



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 5
File #: 18-045

Board Meeting Date: 1/23/2018

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Supervisors Carole Groom and David J. Canepa

Subject: Ordinance adding a Chapter 4.99 to Title 4 of the San Mateo County Ordinance Code to prohibit the sale or offer for sale of flavored tobacco products and to prohibit pharmacies from selling tobacco products and amendment of section 4.96.030 of Chapter 4.96 to clarify definition of tobacco products

RECOMMENDATION:

Introduction of an ordinance adding a Chapter 4.99 to Title 4 of the San Mateo County Ordinance Code to prohibit the sale or offer for sale of flavored tobacco products and prohibit pharmacies from selling or offering for sale any tobacco products, and amending Section 4.96.30 of Chapter 4.96 to clarify the definition of "tobacco products", and waive the reading of the ordinance in its entirety.

BACKGROUND:

Tobacco use is the number one cause of preventable death and disease in San Mateo County. Data from the Office of Statewide Health Planning and Development (OSHPD) indicate that there were 47,066 smoking-associated hospitalizations in San Mateo County between 2006 and 2010. Treatment costs for these hospitalizations were \$566,797,878; with \$20,780,822 of this total spent at the San Mateo Medical Center.

The San Mateo County Board of Supervisors has been in the forefront of enacting legislation that controls the impact of tobacco use in the community. Ordinances previously enacted by the County include those requiring smokefree multi-unit housing facilities, workplaces, and restaurants; banning tobacco self-service displays; requiring licenses for tobacco retailers; prohibiting smoking within 30 feet of doors/windows in County owned or operated buildings; and requiring smokefree County campuses. Local laws such as these have helped lead to the State's implementation of statewide policies on these issues.

In order to minimize the number of children who start to smoke and become addicted to tobacco, the US Food and Drug Administration (FDA) implemented a ban on flavored cigarettes. However, the ban

did not include menthol flavored cigarettes or other tobacco products other than cigarettes. While the FDA continues to look at options for regulating menthol cigarettes and other flavored tobacco products, local jurisdictions such as Santa Clara County, San Francisco, and Oakland have begun to take the lead in banning flavored tobacco products, including menthol cigarettes.

Data show that youth and communities of color use flavored tobacco products at higher rates than other communities. The vast majority of tobacco retailers in San Mateo County sell flavored tobacco products. According to a national survey, 81% of youth who have ever used tobacco report flavored tobacco as the first tobacco products they used.

In addition to being a source for medicine and other health products, pharmacies also serve as trusted sources for health information people use to stay healthy. As such, the sales of cigarettes and other tobacco products are inconsistent with a pharmacy's role in the health of a community. The Centers for Disease Control and Prevention report that two out of three (2/3) American adults believe that pharmacies should not be allowed to sell tobacco.

Attachment 1 to this staff report contains the list of references used for the data contained in the Findings section of the ordinance.

DISCUSSION:

Within the unincorporated areas of San Mateo County, there are currently 34 retailers which are licensed to sell tobacco products, with an additional 3 retailers at the San Francisco International Airport, and which will be impacted by the prohibition on sales of flavored tobacco products. Currently, there are no pharmacies within the unincorporated areas of San Mateo County. The components of the ordinance affecting pharmacies apply if a pharmacy were to locate within the unincorporated areas.

The following are the key provisions of the proposed ordinance:

- It applies only in the unincorporated areas of San Mateo County.
- It prohibits the sale or offer for sale, by any person or tobacco retailer, of any flavored tobacco product.
- It prohibits a pharmacy employee or agent from selling or offering for sale any tobacco product.
- No tobacco retailer permit would be issued to a pharmacy under Chapter 4.98 of the San Mateo County Ordinance Code.
- No existing tobacco retailer permit issued under Chapter 4.98 of the San Mateo County Ordinance Code will be renewed for a pharmacy.
- It would be enforced by the County Health System within the unincorporated areas of the County.
- It would go into effect 30 days after, but enforcement will not begin before July 1, 2018.

The ban on flavored tobacco products has been an ongoing goal for organizations wishing to ensure that tobacco products other than cigarettes are included in the flavored tobacco ban. The San Mateo County Tobacco Education Coalition has prioritized the advocacy for tobacco free pharmacies in its 2017-2021 strategic plan.

FISCAL IMPACT:

None