



CITY of CALABASAS

CITY COUNCIL AGENDA REPORT

DATE: FEBRUARY 11, 2022

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: DON PENMAN, INTERIM COMMUNITY DEVELOPMENT DIRECTOR
MICHAEL KLEIN, SENIOR PLANNER, AICP *MAK*

SUBJECT: ANNUAL UPDATE OF THE CITY'S TOBACCO RETAILER
REGISTRATION PROGRAM FOR 2020-2021.

MEETING DATE: FEBRUARY 23, 2022

SUMMARY RECOMMENDATION:

Staff recommends that the City Council receive and file this report.

BACKGROUND:

Adoption of Ordinance No. 2009-259 (Chapter 5.18 of the Calabasas Municipal Code) requires all tobacco retailers to be registered with the City in order to sell tobacco products. The Ordinance took effect on July 10, 2009. Registration is required annually, and there is no fee involved. It is unlawful for any retailer to sell tobacco products without current registration. In addition to requiring a valid registration, the ordinance prohibits retailers from selling tobacco products (inclusive of vaping products) to anyone under 21 years of age (consistent with state law). The ordinance establishes policies and procedures for the regular monitoring of tobacco retailers by the City and Sheriff's Department, including the use of underage decoys for sting operations. Any retailer who is found to be in violation of the ordinance and state law prohibiting the sale of tobacco to persons under 21 years of age is subject to a minimum fine of \$1,000 and will have their registration (and, thus, their right to sell tobacco) revoked for a specified period of time.

Section 5.18.130(H) of the CMC requires the City Manager to provide an annual report to the City Council regarding enforcement of the ordinance. The CMC further specifies the content of the annual report as follows:

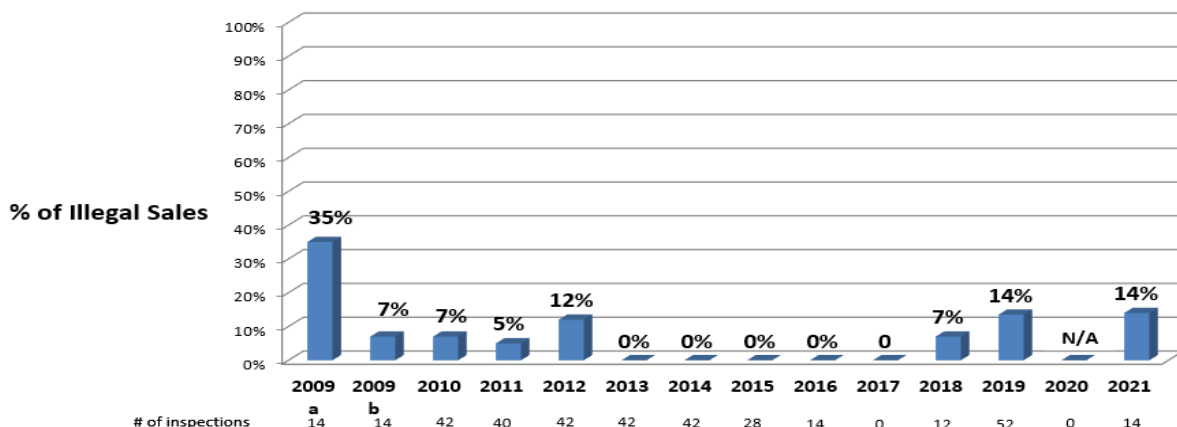
“The report shall include: (i) the number of tobacco retailers found to have violated this chapter; (ii) the number of enforcement actions taken with respect to each tobacco retailer under Section 5.18.100, (iii) the cost to the city of enforcement of this chapter, and (iv) whether additional enforcement funds are needed and, if so, whether he or she recommends those funds be derived from the City's General Fund, fees imposed for the issuance of registrations under this chapter, or the proceeds of fines and penalties paid to the city under this chapter.”

DISCUSSION/ANALYSIS:

Section 5.18.100 of the CMC, stipulates that the Los Angeles County Sheriff’s Department shall conduct three tobacco sting operations per year; however, “the department may check the compliance of tobacco retailers previously found to be in compliance a fewer number of times”. In 2020, the Sheriff Department halted all tobacco sting operations due to the Covid-19 pandemic. As health risks surrounding Covid-19 have been mitigated due to vaccines and boosters, the Sheriff Department resumed tobacco sting operations in October 2021, resulting in two retailers having sold tobacco products to the underage decoy (see Tobacco Retailer status sheet, Attachment A). The Code Enforcement Department received the incident report from the Sheriff’s Department for each violation, and has completed the administrative process to revoke the retailers’ registration in accordance with Section 5.18 of the CMC. As of the date of this report, the Tobacco Retailer Registration for Las Virgenes Chevron has been revoked for three months and 7-11 has been revoked for six months.

Below is a chart summarizing the annual illegal sale rates from 2009 through 2021.

Illegal Sale Rate of Tobacco in Calabasas



Note: the illegal sale rate of tobacco is based on sales transactions made during official sting operations only. There have been a total of 356 inspections to date, with an average compliance rate of 93%.

The City's administration costs associated with registration under this ordinance are minimal. Staff sends a notice and registration form once a year to each retailer for registration renewal. Staff also provides outreach efforts during the renewal period to ensure that retailers are aware of the registration and that they will be subject to random sting operations. This requires minimal staff time because there are only fourteen retailers. However, there are costs associated with enforcement of the registration, such as coordination with the LA County Sheriff Department to conduct sting operations and processing subsequent revocations for failure to comply.

On November 18, 2021, staff received notice from the California Department of Justice (DOJ) that the City was approved for a grant up to \$159,207 to increase tobacco enforcement efforts. Grantees may use grant funds to enforce a local ordinance or state law related to the illegal sale and marketing of tobacco products, including e-cigarettes, to minors and youth. These enforcement efforts may include, retailer compliance checks and license inspections. The main purpose of the grant is to provide funding to the Sheriff Department to increase the number of tobacco sting operations from three to six per year, over the next three fiscal years. Staff is currently working with the Sheriff Department to meet this goal for 2022-2024.

REQUESTED ACTION:

Staff recommends that the City Council receive and file this report.

ATTACHMENTS:

Attachment A - Tobacco Retailer Status Sheet as of December 30, 2021