

MEETING DATE: December 11, 2019

ITEM # 25

SUBJECT:

**CONSIDERATION OF FIRST READING OF ORDINANCE 20-1 AMENDING CHAPTER 9.30
OF THE MUNICIPAL CODE RELATING TO LIMITATION TO ACCESS TO TOBACCO
PRODUCTS**

INITIATED OR REQUESTED BY:

Council Staff
 Other

REPORT COORDINATED OR PREPARED BY:

**Dawna Jones, Senior Analyst
Police Department**

ATTACHMENT Yes No Information Direction Action

OBJECTIVE

The purpose of this report is to present for Council consideration Ordinance 20-1 amending Chapter 9.30 of the City's Municipal Code regarding flavored tobacco product regulations. The proposed revisions would place a ban on the sale of flavored tobacco products, implement a three-year restriction on new tobacco permits and incorporate Yolo County Code sections to administer the permitting and enforcement of tobacco permits and associated tobacco sales.

RECOMMENDED ACTION

Staff respectfully recommends that the City Council waive the first reading and read by title and number only, Ordinance 20-1 amending Chapter 9.30 of the City's Municipal Code to incorporate regulations for banning flavored tobacco products, issuing permits and conducting enforcement activities.

BACKGROUND

According to public health experts, nicotine is one of the most toxic of all poisons as it can rewire the brain, particularly in the developing years from adolescence to mid-twenties. The availability of flavored tobacco products is a concern in the public health community given evidence that the use of these products is associated with increased youth smoking, initiation and experimentation. The added flavor helps conceal the toxicity and harsh taste of tobacco, creating a more appealing product that is easier for new users, like youth, to become addicted. Advertisements for these flavored tobacco products are targeted towards youth by using colorful packaging and strategic placement. As a result of tobacco companies' marketing strategies, youth and young adults are statistically more likely to use flavored tobacco products.

In recent years, there has been a sharp increase in the rate of first-time youth smokers using flavored tobacco products. From 2017 to 2018, e-cigarette use among high schoolers increased 78%, according to the Food and Drug Administration. According to TobaccoFreeCA.com, 80% of kids who ever used tobacco started with a flavored product. There are more than 15,000 tobacco flavors on the market, many of which have names that are enticing to youth such as "Gummy Bear" and "Bubblegum". These products are readily available and rates of flavored tobacco products use continue to rise in youth.

In an effort to reduce the use of flavored tobacco, in June 2009, Congress passed H.R. 1256 – Family Smoking Prevention and Tobacco Control Act (FSPTCA), which bans the sale of flavored cigarettes, except menthol, because of their appeal to youth. Other California jurisdictions, including Yolo County and the City of Sacramento, have changed their regulations to allow for a ban on flavored tobacco products, reducing access to tobacco products by youth. While the West Sacramento Municipal Code regulates access to tobacco products, it does not contain language specifically regarding flavored cigarettes and other non-cigarette flavored tobacco products.

Based on statistics and emerging best practices, staff recommends revising the Municipal Code to implement a ban on flavored tobacco products and adopt sections of the Yolo County Code for tobacco permitting and enforcement purposes.

ANALYSIS

In 2016, the Yolo County Health and Human Services Agency conducted a Healthy Stores for a Healthy Community survey in which they assessed 85 tobacco retail stores throughout Yolo County. The findings indicated:

- 84% of the stores sell little cigars in youth-friendly flavors such as grape and strawberry
- 80% sell the little cigars individually for less than one dollar
- 75% of the tobacco retail establishments are near schools
- 74% sell e-cigarettes, the number one tobacco product used by youth and young adults

In 2017, the Yolo County Tobacco Prevention Program randomly surveyed 207 residents from Davis, West Sacramento, Winters, Woodland and the unincorporated areas of Yolo county. The results are as follows:

- 86% believe flavored tobacco products are more appealing to youth than regular tobacco products
- 74% would support a law that would ban the sale of flavored tobacco products
- 75% believe it is easy for youth under the ages of 21 to purchase flavored tobacco products
- 74% agree that tobacco advertisements are harmful to youth

In 2019, the Yolo County's Youth Tobacco Prevention Coalition randomly surveyed 137 students from River City High School. The findings were:

- 77% think e-cigarettes are not safe to use
- 82% think e-cigarettes are addictive
- 58% report seeing vaping and/or tobacco use on campus
- 70% think e-cigarettes should be banned in non-smoking places

On April 16, 2019, the City of Sacramento banned flavored tobacco products and starting January 1, 2020, it will be illegal to sell flavored e-cigarette cartridges, menthol cigarettes and other flavored tobacco products in Sacramento's city limits. The ordinance will not require any of Sacramento's roughly 383 tobacco retailers to close. Yolo County has also adopted regulations that prohibit the sale of flavored tobacco products to include menthol and there are 49 other California cities and counties that have implemented bans on the sale of flavored tobacco. All but two of those include a ban on menthol.

The current West Sacramento Municipal Code does not contain language defining flavored tobacco and flavored tobacco products, nor does it restrict the sale of flavored tobacco or tobacco products. The attached ordinance proposes changes that would:

- add a definition for flavored tobacco products
- prohibit the sale of flavored tobacco products
- provide further and more current findings and studies supporting legislative action
- update the minimum age to purchase or sell tobacco products to 21 years of age, in line with California Penal Code section 308
- impose a temporary restriction upon new tobacco license applications and permits for three years
- authorize the County to conduct permitting, enforcement and appeals processes for tobacco retail permits on behalf of West Sacramento based upon the County's existing fee and revocation structure

Staff recommends a three-month grace period for retailers to clear out existing inventory. This would make the tobacco ban officially commence on April 15th, 2020.

The purpose of the temporary three-year restriction on new permits is to reduce the tobacco retailer density and normalize the local market and enforcement efforts. According to studies, the density and proximity of tobacco retailers influence smoking behaviors, including the number of cigarettes smoked per day and adults who smoke have a harder time quitting when density is higher.

An update to the book of fees will be proposed in January with the second reading of the Ordinance for Council consideration to remove the City's fee and reference the County's fee for permitting, enforcement and appeals activities.

Environmental Considerations

N/A

Commission Recommendation

Not Applicable

Strategic Plan Integration

This item supports the strategic planning goal of promoting healthy and active living.

Alternatives

The Council may decide not to move forward with the first reading of Ordinance 19-15 and provide staff with additional direction.

Coordination and Review

The coordination and review of this report has been provided by Staff and the City Attorney.

Budget/Cost Impact

There are not anticipated to be significant impacts to revenues or expenses associated with this action. It is roughly estimated that the impact on Bradley Burns sales tax revenues to the City may be approximately \$100,000 annually due to the decrease in sales related to flavored tobacco products.

ATTACHMENT(S)

1. Municipal Code Chapter 9.30 redline version
2. Ordinance 20-1
3. Yolo County and California Department of Public Health Statistics/Citations
4. Yolo County Code Revisions

Chapter 9.30 LIMITATIONS TO ACCESS TO TOBACCO PRODUCTS

9.30.010 Purpose.

The purpose of this chapter is to discourage violations of tobacco-related laws, particularly those which prohibit or discourage the sale or distribution of tobacco products and tobacco paraphernalia to minors by requiring all tobacco retailers to obtain city permits. (Ord. 09-20 § 3; Ord. 01-17 § 1)

9.30.020 Findings.

A. Each year four hundred thousand Americans die prematurely from tobacco related illnesses. Tobacco use has been linked to cancer, emphysema, heart disease and a variety of other life threatening problems.

B. These health problems create a burden for local communities and more specifically for the city of West Sacramento. In addition to the health care costs for these diseases, there is the lost human and economic contribution of each individual who suffers from the preventable effects of tobacco use.

C. The 1994 National Household Survey on Drug Abuse showed that ninety percent of tobacco users start well before the age of eighteen, the average child smoker started at age thirteen, while the average age for smokeless tobacco initiation is nine years. According to the California State Department of Health Services Tobacco Control System, while adult tobacco use has been declining, the use by youth has been rising.

D. All fifty states, and the District of Columbia, prohibit the sale of tobacco products to minors. California State Penal Code Sections 308(a) and 308(b) prohibit the sale of tobacco products and paraphernalia to minors and possession of tobacco by a minor, yet over twenty-nine million packs of cigarettes are sold to California children annually.

E. The Synar Amendment to the 1992 Alcohol, Drug Abuse and Mental Health Reorganization Act requires that states reduce sales of cigarettes to minors to below twenty percent by the year 2000 or lose federal drug and alcohol funding.

F. California's rate of sales of cigarettes to minors is still twenty-one percent. Studies show that over forty percent of grade school students who smoked daily have shoplifted cigarettes, at some time, from self service displays and that sales to minors drop by between forty percent and eighty percent after enactment ordinances requiring vendor-assisted sales of tobacco products.

G. Similar legislation in other counties and cities in California have reduced youth access to tobacco products without negatively affecting businesses. (Ord. 01-17 § 1)

H. From 2013 to 2015, an estimated 15% of ninth and eleventh grade students in California reported using electronic smoking devices. (California Department of Public Health California Tobacco Control Program. California Tobacco Facts and Figures 2016. Sacramento, CA: California Department of Public Health. 2016.)

I. Nine and three-tenths percent of high school students in California reported buying their own electronic cigarette from a store. (Kann L, McManus T, Harris WA, et al. Youth Risk

Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012; Yerger VB, Przewoznik J, Malone RE. Racialized geography, corporate activity, and health disparities: tobacco industry targeting of inner cities. J Health Care Poor Underserved. 2007; Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. Am J Public Health. 2008.)

O. The density and proximity of tobacco retailers influence smoking behaviors, including the number of cigarettes smoked per day. (Chuang YC, Cubbin C, Ahn D, Winkleby MA. Effects of neighbourhood socioeconomic status and convenience store concentration on individual level smoking. J Epidemiol Community Health. 2005.)

P. Adults who smoke have a harder time quitting when density is higher. (Reitzel LR, Cromley EK, Li Y, et al. The effect of tobacco outlet density and proximity on smoking cessation. Am J Public Health. 2011; Cantrell J, Anesetti-Rothermel A, Pearson JL, Xiao H, Vallone D, Kirchner TR. The impact of the tobacco retail outlet environment on adult cessation and differences by neighborhood poverty. Addiction. 2015.)

Q. Policies to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers. (Ribisl KM, Luke DA, Bohannon DL, Sorg AA, Moreland-Russell S. Reducing Disparities in Tobacco Retailer Density by Banning Tobacco Product Sales Near Schools. Nicotine Tob Res. 2017; Myers AE, Hall MG, Isgett LF, Ribisl KM. A comparison of three policy approaches for tobacco retailer reduction. Prev Med. 2015; Luke DA, Hammond RA, Combs T, et al. Tobacco Town: Computational Modeling of Policy Options to Reduce Tobacco Retailer Density. Am J Public Health. 2017.)

9.30.030 Adoption of Yolo County Code Relating To Enforcement Of Tobacco Retail Permits

A. Title 6, Chapter 15 of the Yolo County Code, pertaining to tobacco retailer permits, is hereby incorporated, in its entirety, with the exception of Sections -6-15.03,6-15.04,~~6-15.06~~,16-15.08, and 16-15.09, by reference into this code and shall be enforced within the limits of the City.

B. All references to the term "unincorporated areas of the County of Yolo" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "City limits." All references to the term "Yolo County Code" in Title 6, Chapter 15 of the Yolo County Code shall be to the "City of West Sacramento Municipal Code." The reference to the term "County of Yolo" in Section 6-15.15 (f) of the Yolo County Code shall be to the term "City." The reference to the term "Board of Supervisors of the County of Yolo" in Section 6-15.16 of the Yolo County Code shall be to the term "City Council of the City of West Sacramento." All references to the term of "eighteen (18) years of age" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "twenty-one (21) years of age."

C. Section 16-15.11 (a) in Title 6, Chapter 15 of the Yolo County Code is incorporated with the following amendment, such that it will state: "Compliance and enforcement with this Chapter shall primarily be the responsibility of the Yolo County District Attorney. Compliance and enforcement of this Chapter shall also be the responsibility of the City of West Sacramento."

9.30.030 Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this section are defined as follows:

"Business" means a fixed location, whether indoors or outdoors, at which merchandise is offered for sale at retail.

which comply with California State Business and Professions Code Section 22952 (STAKE Act). All letters of said sign shall be at least one-half inch high or larger. (Ord. 01-17 § 1)

9.30.080 Severability.

If any portion of this chapter or the application thereof to any person or circumstances is held invalid, the invalidity, shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable. (Ord. 01-17 § 1)

~~9.30.090 Tobacco paraphernalia sales.~~

~~———— No retailer or vendor shall sell or permit to be sold tobacco paraphernalia to an individual without requesting and examining photographic identification establishing the purchaser's age as eighteen years or greater, unless the vendor or employee has reasonable grounds for believing, based upon appearance, that the buyer is over the age of thirty. (Ord. 12-10 § 3; Ord. 12-9 § 4; Ord. 09-20 § 5)~~

9.30.100 Tobacco retailer permit required.

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer permit pursuant to this section for each location at which tobacco products or paraphernalia are sold. A tobacco retailer without a valid permit shall not sell any tobacco products or tobacco paraphernalia. Until a tobacco retailer obtains a valid permit, the tobacco retailer shall also not display any advertisement relating to tobacco products or tobacco paraphernalia and all tobacco products and tobacco paraphernalia must remain out of public view.

A. No permit may be issued to any tobacco retailer other than a single, fixed location. Tobacco permits are non-transferable to any location other than the location to which the permit was issued and may not be transferred from one person to another at that same location.

B. The term of a tobacco retailer permit is one year and becomes invalid after the date of expiration. Subsequent to expiration, a renewal request must be submitted in order to renew a permit. (Ord. 12-10 § 3; Ord. 12-9 § 4; Ord. 09-20 § 5)

~~9.30.110 Permit request process.~~

~~———— A request for a tobacco retailer permit shall be submitted on a form provided by the city of West Sacramento finance department. Said request will be reviewed for approval by the finance department and the police department. The city reserves the right to deny the issuance or renewal of a permit. (Ord. 12-10 § 3; Ord. 12-9 § 4; Ord. 09-20 § 5)~~

~~9.30.120 Permit fees.~~

~~———— A tobacco retailer permit fee must be paid at the time of application and is to be submitted to the finance department. Permit fees are listed in the city book of fees and will be assessed to offset the expense of administration, implementation and enforcement of the tobacco retailer permit program. The fees for permit issuance and renewal shall be reviewed and revised periodically by resolution of the city council. (Ord. 12-10 § 3; Ord. 12-9 § 4; Ord. 09-20 § 5)~~

~~_____ A. _____ It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to this chapter to refuse to comply with any of its provisions.~~

~~_____ B. _____ Any person, business, tobacco retailer, owner, manager or operator of any establishment subject to this section who violates any provision of this chapter shall be deemed guilty of an infraction and subject to fines. The fines for all violations listed in this chapter are outlined in the city's book of fees.~~

~~_____ C. _____ A tobacco retailer permit may be revoked through petition if the tobacco retailer or any of the tobacco retailer's agents or employees has violated any of the requirements, conditions, or prohibitions outlined in this chapter and there exists aggravating circumstances, such as the selling to minors twelve years of age or younger, intentionally soliciting minors, or willfully disregarding the requirements of this chapter.~~

~~_____ D. _____ A tobacco retailer permit will be suspended through petition for any first violation of this chapter for ten days from the time of violation. A second violation within five years will result in a permit suspension for thirty days. A third violation within five years will result in a permit suspension for ninety days. A fourth violation within five years will result in a permit suspension for one hundred eighty days. A fifth violation within five years will result in a permit suspension for one year. A sixth violation or more shall result in the revocation of the permit. Should a permit suspension period extend beyond the expiration date of the permit, a renewal fee must be paid in order to obtain a new permit.~~

~~_____ E. _____ Any permittee whose permit has been revoked shall not be eligible for the issuance of a new permit for a period of two years.~~

~~_____ F. _____ A violation for operating without a permit is considered a more serious offense and is subject to a higher fine amount as listed in the city book of fees. The police department may seize tobacco products offered for sale without a tobacco retailer permit, and the owners and managers of any business cited for selling tobacco without a permit shall not be eligible to apply for a permit for a period of one year. (Ord. 09-20 § 5)~~

9.30.180 Public education.

The West Sacramento police department may request the assistance of the director of Yolo County health department shall engage in a continuing program to explain and clarify the purpose and requirements of this section to citizens and businesses affected by it, and to guide owners, operators and managers in their compliance with it. Such program may include publication of a brochure for affected businesses and individuals explaining the provisions of this chapter. (Ord. 09-20 § 5)

9.30.190 Flavored Tobacco Products.

It is a violation of a permit for a permittee or his or her agents or employees to sell or offer for sale any flavored tobacco product. There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacturer or its agents or employees has made a public statement or claim that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, or images on the product's labeling or packaging that are used to expressly or impliedly communicate that a tobacco product has a characterizing flavor.

ORDINANCE 20-1

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WEST SACRAMENTO AMENDING CHAPTER 9.30 OF THE MUNICIPAL CODE RELATING TO LIMITATIONS TO ACCESS TO TOBACCO PRODUCTS

The City Council of the City of West Sacramento does ordain as follows:

Section 1. Purpose and Authority. The purpose of this Ordinance is to amend Chapter 9.30 of the West Sacramento Municipal Code. The City Council enacts this ordinance in accordance with the authority granted to Cities by State law, including the authority pursuant to Government Code section 50022.9, which authorizes a City to adopt a county ordinance, or any parts thereof.

Section 2. Additions. The following sections of the West Sacramento Municipal Code are hereby added to read as follows:

9.30.020 Findings

H. From 2013 to 2015, an estimated 15% of ninth and eleventh grade students in California reported using electronic smoking devices. (California Department of Public Health California Tobacco Control Program. California Tobacco Facts and Figures 2016. Sacramento, CA: California Department of Public Health. 2016.)

I. Nine and three-tenths percent of high school students in California reported buying their own electronic cigarette from a store. (Kann L, McManus T, Harris WA, et al. Youth Risk Behavior Surveillance - United States, 2017; Centers for Disease Control and Prevention. Youth Risk Behavior Surveillance — United States, 2017. Supplementary Tables 52-93.)

J. In 2016, an estimated 82 percent of tobacco retailers in California sold flavored noncigarette tobacco products, over 90 percent of tobacco retailers sold menthol cigarettes, and eight out of 10 tobacco retailers near schools sold flavored non-cigarette tobacco products. (California Department of Public Health California Tobacco Control Program. 2016 Healthy Stores for a Healthy Community Survey Results-all counties. 2016.)

K. Mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco and these products help establish tobacco habits that can lead to long-term addiction. (U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012; Hersey JC, Ng SW, Nonnemaker JM, et al. Are menthol cigarettes a starter product for youth? Nicotine Tob Res. 2006; Wackowski O, Delnevo CD. Menthol cigarettes and indicators of tobacco dependence among adolescents. Addict Behav. 2007; Oliver AJ, Jensen JA, Vogel RI, Anderson AJ, Hatsukami DK. Flavored and nonflavored smokeless tobacco products: rate, pattern of use, and effects. Nicotine Tob Res. 2013.)

L. Between 2004 and 2014, use of non-menthol cigarettes decreased among all populations, but overall use of menthol cigarettes increased among young adults (18 to 25 years of age) and adults (over 26 years of age). (Villanti AC, Mowery PD, Delnevo CD, Niaura RS, Abrams DB, Giovino GA. Changes in the prevalence and correlates of menthol cigarette use in the USA, 2004-2014. Tob Control. 2016.)

M. Unlike cigarette use that has steadily declined among youth, the prevalence of the use of non-cigarette tobacco products has remained statistically unchanged and, in some

cases, increased among youth. (U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA:U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012; Johnston LD, O'Malley PM, Bachman JG, Schulenberg JE, Miech RA. Monitoring the Future national survey results on drug use, 1975–2013: Volume I, Secondary school students. Ann Arbor, MI: Institute for Social Research, The University of Michigan. 2014; Harrell PT, Naqvi SMH, Plunk AD, Ji M, Martins SS. Patterns of youth tobacco and polytobacco usage: The shift to alternative tobacco products. Am J Drug Alcohol Abuse. 2017; Substance Abuse and Mental Health Services Administration. Results from the 2010 National Survey on Drug Use and Health: Summary of National Findings. Rockville, MD: Substance Abuse and Mental Health Services Administration. 2011; Wang TW, Gentzke A, Sharapova S, Cullen KA, Ambrose BK, Jamal A. Tobacco Product Use Among Middle and High School Students - United States, 2011-2017; Cobb C, Ward KD, Maziak W, Shihadeh AL, Eissenberg T. Waterpipe Tobacco Smoking: An Emerging Health Crisis in the United States. American Journal of Health Behavior. 2010.)

N. Flavored tobacco has significant public health implications for youth and people of color as a result of targeted industry marketing strategies and product manipulation. (United States v. Philip Morris USA, Inc., 449 F. Supp. 2d 1 (D.D.C. 2006); U.S. Department of Health and Human Services. Preventing Tobacco Use Among Youth and Young Adults: A Report of the Surgeon General. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health. 2012; Yerger VB, Przewoznik J, Malone RE. Racialized geography, corporate activity, and health disparities: tobacco industry targeting of inner cities. J Health Care Poor Underserved. 2007; Kreslake JM, Wayne GF, Alpert HR, Koh HK, Connolly GN. Tobacco industry control of menthol in cigarettes and targeting of adolescents and young adults. Am J Public Health. 2008.)

O. The density and proximity of tobacco retailers influence smoking behaviors, including the number of cigarettes smoked per day. (Chuang YC, Cubbin C, Ahn D, Winkleby MA. Effects of neighbourhood socioeconomic status and convenience store concentration on individual level smoking. J Epidemiol Community Health. 2005.)

P. Adults who smoke have a harder time quitting when density is higher. (Reitzel LR, Cromley EK, Li Y, et al. The effect of tobacco outlet density and proximity on smoking cessation. Am J Public Health. 2011; Cantrell J, Anesetti-Rothermel A, Pearson JL, Xiao H, Vallone D, Kirchner TR. The impact of the tobacco retail outlet environment on adult cessation and differences by neighborhood poverty. Addiction. 2015.)

Q. Policies to reduce tobacco retailer density have been shown to be effective and may reduce or eliminate inequities in the location and distribution of tobacco retailers. (Ribisl KM, Luke DA, Bohannon DL, Sorg AA, Moreland-Russell S. Reducing Disparities in Tobacco Retailer Density by Banning Tobacco Product Sales Near Schools. Nicotine Tob Res. 2017; Myers AE, Hall MG, Isgett LF, Ribisl KM. A comparison of three policy approaches for tobacco retailer reduction. Prev Med. 2015; Luke DA, Hammond RA, Combs T, et al. Tobacco Town: Computational Modeling of Policy Options to Reduce Tobacco Retailer Density. Am J Public Health. 2017.)

9.30.130 Authority

California case law, including Bravo Vending v. City of Rancho Mirage (1993) 16 Cal.App.4th 383, has affirmed the power of local jurisdictions, including general law cities, to regulate business activity in order to discourage violations of the law.

9.30.190 Flavored Tobacco Products.

It is a violation of a permit for a permittee or his or her agents or employees to sell or offer for sale any flavored tobacco product. There is a rebuttable presumption that a tobacco

product is a flavored tobacco product if a manufacturer or its agents or employees has made a public statement or claim that the tobacco product has or produces a characterizing flavor, including, but not limited to, text, color, or images on the product's labeling or packaging that are used to expressly or impliedly communicate that a tobacco product has a characterizing flavor.

9.30.200 Temporary Restriction Upon New Tobacco Permits

As of January 15th, 2020, no new tobacco permits will be issued in the City of West Sacramento for a period of three (3) years. This temporary restriction shall automatically expire without any further action by the City on January 15th, 2023.

9.30.210 Existing Permits, Restriction Upon Transfer of Existing Permits

Tobacco Permits which have already been issued prior to January 15th, 2020, ("Existing Permits") shall remain valid. Existing Permits may be renewed subject to the requirements of this Chapter., including Sections 9.30.100. Existing or renewed Existing Permits are subject to the restrictions upon transfer set forth in this Chapter, including those set forth in Section 9.30.100.

9.30.030 Adoption of Yolo County Code Relating To Enforcement Of Tobacco Retail Permits

A. Title 6, Chapter 15 of the Yolo County Code, pertaining to tobacco retailer permits, is hereby incorporated, in its entirety, with the exception of Sections 6-15.03, 6-15.04, 16-15.08, and 16-15.09, by reference into this code and shall be enforced within the limits of the City.

B. All references to the term "unincorporated areas of the County of Yolo" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "City limits." All references to the term "Yolo County Code" in Title 6, Chapter 15 of the Yolo County Code shall be to the "City of West Sacramento Municipal Code." The reference to the term "County of Yolo" in Section 6-15.15 (f) of the Yolo County Code shall be to the term "City." The reference to the term "Board of Supervisors of the County of Yolo" in Section 6-15.16 of the Yolo County Code shall be to the term "City Council of the City of West Sacramento." All references to the term of "eighteen (18) years of age" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "twenty-one (21) years of age."

C. Section 16-15.11 (a) in Title 6, Chapter 15 of the Yolo County Code is incorporated with the following amendment, such that it will state: "Compliance and enforcement with this Chapter shall also be the responsibility of the City of West Sacramento."

Section 3. Amendment of Chapter. Chapter 9.30 of the West Sacramento Municipal Code is hereby amended to read:

9.30.040 Identification required.

No retailer or vendor shall sell or permit to be sold cigarettes or other tobacco products to an individual without requesting and examining photographic identification establishing the purchaser's age as twenty-one years or greater, unless the vendor or employee has a reasonable basis in fact to know the buyer is over the age of twenty-one. (Ord. 01-17 § 1)

9.30.090 Tobacco paraphernalia sales.

No retailer or vendor shall sell or permit to be sold tobacco paraphernalia to an individual without requesting and examining photographic identification establishing the purchaser's age as twenty-one years or greater, unless the vendor or employee has reasonable grounds for believing, based upon appearance, that the buyer is over the age of thirty. (Ord. 12-10 § 3; Ord. 12-9 § 4; Ord. 09-20 § 5)

Section 4. Deletion of Chapter Sections. Chapter 9.30 of the West Sacramento Municipal Code is amended to remove Sections 9.30.030 [former "definitions" to be replaced

with new "Adoption of Yolo County Code Relating To Enforcement Of Tobacco Retail Permits"], 9.30.050, 9.30.090, 9.30.110, 9.30.120, 9.30.150, 9.30.160 and 9.30.170.

Section 5. Severability. If any provision of this chapter, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this chapter, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby, and to this end the provisions of this chapter are severable.

Section 6. Effective Date and Publication. This ordinance shall take effect 30 days after its adoption, and pursuant to Resolution 99-46 was published in summary format prior to adoption, and a summary will be published within 15 days after adoption in a paper of general circulation published and circulated within the City of West Sacramento.

PASSED AND ADOPTED by the City Council of the City of West Sacramento this 15th day of January, 2020, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Christopher L. Cabaldon, Mayor

ATTEST:

Approved as to form:

Kryss Rankin, City Clerk

Jeffrey Mitchell, City Attorney

CODIFY _____ UNCODIFY _____