

Title 8 MORALS AND CONDUCT

Chapter 8.10 PARKS AND RECREATION

8.10.090 Prohibited activities.

J. Smoking. No person shall ignite or smoke any tobacco or tobacco product or any other material in any building or portion thereof, or within one hundred (100) feet of a children's playground.

Chapter 8.14 INDOOR AIR AND HEALTH PROTECTION

8.14.010 Title.

This article shall be known as the "City of San Rafael Clean Indoor Air and Health Protection Ordinance." (Ord. 1653 (part), 1993).

8.14.020 Findings and purpose.

The city council does find that:

1. The U.S. Environmental Protection Agency has classified environmental tobacco smoke as one of only twelve (12) Class A carcinogens to which there is no safe level of exposure;
2. Numerous scientific studies have found that tobacco smoke is a major contributor to indoor air pollution;
3. Reliable scientific studies, including studies by the Surgeon General of the United States and studies commissioned and assessed by the U.S. Environmental Protection Agency, have shown that breathing sidestream or secondhand smoke is a significant health hazard to nonsmokers; particularly to children and teens, elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease;
4. Within minutes, short-term exposure to sidestream smoke may cause the human body to experience over contraction of the heart, thickening of the blood and arteries, increased chance of heart attack or stroke, depression of the immune system, and cell mutations from the mutagens and carcinogens in smoke;
5. Health hazards induced by exposure to environmental tobacco smoke include lung and other forms of cancer, respiratory infection, decreased respiratory function, decreased exercise tolerance, broncho-constriction and broncho-spasm, and that the most common cause of premature death from environmental tobacco smoke is heart disease;
6. Reliable scientific studies assessed by the U.S. Environmental Protection Agency have found that sidestream and secondhand tobacco smoke causes the death of at least fifty-three thousand (53,000) nonsmokers annually and is a leading cause of premature death and disability among nonsmokers;
7. Nonsmokers with allergies, respiratory diseases and those who suffer other ill effects of breathing sidestream or secondhand tobacco smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to same;
8. Persons, particularly employees, have a right to a smoke-free environment if they desire;
9. Tobacco smoking is a leading cause of fires, and cigarette and cigar burns and ash

stains on merchandise and fixtures cause economic losses to businesses;

10. Substantial scientific evidence exists that the direct use of tobacco products causes cancer, heart disease, and various other medical diseases. The Surgeon General of the U.S. has found that tobacco-caused diseases are the leading cause of premature, preventable death and disability in the U.S.;

11. The National Centers for Disease Control have found that at least four hundred thirty-four thousand (434,000) Americans die each year from tobacco-caused diseases. The Surgeon General of the U.S. and the U.S. Department of Health and Human Services have found that a majority of those Americans who die of tobacco-caused diseases became addicted to nicotine in tobacco products as adolescents before the age of legal consent;

12. The National Institute on Drug Abuse has concluded that the nicotine in tobacco products is a powerful addictive drug and identifies nicotine addiction as the most widespread example of drug dependence in the U.S.;

13. The Surgeon General of the U.S. has found that nicotine in tobacco products is as addictive as cocaine and heroin.

Accordingly, the city council finds and declares that the purposes of this chapter are:

--To protect public health, safety and general welfare;

--To guarantee the right of nonsmokers to breathe tobacco smoke-free air, and to recognize that the need to breathe tobacco smoke-free air has priority over the desire to smoke;

--To reduce addiction to tobacco products by minors.

The city council further finds it is within its basic police power to implement and enforce the provisions of this chapter. (Ord. 1653 (part), 1993).

8.14.030 Definitions.

The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

1. "Bar" means an area which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term bar shall not include the restaurant dining area. A bar, for the purpose of this definition, does not include any bar where smoke can filter into a restaurant through a passageway, ventilation system, or any other means.

2. "Business" means any sole proprietorship, joint venture, corporation or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold as well as professional corporations and other entities where legal, medical, dental, engineering, architectural or other professional services are delivered.

3. "Cocktail lounge" means a bar, within a restaurant, which is not the sole means of public access to the dining areas, is not the sole waiting area for dining patrons, prohibits minors unless passing through, in which the service of food is only incidental to the consumption of beverages, has a separate ventilation system, and is enclosed. In this connection a written determination by the enforcement officer designated pursuant to Section 8.14.100(B) of this chapter that a cocktail lounge is enclosed shall be presumptive evidence of compliance with the enclosure requirement of this chapter in the absence of fraud or mistake.

4. "Employee" means any person who is employed by any employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers his or her services for a nonprofit entity.

5. "Employer" means any person, partnership, corporation, including a municipal corporation, or nonprofit entity, who employs the services of one or more individual persons.

6. "Enclosed" means surrounded by a ceiling, floor, and solid walls which, except for doors, passageways and/or windows, extend from floor to ceiling on all sides. If an

enclosed area is divided by internal partial walls or other "office landscaping," it is still, in its entirety, enclosed. A retractable roof, whether open or closed, shall be considered a ceiling for the purpose of this definition.

7. "Minor" shall mean any individual who is less than eighteen (18) years old.

8. "Nonprofit entity" means any corporation, unincorporated association or other entity created for charitable, religious, philanthropic, educational, character-building, political, social or other similar purposes, the net proceeds from the operations of which are committed to the promotion of the objectives or purposes of the entity and not to private gain. A public agency is not a nonprofit entity within the meaning of this section.

9. "Person" means any individual, partnership, cooperative association, private corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

10. "Place of employment" means any enclosed area under the control of a public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and rest rooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a place of employment unless it is used as a child care or health care facility.

11. "Public place" means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, shopping malls, laundromats, public transportation facilities, reception areas, restaurants, retail food production and marketing establishments, retail service establishments, retail stores, hotels and motels, theaters and waiting rooms. A private residence is not a public place.

12. "Restaurant" means any coffee shop, cafeteria, sandwich stand, private and public school cafeteria, including any associated outdoor eating area, and any other eating establishment which gives or offers for sale food to the public, guests or employees, as well as kitchens in which food is prepared on the premises for serving elsewhere, including catering facilities, except that the term restaurant shall not include a cocktail lounge or tavern if said cocktail lounge or tavern is a bar as defined in this section.

13. "Retail tobacco store" means a retail store utilized primarily for the sale of tobacco products and accessories and in which the sale of other products is merely incidental.

14. "Self-service merchandising" means open display of tobacco products and point-of-sale tobacco promotional products to which the public has access without the intervention of an employee.

15. "Separate ventilation system" means a system which is exhausted to the outside and negatively pressurized.

16. "Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.

17. "Smoking" means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, weed or plant or other combustible substance whose smoke is intended to be inhaled.

18. "Sports arena" means enclosed or unenclosed sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

19. "Tobacco product" means any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco, snuff or any other form of tobacco which may be utilized for smoking, chewing, inhalation or other manner of ingestion.

20. "Tobacco vending machine" means any electronic or mechanical device or appliance the operation of which depends upon the insertion of money, whether in coin or paper currency, or other things representative of value, which dispenses or releases a tobacco product.

21. "Vendor-assisted" means only a store employee has access to the tobacco product and assists the customer by supplying the product. The customer does not take possession of the product until it is purchased. (Ord. 1653 (part), 1993).

8.14.040 Application of chapter to city-owned vehicles and facilities.

All city-owned vehicles, including jitneys and buses and other means of public transit under the authority of the city, and all enclosed facilities owned and controlled by the city, including jails, and any board, council, commission and agency of the city shall be subject to the provisions of this chapter. (Ord. 1653 (part), 1993).

8.14.050 Prohibition of smoking in public places.

A. Except as otherwise provided, smoking shall be prohibited in all enclosed public places within the city, including, but not limited to, the following places:

1. Elevators;
2. Buses, taxicabs, and other means of public transit under the authority of the city and ticket, boarding, and waiting areas of public transit depots;
3. Rest rooms;
4. Service lines;
5. Retail stores;
6. All areas available to and customarily used by the general public in all business and nonprofit entities patronized by the public, including but not limited to, attorneys' offices and other offices, banks, laundromats, malls, hotels and motels;
7. Restaurants, provided cocktail lounge areas within restaurants that sell alcoholic beverages shall be exempted. Within one year of the operative date of this section, such areas shall meet the standards of cocktail lounge as defined herein;
8. Public areas of aquariums, galleries, libraries, museums when open to the public;
9. Any facility which is primarily used for exhibiting motion pictures, stage productions, lectures, musical recitals or other similar performances, except for smoking which is part of such production;
10. Sports arenas and convention halls;
11. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee including joint committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;
12. Waiting rooms, hallways, wards and rooms of health facilities, including, but not limited to, hospitals, clinics, physical therapy, mental health, and drug and alcohol treatment facilities, doctors' and dentists' offices;
13. Hotel/motel rooms. A minimum of fifty percent (50%) of rooms must be permanently designated nonsmoking;
14. Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes, and other multiple-unit residential facilities;
15. Lobbies, hallways, and other common areas in multiple-unit commercial facilities;
16. Polling places.

B. Smoking shall be prohibited in outdoor areas immediately adjacent to any entrance or exit of any building within which smoking is prohibited. For purposes of this section, entrance or exit shall mean an opening into a building from a contiguous street, sidewalk, walkway or parking area. (Ord. 1653 (part), 1993).

8.14.060 Regulation of smoking in places of employment.

A. No person shall smoke in an enclosed place of employment.

B. Within ninety (90) days of the effective date of the ordinance codified in this chapter, each employer having an enclosed place of employment located within the city shall adopt, implement, make known and maintain a written smoking policy which shall contain the following requirements:

Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias,

employee lounges, stairs, restrooms, vehicles and all other enclosed facilities.
C. The smoking policy shall be communicated to all employees within three (3) weeks of its adoption, and at least annually thereafter.
D. All employers shall comply with these nonsmoking provisions and shall be responsible for their implementation in their places of employment.
E. "No Smoking" signs shall be conspicuously posted at building entrances and in employee lounges, cafeterias and lunchrooms.
F. All employers shall supply a written copy of the smoking policy to any existing or prospective employee.
G. Places of employment exempt from the prohibition on smoking in other sections of this chapter shall also be exempt from this section. (Ord. 1653 (part), 1993).

8.14.070 Smoking optional areas.

A. Notwithstanding any other provision of this chapter to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

1. Private residences, except when used as a child care or health care facility;
2. Retail tobacco stores;
3. Enclosed restaurant, hotel and motel conference or meeting rooms and public and private assembly rooms, which are equipped with a ventilation system which conducts air to the outside, while these places are being used for private functions; provided, that fifty percent (50%) of these areas are designated nonsmoking;
4. An enclosed place of employment which employs only the owner and no other employee; provided, that:
 - (a) The place of employment is not a public place, and
 - (b) The place of employment does not share a ventilation system with any other enclosed place of employment or public place;
5. Bars and cocktail lounges as defined herein.

B. Notwithstanding any other provision of this section, any owner, operator, manager or other person who controls any establishment described in this section may declare that entire establishment as a nonsmoking establishment by posting signs as required by Section 8.14.080. (Ord. 1653 (part), 1993).

8.14.080 Posting of signs.

A. "No-Smoking" signs or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every building, as well as on entrances at eye level, or other place where smoking is regulated by this chapter, by the owner, operator, manager or other person having control of such building or other place.
B. Every restaurant and mall shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited. (Ord. 1653 (part), 1993).

8.14.090 Regulating the sale of tobacco products.

A. Any person, business, tobacco retailer or other establishment subject to this chapter shall post plainly visible signs at the point of purchase of tobacco products which state "THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO ID REQUIRED."

The letters of said signs should be at least one quarter inch (1/4") high.

B. No person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this chapter shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification

establishing the purchaser's age as eighteen (18) years or greater unless the seller has some reasonable basis for determining the buyer's age.

C. It is unlawful for any person, business or tobacco retailer to sell, permit to be sold, or offer for sale any tobacco product by means of self-service merchandising, or by any means other than vendor-assisted sales.

D. No person, business or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. Any tobacco vending machine in use on the effective date of the ordinance codified in this chapter shall be removed within thirty (30) days after the effective date of said ordinance. (Ord. 1653 (part), 1993).

8.14.100 Enforcement.

A. Notice of these regulations shall be given to all applicants for a business license.

B. Enforcement of this section shall be the responsibility of the city manager, who shall have the powers enumerated in this section as well as the powers to issue citations for violation of the section in accordance with Section 853.6 of the California Penal Code. The city manager may designate other persons to issue citations; provided, however, that for violations of Section 8.14.110(A) hereof, such citations shall not be issued until the person cited has been given one warning and/or an education session with a staff person designated by the Director of Health and Human Services.

C. The fire department or the health department shall require, while an establishment is undergoing otherwise mandated inspections, certification from the owner, manager, operator or other person having control of such establishment that all requirements of this chapter have been complied with.

D. County health inspectors, on their regular restaurant inspections, shall check for compliance with sign posting requirements. Restaurants shall be notified in writing of any violations on the standard health inspection report. Further, such violations shall be reported in writing by the county health department, on a quarterly basis, to the administrative authority in the jurisdiction where such violations occur.

E. Notwithstanding any other provision of this chapter, a private citizen may bring legal action to enforce this chapter. (Ord. 1653 (part), 1993).

8.14.110 Violations and penalties.

A. It is unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under Sections 8.14.050, 8.14.060 and 8.14.090 of this chapter to fail to comply with any of its provisions.

B. It is unlawful for any person to smoke in any area where smoking is prohibited under Sections 8.14.050, 8.14.060 and 8.14.070(B) of this chapter.

C. Any person, business, tobacco retailer, or owner, manager or operator of any establishment subject to this chapter who violates any provision of this chapter shall be deemed guilty of an infraction, punishable by:

1. A fine, not exceeding one hundred dollars (\$100.00) and/or five (5) days of community service, for the first violation.
2. A fine, not exceeding two hundred dollars (\$200.00) and/or ten (10) days of community service, for a second violation of this chapter within one year.
3. A fine, not exceeding five hundred dollars (\$500.00) and/or fifteen (15) days of community service, for a third violation of this chapter within one year. (Ord. 1653 (part), 1993).

8.14.120 Nonretaliation.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee or applicant for employment because such employee or applicant exercises any right to a smokefree environment afforded by this chapter. (Ord. 1653 (part), 1993).

8.14.130 Public education.

The county department of health (or city manager) shall engage in a continuing program to explain and clarify the purposes and requirements of this chapter to citizens 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 business and individuals explaining the provisions of this chapter. (Ord. 1653 (part), 1993).

8.14.140 Governmental agency cooperation.

The county department of health (or city manager) shall annually request other governmental and educational agencies having facilities within the city to establish local operating procedures in cooperation and compliance with this chapter. This includes urging all federal, state, county and school district agencies to update their existing smoking control regulations to be consistent with current health findings regarding environmental tobacco smoke. (Ord. 1653 (part), 1993).

8.14.150 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws. (Ord. 1653 (part), 1993).

8.14.160 Effective date.

The effective date of the ordinance codified in this chapter shall be January 1, 1994. (Ord. 1653 (part), 1993).

Chapter 8.15 TOBACCO RETAIL SALES, ADVERTISING AND PROMOTION

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8.15.005 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meaning defined in this section unless the context clearly requires otherwise:

A. "Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco, including Indian cigarettes called "bidis."

B. "Tobacco paraphernalia" means cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking or ingestion of tobacco products.

C. "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia; "tobacco retailing" shall mean the doing of any of these things.

D. "Advertising display sign" means a sign, billboard, poster, freestanding sign, balloon, pennant or banner that is temporarily or permanently placed on or affixed to the ground, the sidewalk, a pole or post, a fence, or a building, or is displayed in the windows or doors of a commercial establishment, and that is used to advertise or promote products.

E. "Mobile billboard" means any sign, placard, billboard, or other advertisement display upon or affixed to a vehicle which display is used to advertise a product illegal to sell to minors, when the supporting vehicle or trailer is parked within a public right-of-way or on private property and visible to the public for a duration of time and in a manner which clearly indicates that the sign is for advertising products illegal to sell to minors or which carry a specific brand name, logo, or indicia of a product illegal to sell to minors. For the purpose of this chapter, a mobile billboard shall not include any advertisements on the side of a van, truck, or other vehicle which is primarily used for the transportation of goods or products.

F. "Promote" or "promotion" means a display of any logo, brand name, character, graphics, colors, designs, or recognizable color or pattern of colors, or any other indicia or product identification with, or similar to, or identifiable with, those used for any particular brand of tobacco product.

G. "Publicly visible location" means any outdoor location that is visible from any street, sidewalk, or other public thoroughfare, or any location inside a commercial establishment immediately adjacent to a window or door where such location is visible from any street, sidewalk, or other public thoroughfare. (Ord. 1741 § 2 (part), 1999).

8.15.010 Restriction on advertising tobacco products.

No person shall place or maintain, or cause or allow to be placed or maintained, in any manner, any advertising or promotion of cigarettes or tobacco products on an advertising display sign in a publicly visible location within five hundred feet (500') of the perimeter of an elementary or

secondary school, high school, public playground or playground area in a public park (e.g., a public park with equipment such as swings and seesaws, baseball diamonds or basketball courts), day care center, public community center and public library. (Ord. 1741 § 2 (part), 1999).

8.15.020 Exceptions.

The restrictions contained in Section 8.15.010 shall not apply to advertising or promotions for tobacco products:

A. Located inside a commercial establishment, unless such advertising display sign or promotion is attached to, affixed to, leaning against, or otherwise in contact with any window or door in such a manner that it is visible from a street, sidewalk or other public thoroughfare.

B. On vehicles, other than mobile billboards.

C. On any sign located inside or immediately outside a commercial establishment if the sign provides notice that the establishment sells tobacco products, so long as the sign does not promote any brand of tobacco product.

D. On tobacco product packaging.

Applicant is required to comply with all provisions of city's sign ordinance Chapter 14.19. (Ord. 1741 § 2 (part), 1999).

8.15.030 Distribution of promotional items to minors.

No person may market, license, distribute, sell, or cause to be marketed, licensed, distributed or sold any item or service to a minor, which bears the brand name, alone or in conjunction with, any other word, logo, symbol, motto, selling message, recognizable color or pattern of colors, or any other indicia or product identification identical with, or similar to, or identifiable with, those used for any brand of tobacco product. (Ord. 1741 § 2 (part), 1999).

8.15.100 Self-service displays.

It is unlawful for any person to sell, permit to be sold, offer for sale, or display for sale, any tobacco product by any means of self-service merchandising, including but not limited to self-service display, rack, countertop or shelf, or any means other than vendor-assisted sales. All tobacco products shall be offered for sale exclusively by means of vendor assistance, and all tobacco products shall be either in a locked case or in an area not accessible to the public prior to sale. (Ord. 1741 § 2 (part), 1999).

8.15.110 Signs.

Any person, business, or tobacco retailer shall post plainly visible signs at the point of purchase of tobacco products which state

"THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO ID REQUIRED."

The letters of said signs shall be at least one inch (1") high. (Ord. 1741 § 2 (part), 1999).

8.15.120 Sale to minors prohibited.

No person, business, or tobacco retailer shall sell, offer to sell or permit to be sold any tobacco product to an individual without requesting and examining identification establishing the purchaser's age as eighteen (18) years or greater. (Ord. 1741 § 2 (part), 1999).

8.15.130 Tobacco vending machines prohibited.

No person, business, or tobacco retailer shall locate, install, keep, maintain or use, or permit the location, installation, keeping, maintenance or use on his, her or its premises any vending machine for the purpose of selling or distributing any tobacco product. (Ord. 1741 § 2 (part), 1999).

8.15.200 Requirement for tobacco retailer permit.

It is unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retailer's permit pursuant to this chapter for each location at which that activity is to occur. No permit may be issued to authorize tobacco retailers at other than a fixed location; peripatetic tobacco retailing and tobacco retailing from vehicles are prohibited. Permits are valid for one year. Each tobacco retailer must apply for the tobacco retailer's permit or for the renewal of the tobacco retailer's permit at the same time the applicant applies for, or renews their city business license. (Ord. 1741 § 2 (part), 1999).

8.15.210 Application procedure.

Application for a tobacco retailer's permit shall be submitted in the name of the person or entity proposing to conduct retail tobacco sales and shall be signed by such person or an authorized agent thereof. All applications shall be submitted to the city and shall contain the following information:

1. The name, address, telephone and fax numbers of the applicant.
2. The business name, address, telephone and fax numbers of each location for which a tobacco retailer's permit is sought.
3. Such other information as the city deems reasonably necessary for implementation and enforcement of this chapter.

A fee for the tobacco retailer's permit shall be established by city council in its fee schedule resolution as amended from time to time. The applicant shall pay the fee at the time the application is submitted. The application shall be submitted at the same time as the applicant's initial application for or renewal of a city business license. (Ord. 1741 § 2 (part), 1999).

8.15.220 Issuance of permit.

Upon the receipt of an application for a tobacco retailer's permit, the city shall issue a permit unless evidence demonstrates one of the following bases for denial:

1. The application is incomplete or inaccurate.
2. The application seeks authorization for tobacco retailing by a person or at a location for which a suspension is in effect pursuant to Section 8.15.250 of this chapter.
3. The application seeks authorization for tobacco retailing that is otherwise unlawful under provisions of state or federal law or the provisions of the San Rafael Municipal Code. (Ord. 1741 § 2 (part), 1999).

8.15.230 Display of permit.

Each permittee shall prominently display the permit at each location where tobacco retailing occurs. (Ord. 1741 § 2 (part), 1999).

8.15.240 Permits nontransferable.

A tobacco retailer's permit is nontransferable. In the event a person to whom a permit has been issued changes business location or sells the business referenced in that person's permit, that person must apply for a new permit prior to acting as a tobacco retailer at the new location. The transferee of the permittee must apply for a permit in the transferee's name before acting as a

tobacco retailer. Any permit reissued pursuant to this section shall expire on the date the previous permit for the business or person would have otherwise expired. (Ord. 1741 § 2 (part), 1999).

8.15.250 Suspension or revocation of permit.

A. Grounds for Suspension or Revocation.

1. A tobacco retailer's permit shall be revoked if the city finds, after notice and opportunity to be heard, that one or more of the basis for denial of a permit under Section 8.15.220 of this chapter exists. The revocation shall be without prejudice to the filing of a new application for a permit following correction of the conditions which required revocation.

2. A tobacco retailer's permit shall be suspended if the city finds, after notice and opportunity to be heard, that the permittee or his or her agent or employee has violated any federal, state or local law governing the sale, promotion, advertisement or display of tobacco, tobacco products, or tobacco paraphernalia.

B. Suspension of Permit.

1. If the city finds that there are grounds for suspension of a permit, the following sanctions shall be imposed:

a. Upon a first finding by the city of a violation by a permittee or any agent or employee of a permittee within any twelve (12) month period, the permit shall be suspended for ninety (90) days unless: (1) the permittee submits a training plan within a reasonable time established by the city, in form and content acceptable to the city, for the training of all sales employees in the laws pertaining to the sale, advertisement, and display of tobacco, tobacco products, or tobacco paraphernalia to minors, and, techniques to ensure future compliance with said laws; and (2) the permittee files with the city, within such time as is reasonably established by the city, satisfactory evidence that the training described in the training plan has been completed.

2. Upon the second finding by the city of a violation by a permittee or by any agent or employee of a permittee within any twelve (12) month period, the permit shall be suspended for one hundred twenty (120) days.

3. Upon each subsequent finding by the city of a violation by a permittee or by any agent or employee of a permittee within any twelve (12) month period, the permit shall be suspended for one year.

C. Appeal of Suspension and/or Revocation. The decision is appealable pursuant to the provisions of Chapter 14.28 of the San Rafael Municipal Code. (Ord. 1741 § 2 (part), 1999).

8.15.260 Penalties for violations.

A violation of any provision of this chapter shall be punishable as provided for in Chapters 1.42, 1.44 and 1.46 of this code. These remedies shall be in addition to all other legal remedies, criminal or civil, which may be pursued by the city to address any violation of this chapter. (Ord. 1741 § 2 (part), 1999).

Title 19 OPEN SPACE

Chapter 19.10 LAND AND WATER AREAS

(13) Smoking. Due to extreme fire hazard, no person shall smoke in open space areas between May fifteenth and December first of each calendar year, except in designated areas.