



CITY of CALABASAS

CITY COUNCIL AGENDA REPORT

DATE: JANUARY 26, 2023

TO: HONORABLE MAYOR AND COUNCILMEMBERS

**FROM: MICHAEL KLEIN, COMMUNITY DEVELOPMENT DIRECTOR, AICP
ANGELA GEORGEFF, ASSOCIATE PLANNER**

**SUBJECT: ANNUAL UPDATE OF THE CITY'S TOBACCO RETAILER
REGISTRATION PROGRAM FOR 2022**

MEETING DATE: FEBRUARY 8, 2023

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 (CMC) requires all tobacco retailers to be registered with the City of Calabasas in order to sell tobacco related products. The Ordinance took effect on July 10, 2009 with registration being required annually. There is no fee involved for the registration applicant. It is unlawful for any retailer to sell tobacco products without maintaining 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:

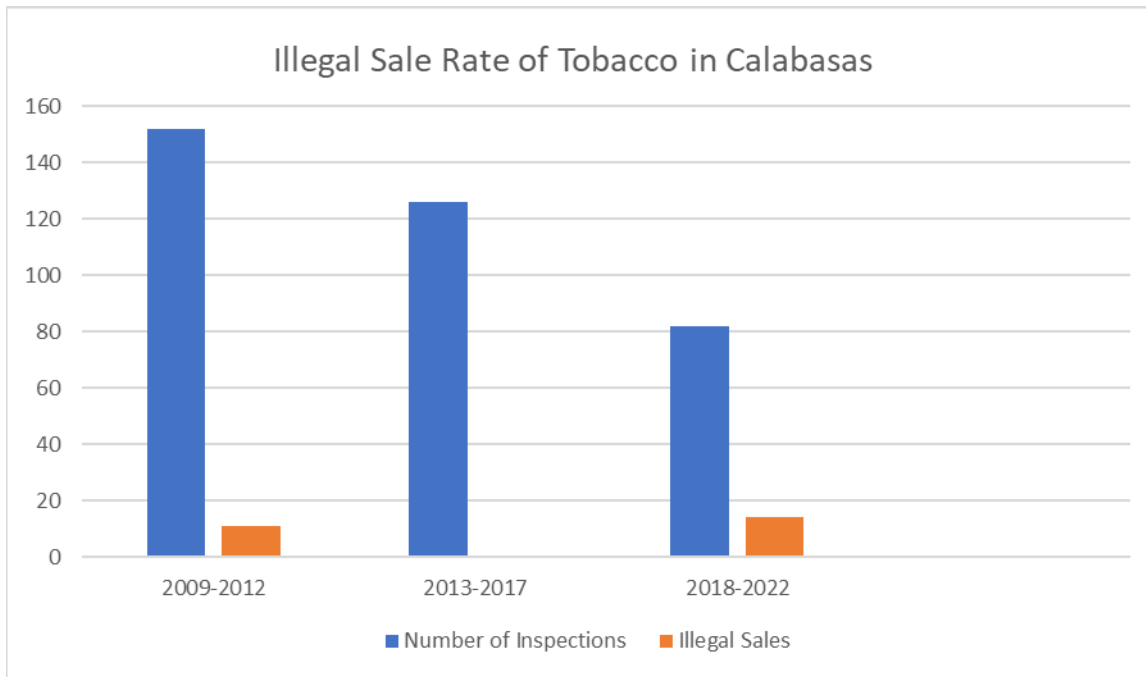
“The report shall include: (i) the number of tobacco retailers found to have violated this chapter; (ii) the number of enforcement actions taken with respect to each tobacco retailer under Section 5.18.100, (iii) the cost to the city of enforcement of this chapter, and (iv) whether additional enforcement 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”. 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 were allotted use of grant funds to enforce 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 are to include, retailer compliance checks and license inspections. The main purpose of the grant is to provide funding to the Sheriff's Department to increase the number of tobacco sting operations from three to six per year, over three fiscal years (2021-2024).

Staff is currently working with the Sheriff's Department to continue to meet this goal. In 2022, six operations were conducted with a total of four violations cited. On February 16, 2022, Oak Shell, located at 22295 Mulholland Highway, failed a decoy operation and subsequently received a violation. Their registration was revoked on April 11, 2022, and was reinstated three months later. On April 20, 2022, a decoy operation was failed by Ralphs at 4754 Commons Way. After a three-month revocation period, Ralphs Tobacco Registration was re-issued on September 14, 2022. After a decoy operation on October 17, 2022, a violation occurred at Rite Aid, located at 4710 Commons Way. As of the date of this report, the Tobacco Retailer Registration for Rite Aid has been revoked for three months starting on January 2, 2023. It should be noted that after receiving a violation during a sting operation on April 20, 2022, Gelsons opted to discontinue the sale of tobacco products at the Calabasas location.

Below is a chart summarizing the annual illegal sale rates from 2009 through 2022.



Note: the illegal sale rate of tobacco is based on sales transactions made during official sting operations only. There has been a total of 438 inspections to date, with an average compliance rate of 92.5%.

The City's administration costs associated with registration under this ordinance are minimal and a portion of the current grant (described above) supplements Planning Staff time spent on the program. 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. Currently there are only 13 tobacco retailers operating, therefore Planning staff time is minimal (It should be noted that the number of tobacco retail operators in the City declined from 14 to 13 when Gelsons chose to discontinue the sale of tobacco products).

REQUESTED ACTION:

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

ATTACHMENTS:

- Attachment A - Tobacco Retailer Status Sheet as of December 30, 2022
- Attachment B - Powerpoint