealthy products. Working together, we can make our community a healthier place and maintain a vibrant business community.

The Survey

Scientific surveys were recently conducted throughout California to assess product marketing and the availability of healthy and unhealthy options offered in stores that sell tobacco – **the first time** in California that tobacco, alcohol and food were analyzed together in stores. This is valuable information to help make the places we shop healthier.

More than 7,000 stores were surveyed in all 58 counties, which included convenience, supermarket, liquor, tobacco, small market, discount, drug and big-box stores. Approximately 700 individuals participated in gathering information statewide, including representatives from public health, community volunteers and youth.

WHAT WE KNOW...

	CONTRA COSTA	CA
% of adults who smoke (2011-12)	11.8%	13.8%
% of youth who smoke (2012, grades 9-12)	10.4%	10.5%
Cost of smoking (2012)	\$184,813,842	\$6.5B
% of adults who are overweight or obese (2011-12)	63.5%	59.8%
% of adults who ate 3+ fruits and vegetables yesterday (2011-12)	29.9%	27.2%
% of youth who used alcohol in the past 30 days (2009-11, 11th grade)	37%	35%
% of youth who binge drink (2009-11, 11th grade)	36%	22%

For sources, please see website

FACT: CHRONIC DISEASES

Obesity, diabetes, heart disease, cancer and tobacco-related diseases account for more than **80% of all deaths** in California. These deaths could be prevented by eliminating tobacco use, limiting alcohol intake, eating healthy and being physically active.

WHAT WE KNOW ABOUT STORES THAT SELL TOBACCO (2012)

	CONTRA COSTA	CA
Stores that sell tobacco products	819	36,777
% of stores near schools**	23.9%	27.4%
% of stores in low income areas (185% of federal poverty level)	22.8%	46.5%
Number of youth for every 1 store	318	251
Number of adult smokers for every 1 store	116	101

SURVEY RESULTS OF STORES THAT SELL TOBACCO (2013)

SURVEY RESULTS OF STORES THAT SELL TOBACCO (2013)		CONTRA COSTA	CA
GENERAL	Number of stores surveyed	226	7,393
	% of stores that have <u>unhealthy</u> exterior advertising	67.3%	71%
	% of stores that have <u>healthy</u> exterior advertising	11.9%	12.2%
% OF STORES THAT SELL...	Lowest price of cigarettes	\$4.26	\$4.30
	e-cigarettes	51.8%	45.7%
	candy, mint and liquor flavored non-cigarette tobacco products	82.3%	79.4%
	candy, mint and liquor flavored non-cigarette tobacco products and <u>are near schools</u> **	82.4%	75.3%
	candy, mint and liquor flavored non-cigarette tobacco products vs. alcopops	82.3%/84.9%	79.4%/82.4%
	candy, mint and liquor flavored non-cigarette tobacco products vs. milk	82.3%/41%	79.4%/37.2%
	chewing tobacco	54%	56.1%
	little cigars and cigarillos	85%	83.7%
	the most popular brand of cigarillos for under \$1	75.7%	78.1%
	tobacco products near candy at the check-out	23.9%	39.1%
	tobacco products near candy at the check-out <u>and are near schools</u> **	23.5%	40.5%
% OF STORES THAT SELL...	low- or non-fat milk	41%	37.2%
	sugary drinks at the check-out	55.3%	56.9%
	sugary drinks at the check-out <u>and are near schools</u> **	39.2%	55.6%
	<u>any</u> fresh fruit or vegetable	45.1%	42.4%
	a good selection of <u>good quality</u> fresh fruits and vegetables	49%	33.2%
	a good selection of <u>good quality</u> fresh fruits and vegetables in low income vs. <u>not</u> low income areas	53.7%/45.9%	30.3%/36%
% OF STORES...	that accept CalFresh that sell a good selection of <u>good quality</u> fresh fruits and vegetables	53.5%	41%
	that accept CalFresh or WIC	56.6%	53.7%
OF STORES THAT SELL ALCOHOL, %...	overall % of stores that sell alcohol	73.5%	71.3%
	that sell alcopops	84.9%	82.4%
	with alcohol ads near candy/toys or below 3 feet	42.8%	36.7%
	that sell malt liquor in low income vs. <u>not</u> low income areas	79.2%/66.1%	81.6%/71.4%
	with alcohol exterior advertising	47.6%	54.3%

* = no information available ** = within 1,000 feet Reference the technical report for confidence intervals



Contra Costa Survey Highlights

Contra Costa survey findings confirm that tobacco is being promoted to youth.

Store Survey Highlights

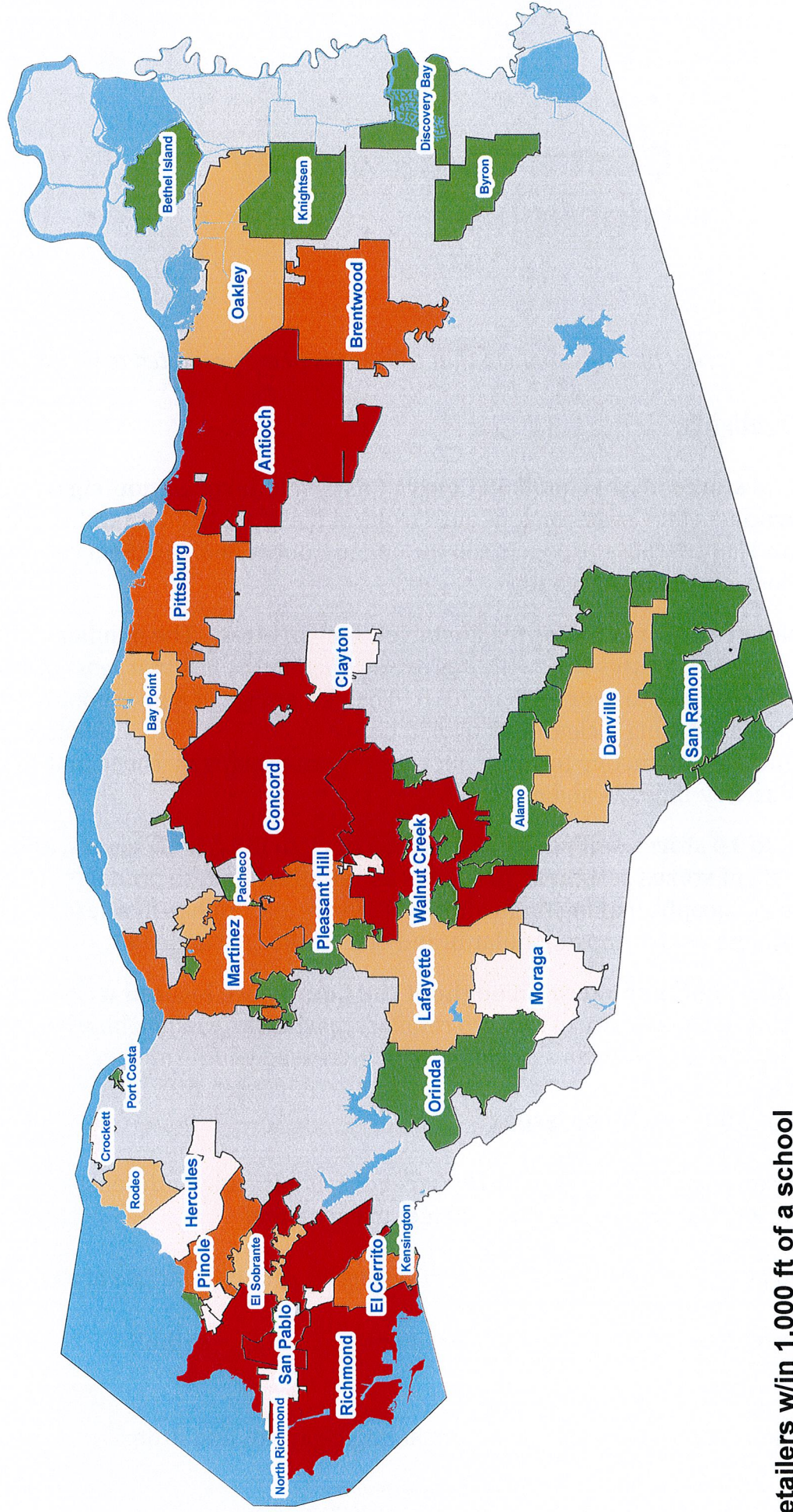
- **Over 80% of stores near schools in Contra Costa sell flavored non-cigarette tobacco products** like “watermelon” and “tropical blast” flavored cigarillos and little cigars. Many of these products sell for under a dollar, making them very attractive and affordable for youth.
- **Close to half of all stores in Contra Costa sell e-cigarettes.** The number of stores that are selling e-cigarettes statewide has quadrupled in the last two years, from just over 10% in 2011 to over 45% in 2013. The percentage of high school students who reported ever using e-cigarettes tripled between 2011 and 2013. Many of these products are attractive to youth because they are relatively cheap and come in flavors like cherry-limeade and mint.
- **Over eight in 10 stores sell packs of 5 or less of cigarillos/little cigars, and close to 70% of stores sell these products as "singles".** These products are also available very cheaply, making them affordable for youth. Eighty-five percent of tobacco retailers sell the most popular brand of cigarillos for under \$1.
- **34% of stores selling tobacco throughout the County are located within 1000 feet of a school.** The density of tobacco retailers, particularly in neighborhoods surrounding schools, has been associated with increased youth smoking rates.

Policy Options To Address These Issues

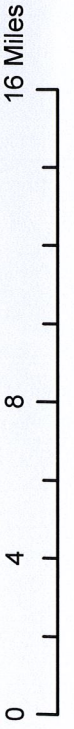
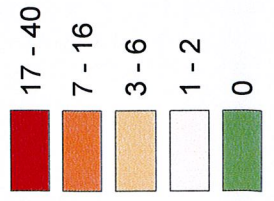
- **Prohibit:**
 - New tobacco retailers within 1000 feet of schools and youth sensitive areas
 - New tobacco retailers within 500 feet of each other
- **Within 1000 feet of schools and youth sensitive areas, prohibit the sale of these products:**
 - Flavored non-cigarette tobacco products (including menthol)
 - Menthol flavored cigarettes
- **Require minimum pack size for cigars, including cigarillos and little cigars**

For more information, contact:
Tobacco Prevention Coalition at 925-313-6214

Contra Costa County Number of Tobacco Retailers Within 1,000 Feet of a School, by City or Place



Retailers w/in 1,000 ft of a school



Source: California Board of Equalization, January 2014;
 California Department of Education, August 2014.
 Distance calculated in ArcGIS from school parcel to
 store parcel point.
 Color Symbols: ColorBrewer.org



CONTRA COSTA
TOBACCO PREVENTION COALITION

AMERICAN CANCER
SOCIETY

November 19, 2014

AMERICAN HEART
ASSOCIATION

El Cerrito Planning Commission

AMERICAN LUNG
ASSOCIATION

Andrea Lucas, Chair

BAY AREA COMMUNITY
RESOURCES

Carla Hansen, Vice Chair

CENTER FOR HUMAN
DEVELOPMENT

Commissioner Michael Iswalt

Commissioner Bill Kuhlman

Commissioner Lisa Motoyama

Commissioner Tim Pine

COMMUNITY CLINIC
CONSORTIUM OF CONTRA
COSTA COUNTY

Dear Chair Lucas and Commissioners,

CONTRA COSTA COUNTY
ALCOHOL AND OTHER
DRUGS ADVISORY BOARD

The Tobacco Prevention Coalition thanks you for discussing tobacco control policies for the City of El Cerrito at your meeting tonight. The Tobacco Prevention Coalition is comprised of over 40 organizations and individuals in the County, all supporting model tobacco prevention policies that protect both youth and adults from tobacco influences in our communities.

CONTRA COSTA COUNTY
BUILDING TRADES
COUNCIL

CONTRA COSTA CHILD
CARE COUNCIL

CONTRA COSTA COUNTY
OFFICE OF EDUCATION
In Partnership with Public School
District Tobacco Coordinators

El Cerrito is to be applauded for recently adopting one of the strongest secondhand smoke protections ordinances in the state, including prohibitions on the use of Electronic Smoking Devices, such as "e-cigarettes," "e-hookah" and "vape pens," where smoking is prohibited.

CONTRA COSTA
HEALTH SERVICES

FIRST BAPTIST CHURCH OF
PITTSBURG

The City Council has stated a goal to "ensure that minors are not encouraged to use tobacco". In order to accomplish this, the Coalition recommends the Planning Commission endorse the following "best practices" to protect youth from tobacco influences in the community:

LOS MEDAÑOS
COMMUNITY HEALTHCARE
DISTRICT

PLANNED PARENTHOOD:
SHASTA DIABLO

- Regulate ALL tobacco retailers, not only Significant Tobacco Retailers, through tobacco retailer licensing, and establishing a fee that will fund annual youth decoy operations, a license suspension process, and compliance checks for all other tobacco control laws.

PROJECT RIDE

RAINBOW COMMUNITY
CENTER

- Prohibit new tobacco retailers from opening within at least 1000 feet of schools and other youth-sensitive areas such as parks and churches.

STAND! For Families
Free of Violence

UJIMA FAMILY
RECOVERY SERVICES

- Prohibit any new tobacco retailers from locating within 500 feet of another tobacco retailer.

PARTICIPATING RESIDENTS
OF THE COUNTY

STAFF:
Tobacco Prevention Project
Community Wellness &
Prevention Program

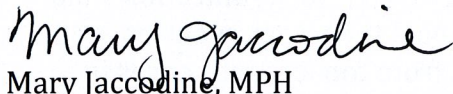
597 Center Avenue, Suite 125 • Martinez, CA 94553-4634

Ph (925) 313-6214 • Fax (925) 313-6840 • cctobaccopreventioncoalition@gmail.com

- Prohibit the sale of flavored (non-cigarette) tobacco products. Examples of flavored products include “watermelon” flavored little cigars, or “cherry” e-cigarettes, and menthol or “mint” flavored tobacco products.
- Prohibit the sale of single or small packages of low-cost cigars and cigarillos. It is currently illegal under state law to sell small packs of cigarettes or single cigarettes, “loosies”, but the law does not apply to cigars and cigarillos. Small packs of cigars and cigarillos are more accessible to youth than cigarettes because of their low cost. They can be as inexpensive as 3 products for less than \$1.00.

Thank you for considering strong tobacco control measures for the health and well-being of the adults and youth who live, work or play in El Cerrito.

Sincerely,

A handwritten signature in cursive script that reads "Mary Jaccodine".

Mary Jaccodine, MPH
Coalition Co-Chair

Cc: Mark Friedman, Council Liaison



AMERICAN LUNG ASSOCIATION IN CALIFORNIA
333 HEGENBERGER ROAD, SUITE 450, OAKLAND, CA 94621
1-800-LUNGUSA LUNGFORCE.ORG

November 19, 2014

El Cerrito Planning Commission
10890 San Pablo Avenue
El Cerrito, CA

Dear Chairperson Lucas and Commissioners Hansen, Iswalt, Kuhlman, Motoyama and Pine:

The **American Lung Association in California** has been working with cities all over the state to adopt the comprehensive zoning restrictions on tobacco retailers. Please refer to our correspondence of Oct. 15, 2014 for our earlier comments. The following are comments regarding this most recent staff report.

The establishment of zoning restrictions on businesses that sell tobacco products is an essential component when partnered with a comprehensive tobacco retailer license for local jurisdictions to reduce youth access to these deadly products.

We would strongly encourage you to require that sellers of any tobacco, whether that are "significant tobacco retailers," convenience stores, or big box merchants, be required to apply for a conditional use permit should the location of the business be within the footage buffer zones previously established for the "significant tobacco retailers." Any business wanting to sell tobacco within the protected zones should need to justify the community's "need" for those products.

The City of Oakland which was one of the first adopters of zoning restrictions for "mainly tobacco retailers," revisited the issue in 2007-08 to change the zoning restrictions to apply to businesses selling *any tobacco* due to the difficulty by Oakland code enforcement to determine whether a business was in compliance with the criterion. They found that some merchants altered displays to stack tobacco products vertically, brought in large bulky products like luggage and claimed to sell cell phone contracts to avoid being designated a "mainly tobacco store." Also, merchants were not willing to provide proof by showing their financial records or "gross receipts".

The City of Hayward which tackled these zoning issues last year chose to make the provisions prospective and not to existing businesses under the advice of the city attorney. Cities are finding with proactive enforcement of the tobacco retailer licensing requirements that "bad actors" will come into compliance or decide to stop selling tobacco and focus on other products.

Thank you for your efforts to reduce youth access to tobacco in El Cerrito and partnering with us to keep our children healthy and tobacco-free.

Sincerely,

A handwritten signature in blue ink, appearing to read "Serena Chen".

Serena Chen
Advocacy Director



Visit lung.org/california



Watch youtube.com/californialung



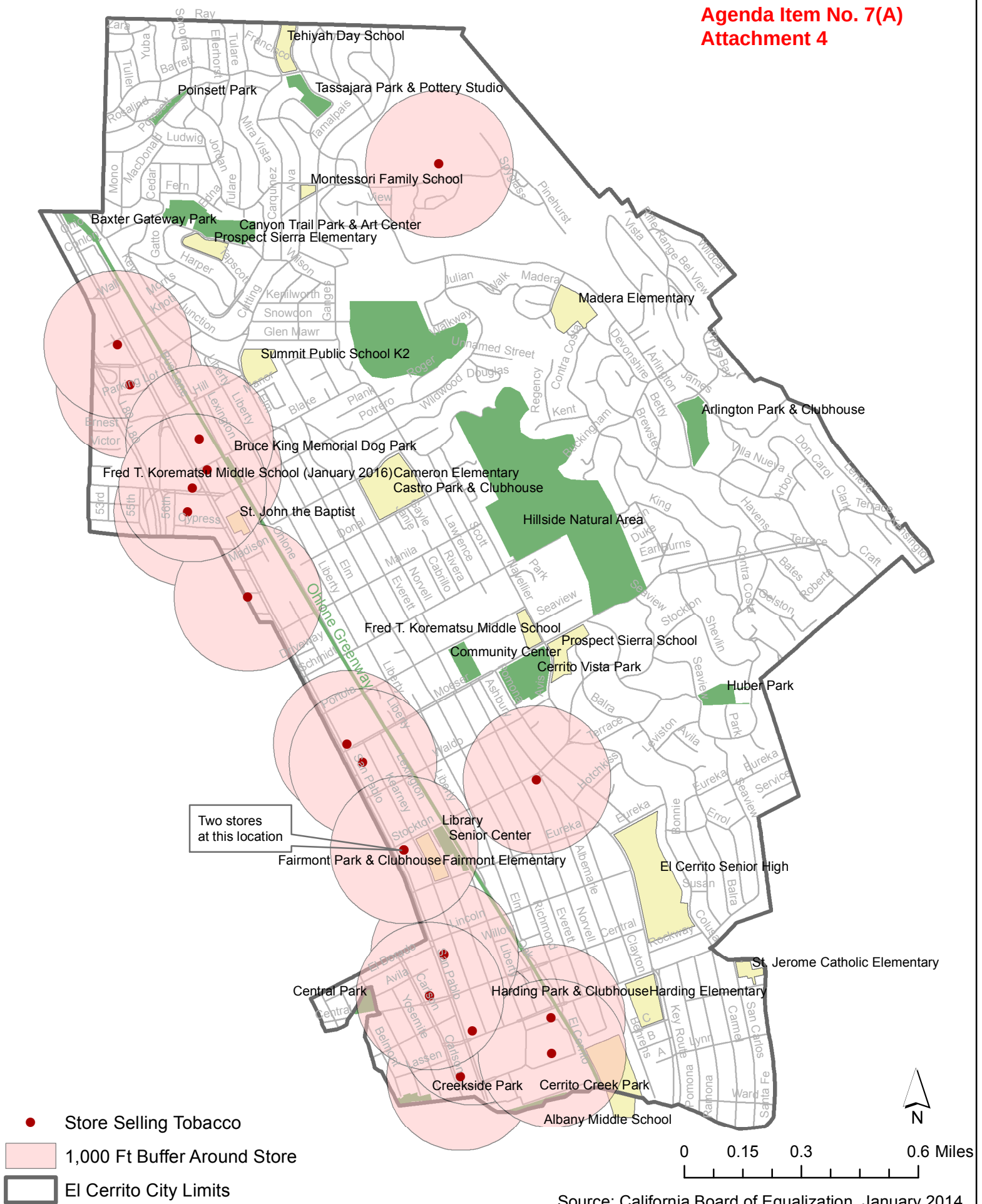
Like facebook.com/alacalifornia



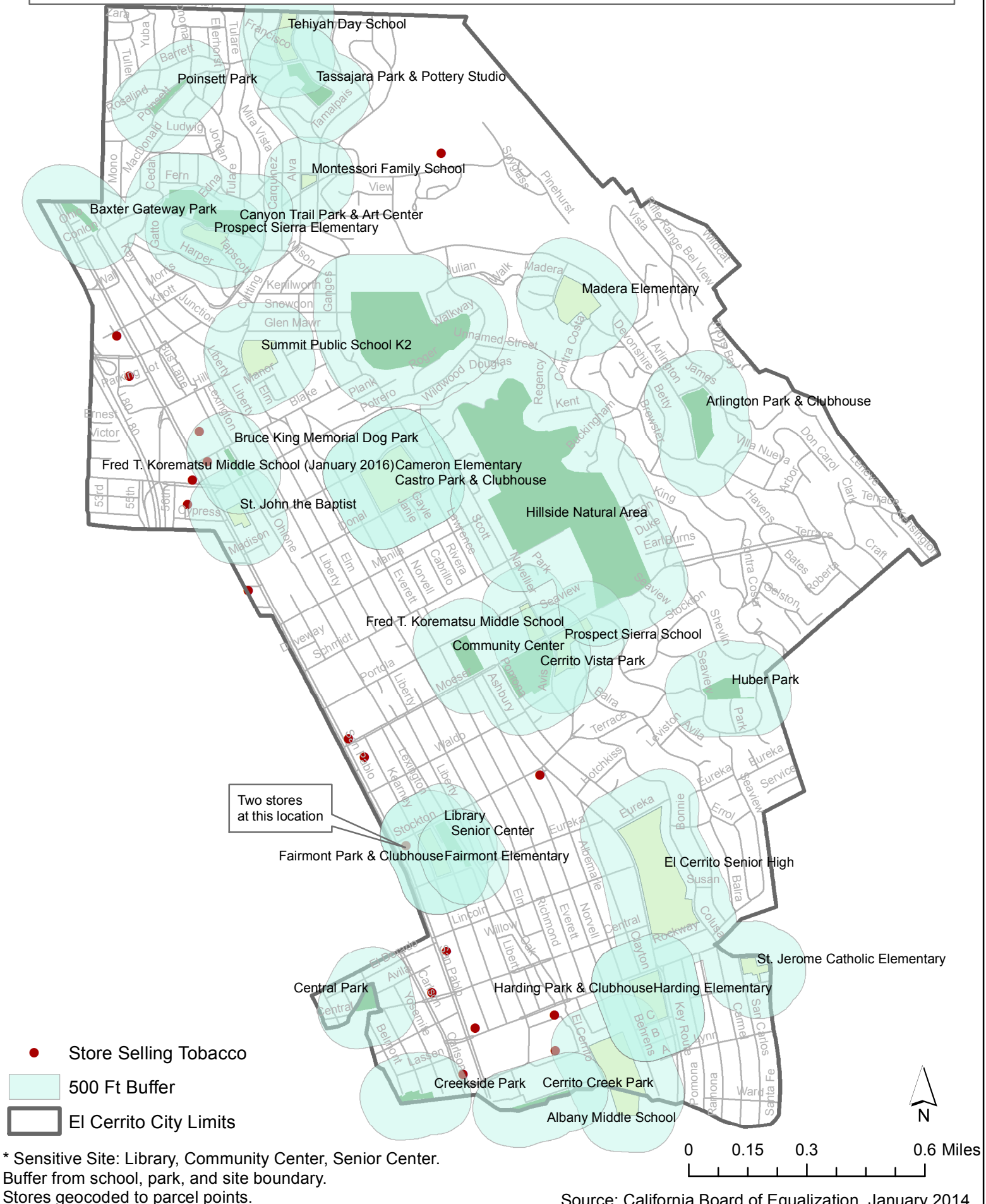
Follow twitter.com/californialung

El Cerrito: Stores Selling Tobacco with 1,000 Ft Buffer

Agenda Item No. 7(A)
Attachment 4

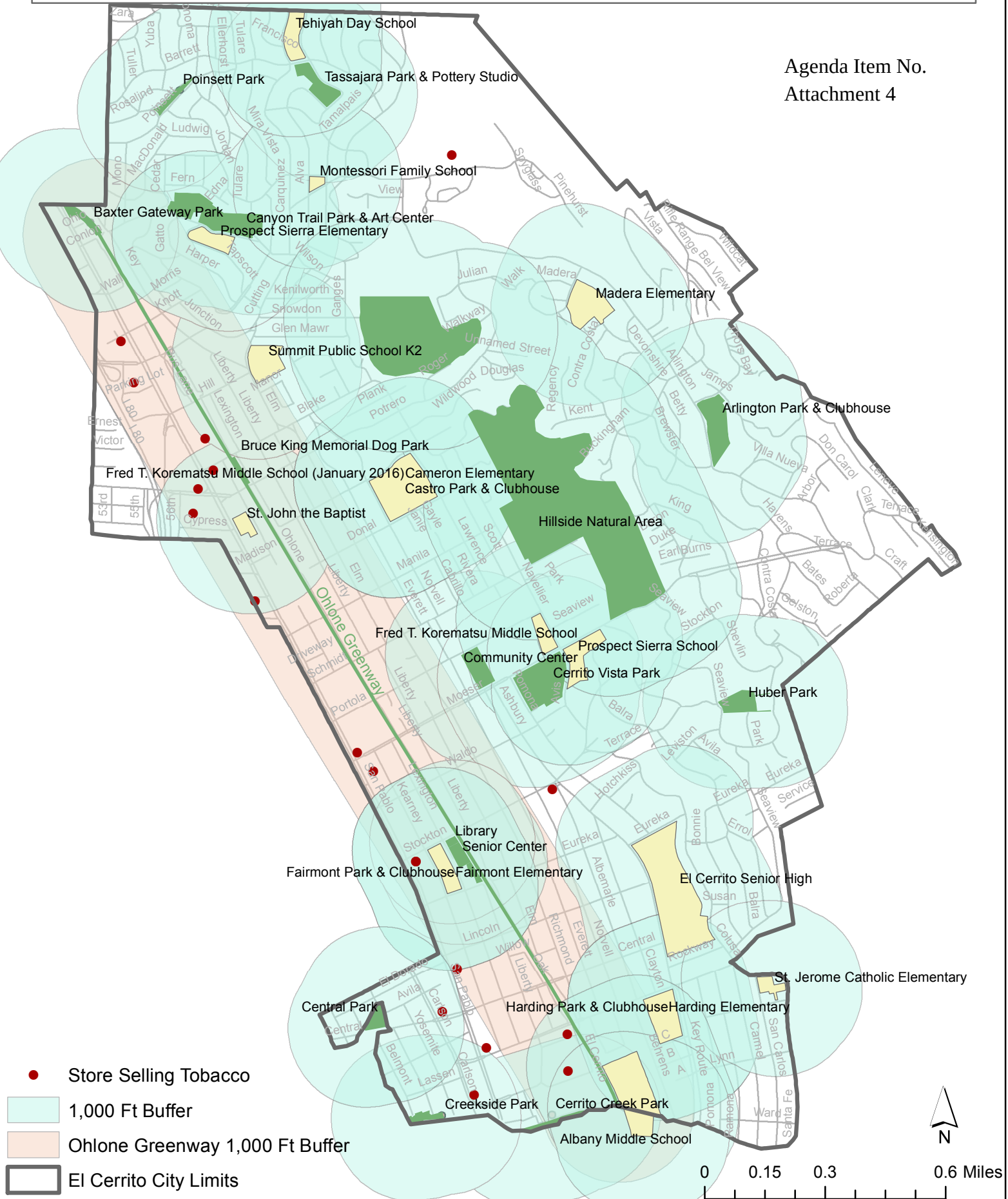


El Cerrito: Stores Selling Tobacco by Proximity to Schools, Parks, and Sensitive Sites*, 2014



El Cerrito: Stores Selling Tobacco by Proximity to Schools, Parks, and Sensitive Sites*, 2014

Agenda Item No.
Attachment 4



* Sensitive Site: Library, Community Center, Senior Center.

Source: California Board of Equalization, January 2014.

Tobacco Prevention Coalition of Contra Costa County

A Tool for Reducing Youth Access To Tobacco: The Tobacco Retailer License

With information from the “Model California Ordinance Requiring a Tobacco Retailer License”
published by ChangeLab Solutions

This paper was originally distributed March, 2005 and has been most recently updated August,
2013 to reflect new findings and policy options.

**Made possible by funds received from the Tobacco Health Protection Act of 1988-Proposition 99,
under Contract Number, 04-07 and, 10-07 with the
California Department of Public Health, Tobacco Control Program.**

I. The Problem of Youth Tobacco Use

Despite long-standing state laws prohibiting tobacco sales to minors, youth continue to obtain cigarettes and other tobacco products at alarming rates. Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily.¹

Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age.² According to the California Health Department's Food and Drug Branch, the sales rate to minors in Contra Costa County overall is 20%; it is 27% in cities without a strong licensing ordinance.³ In other words, stores sell tobacco to youth one in every four times they try to buy cigarettes.

The Tobacco Prevention Coalition of Contra Costa County (TPC) recommends that cities adopt and enforce strong tobacco retailer licensing ordinances in order to reduce the rate of illegal tobacco sales to minors and to encourage compliance with all local, state and federal tobacco laws.

II. Policy Efforts in Contra Costa County

Contra Costa policymakers, advocates, youth and government officials have been working to address the problem of youth tobacco use since the mid-1990's. In 1997, the Mayor's Conference and Board of Supervisors asked the Contra Costa County Tobacco Prevention Project to recommend an ordinance to reduce youth tobacco use. Between 1998 and 2006, the Tobacco Prevention Coalition, and three youth groups, TIGHT (Tobacco Industry Gets Hammered by Teens), ETA (Empowerment Through Action), and the County Youth Commission, spearheaded successful efforts to encourage the Board of Supervisors and 17 of Contra Costa's 19 City Councils to adopt Tobacco-Free Youth Ordinances (TFYO) and Tobacco Retailer Licensing Ordinances (TRLO) in order to reduce the demand for tobacco by minors and to decrease youth access to tobacco products.

¹ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Office of Applied Studies. *Results from the 2004 National Survey on Drug Use and Health: National Findings*. 2005. Available at: <http://oas.samhsa.gov/NSDUH/2k4nsduh/2k4Results/2k4Results.pdf>.

² US Department of Health and Human Services, Centers for Disease Control and Prevention. *Morbidity and Mortality Weekly Report: Tobacco Use, Access & Exposure to Tobacco Among Middle & High School Students, U.S., 2004*. 2005, 54: p. 297-301. Available at: www.cdc.gov/mmwr/preview/mmwrhtml/mm5412a1.htm.

³ California Department of Health Services Food and Drug Branch Compliance Checks, 2010.

The TFYO restricted tobacco advertising and promotions and banned self-service displays of tobacco products.⁴ Self-service displays are typically located on or near the counter and allow the customer to get his or her own cigarettes. The TFYO contained a provision to license tobacco retailers in all but one city.⁵ A model tobacco retailer licensing ordinance requires that all tobacco retailers purchase a local license before they may sell tobacco in the community. This has proven to be the only effective model of tobacco retailer licensing and has been adopted and implemented by the County.

III. Benefits of Tobacco Retailer Licensing

A universal licensing ordinance that requires all businesses within a city or county to obtain a license if they plan sell tobacco products is a tool that is proven to reduce illegal tobacco sales to minors and increase compliance with local, state and federal tobacco laws. The illegal sales rate in the unincorporated areas of the County decreased from 37% to 7% once a tobacco retailer's license ordinance was adopted and enforced.

Inherent benefits of licensing include:

- A. Identification of retailers: A local licensing ordinance can generate an accurate list of tobacco retailers in a community on an annual basis that can be used to educate, monitor and encourage retailers to comply with tobacco laws. The list can be updated when new businesses apply for local licenses, and when businesses renew their licenses.
- B. Education of retailers: The licensing process can be used to conduct merchant education regarding the rules and regulations surrounding tobacco sales in a community. The licensing authority can send out a letter or other educational materials each year to an accurate list of tobacco retailers.
- C. Monitoring of retailers: Licensing can establish a fair, methodical, and ongoing process to monitor compliance with tobacco laws.
- D. Encouragement of compliance: A local tobacco retailer's license is a powerful tool for encouraging retailers to comply with all existing tobacco-related laws, including state no-sales-to-minors-laws, and local and state laws prohibiting self-service displays of tobacco products. Such an ordinance can provide for the suspension or revocation of the license if the merchant sells tobacco to minors or violates other local, state, or federal laws related to tobacco. In this way, a licensing ordinance creates a greater deterrent than does a small fine to discourage retailers from violating the law. For many merchants, tobacco sales make up a substantial portion of their revenue. Temporarily losing the authority to sell tobacco products costs far more than the state law fine of several hundred

⁴ The Supreme Court ruled in 2001 that local government cannot restrict tobacco advertising because such restrictions were pre-empted by the Federal Cigarette Labeling and Advertising Act. As a result, the County and the cities stopped enforcing this provision of the TFYO.

⁵ The Town of Moraga did not adopt a licensing ordinance.

dollars—which, in fact, is usually levied against the clerk, and not the store. Put another way, the threat of license suspension or revocation encourages compliance with state and local tobacco laws because licensing makes compliance matter.

V. Key Provisions

At a minimum, the following provisions should be incorporated into a local licensing ordinance:

- A. All retailers selling tobacco products (including retailers of Electronic Nicotine Delivery Systems (ENDS) such as electronic cigarettes) must obtain a nontransferable license.
- B. An annual licensing fee fully covers all program costs, including administration and enforcement. Jurisdictions in California are charging between \$30 to over \$600 depending upon their unique costs, with the majority of fees between \$200 - \$350 annually.
- C. Violating any tobacco law is also a violation of the license—including all state laws regulating tobacco sales to minors and prohibiting self-service displays of tobacco products.
- D. Each licensing violation results in a temporary revocation of the privilege to sell tobacco. The length of the suspension periods and the time period reviewed for prior violations of the license vary among local ordinances. Most licensing ordinances have a progressive suspension schedule, with the model ordinance recommending the following:
 - 1. First violation: suspension of the license for 30 days.
 - 2. Second violation within 60 months of the first violation: suspension of the license for 90 days.
 - 3. Third violation within 60 months of the first violation: suspension of the license for one year.

- E. Require a minimum number of annual enforcement operations to be conducted by the designated local enforcement agency or agencies, including site inspections for: the presence of the local and state license, the presence of required point-of-sale warning signs, and the use of self service displays.
- F. Require a minimal number of undercover compliance checks (youth decoy operations). Jurisdictions in California are conducting between one and six undercover buying operations per store every two years, and between one and two site inspections per year.
- G. Require removal of tobacco products, advertising and paraphernalia for suspended or revoked licenses for the duration of the suspension period.

VI. Other Optional Provisions

There are a number of other provisions that a community may want to consider in regulating tobacco retailers. These include:

- A. Prohibiting licenses for businesses operating with a certain distance of a school or other area youth sensitive areas.
- B. Reducing the density of tobacco retailers by restricting how close tobacco retailers may be to one another (density relative to other retailers) or capping the total number of licenses issued.
- C. Requiring retailers to check the age of customers who appear to be under the age of 27.
- D. Prohibiting new “Significant Tobacco Retailers”, a business that primarily sells tobacco products, from obtaining a tobacco retailer license. The definition of “Significant Tobacco Retailer” can be based on either amount of floor space or percentage of sales devoted to tobacco products.
- E. Making violations of state laws regarding drug paraphernalia or controlled substances a violation of a tobacco retailer license.
- F. Prohibiting the sale of flavored tobacco products, such as candy, fruit and spice characterizing flavors in little cigars, hookah tobacco and dissolvable tobacco products.

VI. Conditions of the License

A tobacco retailer’s license ordinance primarily encourages retailer compliance with all local, state and federal tobacco laws, especially laws that prohibit the sale of tobacco products and ENDS to minors. However, Tobacco Retailer License ordinances also can require retailers to meet certain additional conditions in order to maintain the license.

Other possible conditions of the license include:

- Violation of local or state storefront signage laws is a license violation.
- Violation of non-tobacco age-of-purchase laws is a license violation (e.g., selling alcohol to a minor).
- Prohibiting licenses for a restaurant or a bar.
- Prohibiting licenses for a business that allows smoking anywhere on the premises (e.g., no hookah bars).
- Prohibiting licenses for retailers operating a pharmacy.
- Clerks must be old enough to purchase tobacco under state law (e.g., 18 years old) to sell tobacco.
- The enforcing agency may seize and destroy tobacco products offered for sale without a license.

VII. Enforcement

Enforcing the tobacco licensing ordinance is essential to increasing compliance with tobacco sales laws. This point cannot be overstated. In unincorporated Contra Costa County, the illegal sales rate of tobacco to minors decreased from 37% to 7% with the enforcement of the universal licensing ordinance. According to the California Department of Health Services Food and Drug Branch, some cities in Contra Costa County had sales rates of up to 27% in 2010.⁶

Costs associated with implementing and enforcing a tobacco retailer licensing ordinance include:

- A. **Administration of the license.** An entity of the local jurisdiction must develop and implement the application process and the distribution of the licenses themselves. In unincorporated Contra Costa, the Tax Collector's Office administers the tobacco retailer license in concert with renewal of the annual business license.
- B. **Site inspections to check for posting of the license and compliance with other tobacco sales laws.** An entity of the local jurisdiction, such as a health department, building department or finance department, should conduct site inspections to verify that the license is posted and that other laws are being obeyed, including the ban on self service displays of tobacco products and signage laws. Law enforcement does not need to be involved in this aspect of enforcement, but it can be.
- C. **Undercover buying operations to test compliance with no-sales-to-minors laws.** In the unincorporated areas of Contra Costa County, the Sheriff's Department is testing compliance by enforcing and prosecuting PC308(a), the

⁶ Department of Health Services, FDB, 2010 STAKE operation data for the cities of Concord, Danville, Pinole, Pittsburg, and San Pablo.

state law that makes it illegal for businesses to sell tobacco products to minors. Contra Costa Health Services uses the evidence of a PC308(a) citation as a basis for conducting tobacco retailer license suspension hearings. Some jurisdictions outside Contra Costa County are using other legal tools to test compliance no-sales-to-minors laws and linking them with the tobacco retailer license ordinance, such as the Business and Professions Code. Others are forgoing criminal prosecution altogether and moving directly into administrative enforcement of the licensing ordinance using on the same evidence of illegal sales that would otherwise be used to prosecute the clerk criminally.

- D. **Data collection.** The entity charged with overseeing the program must be prepared to keep records of the names and locations of tobacco retailers, details about site inspections and undercover buying operations, and the prosecution of violations. Fortunately, the State of California funds a database through cigarette tax funds that can be used by any local jurisdiction enforcing tobacco laws.

Overall, the licensing fees themselves can cover the costs of implementing and enforcing a licensing ordinance. California law allows local elected officials to establish fees to cover the costs associated with administering and maintaining compliance with local ordinances. In the unincorporated areas of the County, the licensing fee covers the costs of administering and enforcing the licensing ordinance.

VIII. Resources

Over 80 cities in California have adopted and are enforcing strong tobacco retailer license ordinances. These are proving to be an effective tool in increasing merchant compliance with tobacco sales laws, notably no-sales-to minors-laws. A model licensing ordinance with annotations, as well as supplementary options for further regulating tobacco retailers, is available on-line at [http:// http://changelabsolutions.org/tobacco-control](http://changelabsolutions.org/tobacco-control). This model, and its supporting documents, is a good start for discussion about licensing policies.

Contra Costa Health Services Tobacco Prevention Project (TPP) staff are also available for consultation on ordinance development and implementation. A model ordinance, draft protocols and merchant education materials are available from the TPP as well. They can be reached at 925-313-6214 or tobaccopreventionproject@hsd.cccounty.us.



ChangeLab Solutions has developed model language for a tobacco retailer licensing law in California cities and counties. The model language offers a variety of policy options that can be tailored to the specific goals and needs of your community.

In addition to the core provisions, ChangeLab Solutions has drafted supplementary “plug-in” provisions, which offer additional policy options that can be incorporated into the law. For more information, please see our resources on Tobacco Retailer Licensing at www.changelabsolutions.org/publications/model-TRL-ordinance.



While ChangeLab Solutions’ model language for a tobacco retailer licensing law was designed for California communities, the model can be adapted for use in other states as well. It is important to carefully check the existing law in your state to learn if local tobacco retailer licensing is allowed. Consult with an attorney licensed in your jurisdiction.

Tobacco Retailer Licensing An Effective Tool for Public Health

Communities are adopting tobacco retailer licensing laws as one way to ensure compliance with tobacco laws and to combat the public health problems associated with tobacco use. In this fact sheet, we explain how tobacco retailer licensing works, why many communities are pursuing this policy, and what goes into creating and implementing a strong tobacco retailer licensing law.

What is tobacco retailer licensing?

Licensing is a common policy tool that state and local governments use to regulate businesses like alcohol retailers, pharmacists, or restaurants. A local government may want to similarly license tobacco retailers in order to protect public health and safety by ensuring that retailers comply with responsible retailing practices.

Under a local tobacco retailer licensing law, the city or county government requires all businesses that sell tobacco products to obtain a license from the government in exchange for the privilege of selling these products to consumers.¹ Local governments may require licensed retailers to pay an annual fee, which can fund administration and enforcement activities such as store inspections and youth purchase compliance checks. Increasingly, tobacco retailer licensing is being used to promote other innovative policy solutions as well, including controlling the location and density of tobacco retailers and imposing additional restrictions on the sale and promotion of tobacco products.²

As of June 2012, more than 100 cities and counties in California had adopted a local tobacco retailer licensing law.³ The Center for Tobacco Policy & Organizing (The Center) classifies 94 of these as “strong,”⁴ meaning the laws have at a minimum:

- a requirement that all tobacco retailers obtain a license and renew it annually;
- an annual licensing fee high enough to fund sufficient enforcement;
- meaningful penalties for violators through fines and penalties, including the suspension and revocation of the license;⁵ and
- a provision stating that any violation of existing local, state or federal tobacco laws constitutes a violation of the local law.



Why adopt a tobacco retailer licensing law?

Many communities adopt tobacco retailer licensing laws because they are effective tools for limiting the negative public health consequences of tobacco use. While this tool provides many benefits, there are three main advantages to a tobacco retailer licensing law. First, these laws have been shown to be effective at limiting youth access to tobacco. Second, strong laws with annual fees create self financing programs that allow for regular enforcement. Third, a tobacco retailer licensing law facilitates comprehensive local enforcement of all tobacco related laws. Each of these points is discussed below.

Protecting youth

Despite state laws prohibiting sales of tobacco to minors, a 2007 survey found that nearly three-quarters of youth access enforcement agencies statewide issued warnings to merchants selling tobacco products to minors during the prior year.⁶ Fortunately, strong local tobacco retailer licensing laws—that is, laws that meet the criteria above—have proven effective at reducing illegal tobacco sales to minors. The Center has found that local tobacco retailer licensing is extremely effective at reducing illegal sales to underage youth: the organization surveyed 31 municipalities that have implemented and enforced a strong tobacco retailer licensing law and found that the rates of illegal sales to minors decreased, often significantly, in all communities surveyed.⁷

A self-financing program

An important strength of licensing is that the government may impose a licensing fee that is sufficient to cover the costs of enforcement. Because funding enforcement is often the best way to ensure compliance with a policy, ChangeLab Solutions recommends that the fee be calculated to include all enforcement activities. For more information on how to calculate a fee for a local tobacco retailer license, see our tobacco licensing cost worksheet at: www.changelabsolutions.org/publications/tobacco-licensure-costs.

A comprehensive enforcement mechanism for local communities

A number of federal and California state laws already regulate tobacco sales and establish penalties for illegal sales to minors. But these laws each have separate enforcement mechanisms and penalty structures, making it difficult to enforce them at the local level. A local tobacco retailer licensing law, on the other hand, empowers *local law enforcement* to impose *meaningful penalties* for illegal sales to minors and ensure compliance with all existing laws—ensuring that local communities can prioritize enforcement even when state and federal authorities are unable to do so.

Meanwhile, some of these state and federal laws fail to address important public health concerns related to tobacco. For example, the federal regulations authorized by the 2009 Tobacco Control Act currently apply only to cigarettes and smokeless tobacco products—they do not apply to little cigars or other tobacco products that are aggressively marketed to youth. A local tobacco retailer licensing law is a tool communities can use to help bridge these gaps and address public health concerns in their communities.

What is a tobacco product?

When people think of tobacco products, they may think of cigarettes, cigars, and chewing tobacco, but there are other products communities may want to restrict. Our model language defines tobacco products broadly to include all products containing tobacco leaf (including hookah, snuff, snus, and dissolvables) as well as nicotine-only products such as electronic cigarettes. This definition is written to restrict emerging tobacco industry products without interfering with FDA-approved cessation devices—like nicotine patches.



An electronic cigarette with charger.

What else can a tobacco retailer licensing law do?

While a tobacco retailer licensing law may be the best tool to prevent sales to minors, it can also promote other innovative policy solutions, controlling the location and density of tobacco retailers, imposing additional restrictions on the sale of other tobacco products like little cigars, and preventing the sale of drug paraphernalia.

Zoning: *location and density of retailers*

Another common way to limit where tobacco retailers can locate is through land use laws, also known as zoning laws. For a comparison between land use laws and licensing laws, see ChangeLab Solutions' factsheet, *Licensing & Zoning: Tools for Public Health*, available at: www.changelabsolutions.org/publications/licensing-zoning.

Location and density of retailers

Local governments can use tobacco retailer licensing to control both the location and density of tobacco retailers in their communities. A licensing law could, for example, prohibit licenses for any businesses operating too close to a school or other area frequented by youth. Because tobacco sales near schools and child-oriented areas have been shown to increase youth smoking⁸, this policy can be used to keep tobacco retailers out of areas where youth typically congregate. A tobacco retailer licensing law also could cap the total number of licenses issued based on population, controlling the overall density of tobacco retailers in a community. California law limits alcohol licenses based on density, and this policy applies that same rationale to tobacco retailers.

Little cigars and cigarillos

A tobacco retailer licensing law can also prohibit the sale of individual or small packages of low-priced cigars, including little cigars and cigarillos. Due to their low prices and candy flavoring, these products are particularly appealing to youth, and though they are often similar to cigarettes, they are not subject to the same restrictions against selling the product individually or in small quantities. This policy allows communities to close this loophole and regulate a product that is increasingly used by youth. For more on this policy, see our fact sheet at: www.changelabsolutions.org/publications/limiting-teen-friendly-cigars.

Drug paraphernalia

Many communities are using tobacco retailer licensing laws to address the sale of drug paraphernalia in their neighborhoods. Through this provision, a retailer found to have violated state laws regarding drug paraphernalia will also be in violation of the local tobacco retailer license, and the penalties of the licensing ordinance will apply. In this way, the tobacco retailer licensing law becomes an additional tool for local law enforcement to combat sales of drug paraphernalia. For more information on this policy option, see our fact sheet on this topic at: www.changelabsolutions.org/publications/drug-paraphernalia.

These are just a few examples of cutting-edge policy solutions for tobacco control. These innovative policy solutions—referred to as “plug-in” provisions—can be incorporated into our model language for a tobacco retailer licensing law. For more information about plug-in provisions, including the ones mentioned here, see: www.changelabsolutions.org/publications/policy-provisions-trl.

Implementation and enforcement

It's up to individual communities to decide who will implement and enforce a tobacco retailer licensing law. Multiple agencies might be involved: one agency may issue the license (the city manager, for example, or the agency that issues general business licenses), while another agency, such as the environmental health or police department, may monitor compliance.

There is no one right way to implement and enforce a local tobacco retailer licensing program. That said, successful programs share some characteristics.



Cigarillos in grape, strawberry and blueberry flavors, sold for under a dollar a piece.



Meth pipes for sale at a smoke shop in San Francisco, California.

¹ In California, local tobacco retailer licensing laws are specifically authorized by the state tobacco retailer licensing law, which says that “[l]ocal licensing laws may provide for the suspension or revocation of the local license for any violation of a state tobacco control law.” Cal. Bus. & Prof. Code § 22971.3.

² See generally McLaughlin I. *License to Kill?: Tobacco Retailer Licensing as an Effective Enforcement Tool*. Tobacco Control Legal Consortium, 2010. Available at: <http://publichealthlawcenter.org/sites/default/files/resources/tclc-syn-retailer-2010.pdf>

³ American Nonsmokers’ Rights Foundation. *California Municipalities with Laws Restricting Youth Access to Tobacco*. 2011. Available at: www.changelabsolutions.org/publications/anrf-list (List includes only those laws which provide for suspension or revocation of a license).

⁴ The Center. *Table of Strong Local Tobacco Retailer Licensing Ordinances*. 2012. Available at: www.center4tobaccopolicy.org/localpolicies-licensing.

⁵ The threat of license suspension creates a greater financial deterrent to retailers than a simple fine. For many stores, especially convenience stores, tobacco sales make up a substantial portion of their revenue. Losing the authority to sell tobacco products for a month can cost retailers far more than the largest fines that can be imposed under existing California laws, like Penal Code section 308 or the STAKE Act. See Cal. Penal Code § 308 (violators can be fined \$200, \$500, or \$1000 for first, second, or third violations, respectively); Cal. Bus. & Prof. Code 22958 (violators can be fined \$400-600 for a first violation and are subject to harsher penalties for each additional violation in a 5-year period).

⁶ Rogers T, Feighery EC, Haladjian HH. *Current Practices in Enforcement of California Laws Regarding Youth Access to Tobacco Products and Exposure to Secondhand Smoke*. Sacramento, CA: California Department of Public Health, 2008. Available at: www.cdph.ca.gov/programs/tobacco/Documents/CTCPEnforcementReport08-05.pdf.

⁷ The Center. *Tobacco Retailer Licensing Is Effective*. 2011. Available at: www.center4tobaccopolicy.org/CTPO/_files/_file/Tobacco%20Retailer%20Licensing%20is%20Effective%20March%202011.pdf.

⁸ Henriksen et al. “Is Adolescent Smoking Related to the Density and Proximity of Tobacco Outlets and Retail Cigarette Advertising Near Schools?” *Preventative Medicine*, 47(210): 210-214, 2008. Abstract only is available at: www.sciencedirect.com/science/article/pii/S0091743508002089.

For one thing, they are overseen by a single government agency with dedicated staff members. They also plan early for enforcement that engages all the key players. And they require a license fee that is large enough to cover the full costs of administering and enforcing the program. To assist agencies in coordinating and planning, ChangeLab Solutions created a checklist that includes all the recommended elements of a successful program. The checklist is available at: www.changelabsolutions.org/publications/implementation-checklist-TRL.

To help understand the variety of local approaches to tobacco retailer licensing, in 2006 we studied four communities that are effectively enforcing their local tobacco retailer licensing laws: Contra Costa County, Santa Barbara County, the City of Willits, and the City of Los Angeles. We chose these communities because they were among the first in California to suspend the tobacco licenses of retail outlets that violated sales-to-youth or other tobacco control laws. Read our review of these programs (visit: www.changelabsolutions.org/publications/case-studies-local-trl-ords) to see how, despite their differences, they all achieve the goal of holding retailers accountable for violations of tobacco sales laws.

Licensing for healthy food retailers

Communities can use licensing to improve public health in other ways by ensuring that retailers are not only complying with existing laws but also benefiting the communities they serve. For example, in neighborhoods with limited access to fresh produce and staple foods, a licensing system could require food retailers to carry these items. For more information on healthy food retailer licensing, see our Model Licensing Ordinance for Healthy Food Retailers at: www.changelabsolutions.org/publications/HFR-licensing-ord.



For more information

For support with model language and legal issues:

ChangeLab Solutions

www.changelabsolutions.org

For support with campaign issues:

The Center for Tobacco Policy & Organizing, a project of the American Lung Association in California (The Center)

www.Center4TobaccoPolicy.org



changelabsolutions.org

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ChangeLab Solutions formerly existed under the name Public Health Law & Policy (PHLP), which included the Technical Assistance Legal Center (TALC).

The legal information provided in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

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AGENDA BILL

Agenda Item No. 7(B)

Date: January 20, 2015
To: El Cerrito City Council
From: Stephen Bonini, Lieutenant
Sylvia Moir, Chief of Police
Subject: Community Video Security Camera Registration Program

ACTION REQUESTED

Receive a presentation and adopt a resolution endorsing a Voluntary Security Camera Registration program whereby residents and business owners can voluntarily register their security camera systems with the Police Department. The program is strictly voluntary and includes an option to remove one's system from the registry at anytime.

BACKGROUND

Surrounding cities have implemented a Voluntary Security Camera Registration program, wherein residents and business owners sign up via the Police Department website. A web based registration form consists of address and contact information where the security camera system is located. The information is entered into the Computer Aided Dispatch (CAD) software so when a significant crime occurs, officers/detectives will be able to see the location of the cameras in the surrounding neighborhoods. With consent of the camera owner, the video would be reviewed for any potential assistance which could lead to suspect identification and/or a successful prosecution.

This type of program exists in the cities of Vallejo, Fremont, San Jose, and in Sacramento County. The City of Berkeley is currently evaluating the program.

STRATEGIC PLAN CONSIDERATIONS

This program aligns with the City of El Cerrito Strategic Plan Goal A: Deliver exemplary government services and Goal E: Ensure the public's health and safety. Passage of this program furthers the Police Department's efforts to adopt an inclusive position with stakeholders. Registration and use of the cameras also fosters a collaborative relationship between the Police Department and city residents. The professional excellence already established by the Police Department will be enhanced with the use of existing security cameras installed by residents and business owners.

FINANCIAL CONSIDERATIONS

The City and Police Department will not incur any initial equipment costs. The camera expenditure is made by the resident or business owner. Online registrations will occur and the form/format has already been established. Data entry into the CAD system will be required using available professional staff at an estimated forty five minutes per entry. At this time, the

number of security cameras in the City is unknown and projecting an overall time and employee cost cannot be determined.

LEGAL CONSIDERATIONS

The City Attorney has reviewed and approves as to form.

Reviewed by:



Scott Hanin
City Manager

Attachments:

1. Resolution
2. Powerpoint presentation

RESOLUTION 2015-XX

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL CERRITO ENDORSING A
VOLUNTARY SECURITY CAMERA REGISTRATION PROGRAM**

WHEREAS, security cameras are in use by City of El Cerrito residents and business owners. Existing cameras have been used to help solve crimes, provide investigative leads, and help identify suspects; and

WHEREAS, registration is purely voluntary and will enable the Police Department to create and maintain a database of addresses for security cameras throughout the city, and not live feeds for the camera locations; and

WHEREAS, the security camera video will be reviewed only with the permission of, and in the presence of the resident/owner and only if a criminal investigation is taking place; and

WHEREAS, the voluntary security registration will assist investigations and multiply the investigative abilities of the Police Department.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of El Cerrito that it hereby supports and endorses a voluntary security camera registration for residents and business owners.

BE IT FURTHER RESOLVED that this Resolution shall become effective immediately upon passage and adoption.

I CERTIFY that at a regular meeting on January 20, 2015 the City Council of the City of El Cerrito passed this Resolution by the following vote:

AYES:	COUNCILMEMBERS:
NOES:	COUNCILMEMBERS:
ABSENT:	COUNCILMEMBERS:

IN WITNESS of this action, I sign this document and affix the corporate seal of the City of El Cerrito on January ___, 2015.

Cheryl Morse, City Clerk

APPROVED:

Mark Friedman, Mayor

Voluntary Security Camera Registration Program

Overview and Program Timeline

Overview

- Security Cameras exist in many businesses and residents
- Not a Police Department Surveillance System
- Voluntary participation in program
- Assist officers and detectives during investigations
- City/PD does not own, maintain, or ability to access without the owner's help and consent
- Cameras are already out there
- Fremont, San Jose, Vallejo, Sacramento County Sheriff have existing programs

Getting Started

- Neighborhood Meetings to discuss the voluntary program
- Develop on-line form from ECPD website
- Potential investigative impacts
- Potential costs to City/PD

Neighborhood Meetings

- Scheduled at different locations over a three month period to address:
 1. System requirements – We have none, but have recommendations on quality.
 2. Proper positioning of cameras – not into neighbor windows, but focus on front, side, back of property
 3. Investigative benefits – suspects entering/exiting, deterrence through signage, tracking of suspect vehicles
 4. Neighborhood Watch / Crime Prevention involvement

Case Examples

- Home Invasion of Elderly on Richmond St
A. Security cameras in area could have shown suspects, vehicle, approach and get away, etc.
- Elderly woman carjacked at CVS – security video helped apprehend suspect
- Residential Burglary – North hill; officers recognized suspect on the street after viewing the security video

Costs to City/PD

- Costs associated with data entry
 - i. PD employee created on-line registration form
 - ii. PD employee enter registration data in spread sheet and GIS for mobile computer use by officers in field
 - iii. Greatest data entry costs will come with initial registrations, and then one year later when renewal notices go out.
- Approximately 2.5 hours to create initial forms. Follow up entries less than 20 minutes.

Timeline

- Neighborhood Meetings:
 1. Feb through April
- On-Line registration form: completed Nov 2014
- Website/Registration form open: Jan 2015
- Progress reports to staff: March and June
- Media push for Jan/Feb/March 2015:
 1. Press Releases
 2. T.V. Media
 3. Nixle, Twitter, YouTube, Patch, NextDoor