

ORDINANCE NO. 2025-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS AMENDING TITLE 5 (BUSINESS REGULATIONS), CHAPTER 5.55 (TOBACCO RETAIL LICENSE) AND CHAPTER 5.04 SECTION 5.04.110 (UNIFORM LICENSING PROCEDURES) OF THE SAN MARCOS MUNICIPAL CODE

WHEREAS, California Penal Code section 308 prohibits the sale or furnishing of tobacco, cigarette, or cigarette papers, or blunt wraps, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, tobacco products, or any controlled substance, to persons under the age of 21; and

WHEREAS, California Business and Professions Code section 22956 requires tobacco retailers to check the identification of tobacco purchasers who reasonably appear to be under 21 years of age; and

WHEREAS, California Health and Safety Code section 104559.5 prohibits the retail and online sale of flavored tobacco products; and

WHEREAS, California Business and Professions Code section 22971.3 specifically permits cities and counties to enact a local tobacco retail licensing program; and

WHEREAS, the California Department of Public Health ("CDPH"), California Tobacco Prevention Program reports that overall tobacco use affects approximately 6.4 percent of California high school students in 2024; and

WHEREAS, the CDPH reports that vape-related products are the most common tobacco product used by California high school students and oral nicotine products are the second most common tobacco product used; and

WHEREAS, the CDPH reports that among California high school students who currently use tobacco products, 84.5 percent reported using a flavored tobacco product; and

WHEREAS, the City Council of the City of San Marcos (City) finds that the public health and the safety of the youth in San Marcos are threatened when tobacco retailers fail to comply with all tobacco control laws, including making illegal sales to minors and the sale of flavored tobacco products; and

WHEREAS, the City Council desires to further improve and update the City's existing Tobacco Retail License requirements and policies for the enforcement of tobacco control laws contained in the San Marcos Municipal Code to ensure that San Marcos remains proactive and effective in protecting minors; and

WHEREAS, the City Council finds that the proposed updates will not unduly burden the legitimate business activities of tobacco retailers that comply with all current tobacco control laws; and

WHEREAS, the City Council finds a substantial interest in promoting responsible business practices in compliance with all federal, state, and local tobacco control laws and in the discouragement of youth access to tobacco products,

NOW, THEREFORE, the City Council of the City of San Marcos, California, in accordance with the freedom afforded to charter cities generally, and by the Charter of the City of San Marcos specifically, does ordain as follows:

Section 1. The foregoing Recitals are true and correct and are incorporated herein by this reference.

Section 2. Chapter 5.55 of the San Marcos Municipal Code is hereby amended in accordance with attached Exhibit A, and San Marcos Municipal Code section 5.04.110 is hereby amended in accordance with attached Exhibit B, which Exhibits are incorporated herein by this reference as though set forth in full at this point.

Section 3. If any section, sentence, clause, or phrase of this Ordinance is determined to be invalid, illegal, or unconstitutional by a decision or order of any court or agency of competent jurisdiction, then such decision or order will not affect the validity and enforceability of the remaining portions of this Ordinance. The City Council declares that it would have passed and adopted the Ordinance, and each section, sentence, clause, or phrase thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 4. This Ordinance shall be effective thirty (31) days following its adoption. Within fifteen (15) days following its adoption, the City Clerk shall publish this Ordinance, or the title thereof, as a summary as required by state law.

Section 5. The City Clerk shall certify to the passage of this Ordinance upon full adoption and cause the same to be published in accordance with the provisions of state law in a newspaper of general circulation designated for legal notices publication in the City of San Marcos.

INTRODUCED at a regular meeting of the City Council of the City of San Marcos held on the 28th day of October, 2025; and

PASSED, APPROVED, AND ADOPTED at a regular meeting of the City Council of the City of San Marcos held on the ____ day of _____, 2025, by the following roll call vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

APPROVED:

Rebecca D. Jones, Mayor
City of San Marcos

ATTEST:

Phillip Scollick, City Clerk
City of San Marcos

APPROVED AS TO FORM:

Helen Holmes Peak, City Attorney
City of San Marcos