

TOWN OF ROSS

ORDINANCE NO. 699

AN ORDINANCE OF THE TOWN OF ROSS AMENDING SECTION 6.18.065 OF THE ROSS MUNICIPAL CODE, REGULATING THE SALE OF TOBACCO PRODUCTS

WHEREAS, the Town of Ross, having adopted Ordinance No. 475 in 1989, was one of the first local governments in the state of California to restrict smoking in public places; and

WHEREAS, the Town of Ross, adopted Ordinance No. 602 in 2007 amending Ordinance No. 475 to include additional regulations pertaining to secondhand smoke; and

WHEREAS, the Town of Ross adopted Ordinance No. 685 in 2017 amending Ordinance No. 602 to include regulations to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking and tobacco use around non-tobacco users, especially children; and

WHEREAS, on May 16, 2019, the Marin County Civil Grand Jury released a report titled, "Vaping, an Under-the-radar Epidemic", which recommends that all municipalities in the county should prohibit the sale of flavored tobacco products in order to help reduce the number of tobacco-using minors by eliminating flavored tobacco products; and

WHEREAS, smokeless flavored tobacco is not a safe alternative to smoking as it has been associated with various cancers, pregnancy complications, and other diseases; and

WHEREAS, reducing the initiation rate among young adults could be a highly effective way to reduce long term smoking rates because, nationally, the vast majority of adult smokers began smoking by the time they were 18 years old; and

WHEREAS, there is no Constitutional right to smoke;

NOW THEREFORE, BE IT RESOLVED, it is the intent of the Town Council, in amending this ordinance, to provide for the public health, safety, and welfare by prohibiting the sale of flavored tobacco; by reducing the potential for children to wrongly associate smoking and tobacco use with a healthy lifestyle; and by affirming and promoting a healthy environment in the City.

Section 1: The Ross Town Council does ordain that Section 6.18.065 "Regulating the Sale of Tobacco Products" is hereby amended to read as follows:

Section 6.18.065 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 BY PERSONS UNDER EIGHTEEN YEARS OF AGE IS PROHIBITED BY LAW. PHOTO ID REQUIRED." The letters of said sign shall be at least one quarter (1/4) inch 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 year or greater unless the seller has some reasonable basis for determining the buyer's age.
- C. It shall be 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 displays or by any other means other than vendor-assisted sales.
- D. It shall be unlawful for any Person, Business, or tobacco retailer to sell, permit to be sold, or offer for sale any flavored Tobacco Product(s).
- E. No Person, Business, tobacco retailer or other establishment subject to this Chapter 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 this Section shall be removed within thirty (30) days after said effective date.

SECTION 2. CEQA. The Town Council hereby finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to Title 14, under 14 Cal. Code Regs. Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption will have a significant adverse effect on the environment. It is also categorically exempt under 14 Cal. Code Regs. Section 15308 because the Ordinance constitutes a regulatory activity whose purpose is to protect air quality and prevent the adverse health effects of air pollutants caused by smoking.

SECTION 3. Savings Clause. Neither the adoption of this Ordinance nor the repeal or amendment by this Ordinance of any ordinance or part or portion of any ordinance previously in effect in the Town, or within the territory comprising the Town, shall in any manner affect the prosecution for the violation of any ordinance, which violation was committed prior to the effective date of this Ordinance, nor be construed as a waiver of any license, fee or penalty or the penal provisions applicable to any violation of such ordinances.

SECTION 4. Certification. The Town Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be posted within 15 days after its passage, in accordance with Section 36933 of the Government Code.

SECTION 5: Effective Date. This Ordinance shall take effect thirty (30) days after its final passage and adoption, and shall be posted in three public places in Town.

The foregoing ordinance was introduced by the Ross Town Council at its regular meeting on August 8, 2019 and adopted by the Town Council at its regular meeting held on the 12th day of September 2019 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Brekhus, Mayor

ATTEST:

Linda Lopez, Town Clerk