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Tobacco Retailer Permit Ordinance

Board of Supervisors Board Meeting

April 25, 2023

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Presentation Topics

- Background on the Tobacco Retailer Permit Ordinance
- Tobacco use in San Mateo County
- Proposed new provisions to strengthen the permit
- Sheriff's Office enforcement program



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Tobacco Retail Permit Background

In 1998, the Tobacco Retailer Permit Ordinance (4.98) was first adopted by the San Mateo County Board of Supervisors **to reduce tobacco sales to youth**

- Subsequent updates were made in 2008 and 2014 to strengthen the ordinance

Separate from the Tobacco Retailer Permit, the Board adopted other tobacco related ordinances which:

- Prohibited the sale and distribution of e-cigarettes (Ord 4.95, 11/12/2019)
- Prohibited the sale of flavored tobacco (Ord 4.99, 6/19/2018)
- Prohibited pharmacy sales of tobacco products (Ord 4.99, 6/19/2018)

Tobacco Retailer Permit Priorities & Opportunities

- Reduce the sales of tobacco to young people and protect public health
- Strengthen the current ordinance provisions
- Support retailer accountability and permit enforcement, with adequate administrative flexibility
- Clarify requirements for County Health to administer city (opt-in) ordinances
- Clean-up county tobacco ordinances to organize all retail-related ordinance requirements under Chapter 4.98, "Tobacco Retailer Permit Ordinance"



Tobacco Use in San Mateo County



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Adults who Smoke: 2019-2020

County: San Mateo 

3.4%

COMPARED TO



CA Counties



CA Value
(6.7%)



US Value
(14.4% in 2021)



Prior Value
(3.7%)



Trend



HP 2030 Target
(6.1%)

Source: [California Health](#)

[Interview Survey](#) 

Measurement period: 2019-2020

Maintained by: Conduent Healthy
Communities Institute

Last update: December 2021



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E-Cigarette Use Prevalence: SMC HS Students

20.8%*

2017-18



8.7%

2019-20

*San Mateo County and San Francisco County



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Proposed Tobacco Retailer Permit Ordinance Provisions



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Strengthens Key Ordinance Provisions & Retailer Restrictions

- Updates definition of tobacco to include synthetic products (4.98.100)
- Updates definition of “Electronic Smoking Device” to include non-nicotine products (4.98.100 (g))
- Expands the definition of “Youth Populated Areas” to be more comprehensive (4.98.100 (u))
- Prohibits new permits within 1,000 feet of youth-populated areas, including private or public K-12 schools, libraries, playgrounds, youth centers, public or private colleges, and licensed child-care facilities (4.98.230 (c))

Strengthens Key Ordinance Provisions & Retailer Restrictions

- Requires in-person sales (no online or mailing), no mobile vending or sales at temporary events like farmers markets or flea markets (4.98.180; 4.98.230(b))
- Prohibits new retailers within 500 feet of existing tobacco retailers (4.98.230 (d))
- Gives the County authority to enforce flavored tobacco and e-cigarette provisions in opt-in cities; eliminates enforcement ambiguity in cities (4.98.310)

Key Ordinance Provisions

Administrative Fines

Increases Administrative Fines (4.98.300)

A fine **may** be imposed on the retailer which has violated the requirements and conditions of the ordinance. Fines based on frequency of violations.

	1 st Violation	2 nd Violation	3 rd Violation and all subsequent
Current Ordinance	Up to \$100	Up to \$200	Up to \$500
Proposed Amendment*	Up to \$500	Up to \$1,000	Up to \$1,000
<i>* Sale of Tobacco to People Under Age 21</i>	<i>* Mandatory maximum fine required</i>		

Key Ordinance Provisions: Permit Suspension & Revocation

Grounds for Suspension or Revocation (4.98.290)

If a business is found to violate the terms of the permit, the permit to sell tobacco **may** be suspected and/or revoked

- Violations are tracked over a 5-year period
- Each day tobacco products are offered for sale without a permit is a separate violation (4.98.300 (2)(c))

Violation	Penalty	Timeframe
1 st Violation	Suspension	Up to 30-days
2 nd Violation	Suspension	Up to 90-days
3 rd Violation	Suspension	Up to 1 year
4 th Violation	Revocation	Shall be 5 years
* <i>Tobacco Sales to People Under Age 21</i>	* <i>Maximum penalty is required</i>	

Key Ordinance Provisions: Enforcement

Proactive Annual Site-Compliance Monitoring (4.98.270)

- Each tobacco retailer **shall be inspected annually** to determine compliance with ordinance provisions
- *Increases cost of permit from \$174 to \$423*

Enforcement in Cities (4.98.310)

- SMC Health may enforce on behalf of any city if the city council adopts this ordinance in its entirety by reference or verbatim
- Gives SMC Health authority to enforce all provisions of city's tobacco retailer ordinance
- Uniform policies support a high standard for public health, provide clarity for retailers, and are simpler to enforce

Permit Compliance & Enforcement

Health: administer, monitor compliance; peace officer: may enforce provisions. (4.98.2.70)

Environmental Health Services

- Issues permits, collects fees
- Proactive annual on-site compliance checks and complaint-based inspections
- Issues Notice of Violation (NOV)
- Conducts hearings to fine/suspend/revoke permits

Behavioral Health & Recovery Services

- Educates retailers and the public on laws (calls, letters, site visits, etc.)
- Refers complaints to EHS, Sheriff's Office, and the cities, as appropriate

Sheriff's Office

- Conducts youth decoy enforcement operations (Tobacco sales to underage youth)
- Reports violators to District Attorney and EHS

Sheriff's Office Highlights Youth Decoy Enforcement Program

Sergeant Salvador Zuno
San Mateo County Sheriff's Office

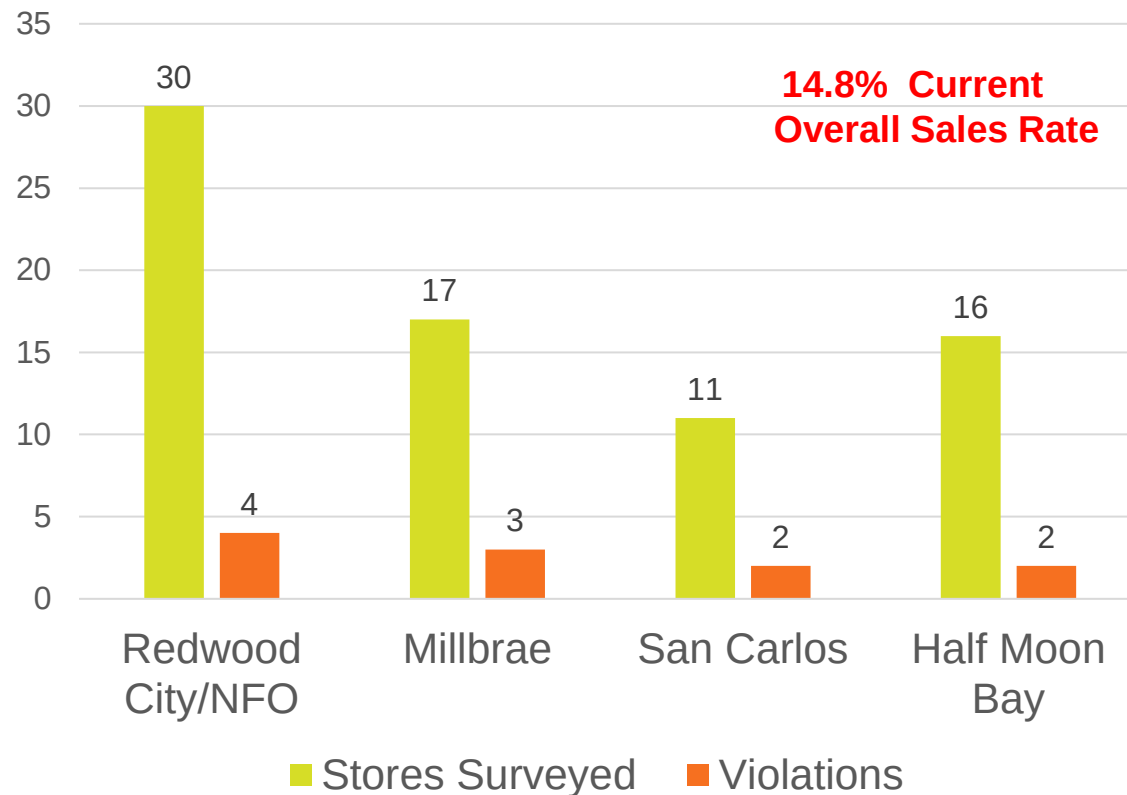


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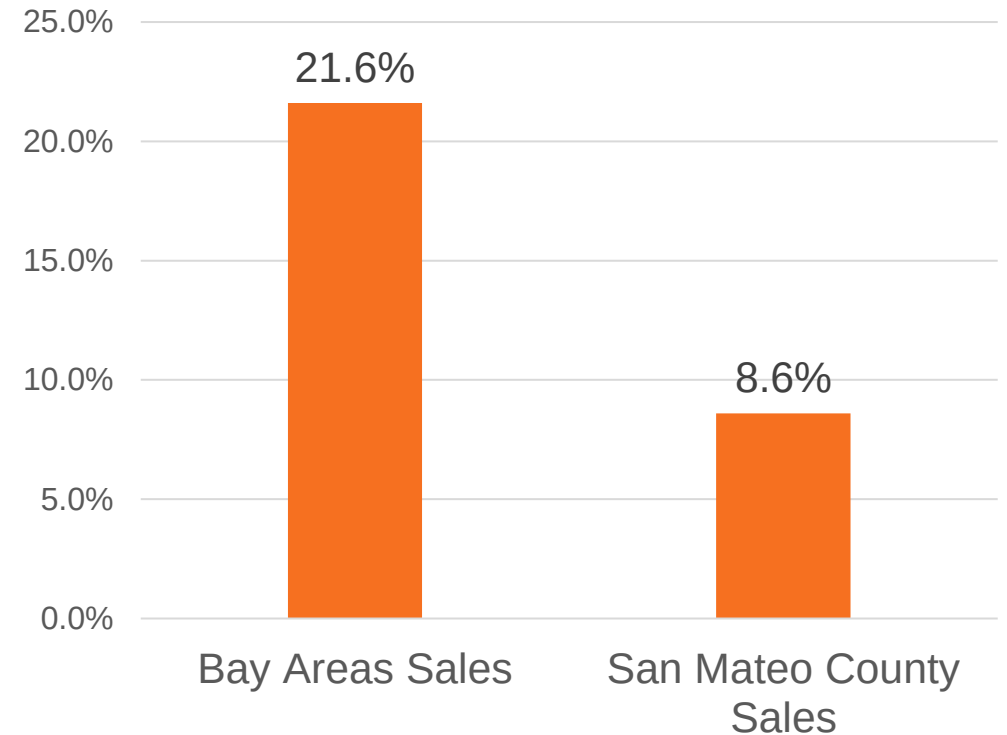
Sheriff's Office Partnership

Enforcement via Youth Decoy Operations

San Mateo County Decoy Sales
April 2021- June 2022



Tobacco Sales to Youth Decoys
2019



Acknowledgments



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Thank you!

Clara Boyden

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