

ORDINANCE NO. 2021-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, CALIFORNIA, AMENDING SECTION 5.55.100 (SUSPENSION OR REVOCATION OF LICENSE) OF CHAPTER 5.55 (TOBACCO RETAIL LICENSE) OF THE SAN MARCOS MUNICIPAL CODE TO MODIFY PROVISIONS RELATING TO SUSPENSION OR REVOCATION OF TOBACCO RETAIL LICENSES

WHEREAS, California Penal Code Section 308 prohibits the sale or furnishing of cigarettes, tobacco products and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors; and

WHEREAS, California Business & Professions Code Section 22971.3 authorizes local authorities to adopt tobacco retailer licensing laws to provide for the suspension and revocation of the local tobacco retailer license for any violation of a state tobacco control law; and

WHEREAS, in 2016 the City Council of the City of San Marcos (City) enacted Chapter 5.55 of the San Marcos Municipal Code (SMMC), which created the Tobacco Retailer License system and imposed the requirement that all tobacco retailers in the City obtain a Tobacco Retail License for each location at which tobacco retailing is to occur, and to maintain the same in good standing for the duration any such sales activities; and

WHEREAS, the Tobacco Retail License system has assisted in efforts to monitor tobacco retailers and to secure compliance with applicable tobacco and drug laws including, but not limited to, SMMC Chapter 10.10, relating to Youth Access to Smoking Materials, and with respect to distribution and sale of tobacco to minors; and

WHEREAS, section 5.55.100.A.2 of the SMMC currently contains a provision for suspension of a Tobacco Retail License for a period of thirty days upon a second license violation within any three-year period that has the effect of delaying compliance;

WHEREAS, the City desires to amend section 5.55.100.A (Suspension or Revocation of License) of Chapter 5.55 (Tobacco Retail License) of the SMMC to remove the thirty (30) day suspension period currently contained in section 5.55.100.A.2, and to renumber the remaining provision of section 5.55.100.A.

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.

Section 2. Section 5.55.100.A of Chapter 5.55 of the San Marcos Municipal Code is hereby amended to read as shown attached Exhibit A, 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 (30) 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 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 _____ day of _____, 2021; and

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of San Marcos held on the _____ day of _____, 2021 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