



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda
Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: Public Health
Department No.: 041
For Agenda Of: 11/13/12 Set Hearing
12/4/12 1st Reading
12/11/12 2nd Read/Adoption
Placement:
Estimated Tme: 15 mins. on 12/4/12
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Takashi Wada, MD, MPH, Public Health Department Director &
Director(s) Health Officer
Contact Info: Dawn M. Dunn, MPH, Tobacco Prevention Program 681-5407
SUBJECT: Tobacco Retail Licensing Ordinance Amendment and Fee Schedule Resolution

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Other Concurrence: Treasurer/Tax Collector, Sheriff

As to form: Yes

Recommended Actions:

That the Board of Supervisors consider recommendations relating to Santa Barbara County Code Chapter 37A – Licensure of Tobacco Retailers for Santa Barbara County, as follows:

- a) Set a public hearing on December 4, 2012 (first reading) to consider an Ordinance amending County Code Chapter 37A – Licensure of Tobacco Retailers, Section 37A-7(a) to remove fee references from the Code (fees to be established via Fee Schedule Resolution).
- b) Consider a Resolution at the December 4, 2012 public hearing to adopt a Fee Schedule which references all fees related to Chapter 37A – Licensure of Tobacco Retailers, including a reduction of the annual Tobacco Retailer Licensing fee in the unincorporated areas of the county and the establishment of fee for the administration and enforcement of a Tobacco Retailer Licensing program for the incorporated areas (cities) of the county.
- c) Receive a presentation on December 4, 2012 on the effectiveness of the Tobacco Retailer Licensing program subsequent to the amended Ordinance of October 2010, and an introduction to the potential administrative and enforcement services to be offered to incorporated areas (cities) in the county.
- d) Set a hearing on the Administrative Agenda for December 11, 2012 (second reading) to consider adoption of an Ordinance amending County Code Chapter 37A, Section 37A-7(a) and adoption of the related Licensure of Tobacco Retailers Fee Schedule Resolution.

- e) Determine that these activities are exempt from California Environmental Quality Act review per CEQA Guideline Section 15061(b) (3), since it can be seen with certainty that there is no possibility that the activities may have a significant effect on the environment.

Summary Text:

This item is on the Agenda to adopt an Ordinance amending County Code, Chapter 37A to remove language concerning fees from the Code and to establish those fees in a separate Fee Schedule (to be adopted via Resolution). The proposed Fee Schedule Resolution will decrease the annual 2013 fee for a tobacco retail license from \$435 to \$409 (including license issuance) in the unincorporated areas of the county and will establish a new fee of \$379 (excluding the cost of license issuance) for the incorporated areas (cities) within the county for the administration and enforcement of the Tobacco Retailer Licensure program.

Background: In 2010, your Board unanimously approved Ordinance 4767 amending County Code, Chapter 37A – Licensure of Tobacco Retailers. That Ordinance increased fees for the annual license to sell tobacco products in the unincorporated area and also amended sanctions for sales of these products to youth under the age of 18. Additionally, it prohibited any new tobacco retail outlets within 1,000 feet of a school (K-12, public or private).

Progress since 2010 Tobacco Retail Licensing (TRL) Ordinance:

1. The illegal sales rate of tobacco products to minors remained 17% in 2010 and 2011. The rate dropped to 10% in 2012;
2. None of the businesses cited for selling to a minor in 2011 repeated that offense in 2012;
3. Eleven businesses faced 30-day license suspensions in 2011 and six in 2012. In both years the majority opted for a 15 day suspension with a \$1,000 penalty rather than serve a 30 day suspension;
4. The percentage of tobacco retail outlets located near schools remains unchanged at 28%;
5. In 2010, almost one-third (31%) of the sales to youth were within 1,000 feet of a school. In 2012, only 22% of such sales were within 1,000 feet of a school.

The Public Health Department (PHD) coordinates with the Treasurer/Tax Collector to issue Tobacco Retail Licenses and administer and enforce the County's TRL program. The full costs of the program were detailed in the 2010 Fee Study conducted by PHD's Fiscal staff and certified by the Auditor Controller. That Study quantified all tasks required to operate the TRL program and established the annual licensing fee of \$250 with the fee scheduled to increase to \$435 in January 2013. The current 2012 Fee Study concluded that the annual fee should be reduced to \$409.

City Consideration of County Tobacco Retail Licensing (TRL) Services

The current 2012 Fee Study was conducted in response to requests from several cities considering adoption of TRL ordinances similar to the County's. These cities lack the staffing, experience and infrastructure to administer and enforce a TRL program independently; therefore, the cities are evaluating the possibility of procuring administrative and enforcement services from the County. If the cities choose to implement a TRL program and procure services from the County, it would be at the proposed, Auditor Controller approved, fee-per-site rate set forth in the Fee Schedule (\$379) and detailed in the attached Fee Study. The four cities currently considering TRL laws are Carpinteria, Goleta, Buellton, and Solvang, with a total of 78 retailers. If the cities choose to move forward with TRL ordinances, PHD will bring revenue contracts before your Board in accordance with County policies and procedures.

The Fee Schedule Resolution and Ordinance to Amend County Code

Tobacco retail monitoring and enforcement falls under the purview of the County Health Officer. California Health and Safety Code §101325 provides that the Board of Supervisors may adopt a resolution prescribing fees to pay the reasonable expenses of the health officer incurred in the enforcement of any statute or regulation relating to public health. As such, PHD has set forth the fees relating to Tobacco Retail Licensure in a separate Fee Schedule to be adopted by Resolution. With approval of this Fee Schedule Resolution, adoption of the accompanying Ordinance to amend the County Code is required. The Ordinance in Recommendation a) removes all references to the fees that currently reside within the text of Chapter 37, Section 37A-7(a). Any further adjustments to the Fee Schedule will be brought to your Board via Resolution.

Fiscal and Facilities Impacts: Budgeted: No

Fiscal Analysis:

There is no general fund impact with the approval of this fee in the unincorporated areas and cities. The proposed unincorporated fee of \$409 and incorporated fee of \$379 includes all program costs, and will generate approximately \$28, 221 in revenue from the 69 current retailers in the unincorporated areas and may result in an additional \$29,562 in revenues, if all four cities mentioned above participate with their 78 current retailers. (Thus, the total potential revenue could be as much as \$57,783). This revenue will be used to fully offset the cost of running the program. Once the proposed fee resolution is approved, the department will return to your board with the necessary budget revision. This allotment will be included in the PHD budget shown on page D-104 of the County’s Operating Plan Document.

Special Instructions:

1. Request Clerk of the Board to publish notice of this hearing, per the attached Public Notice in a publication of general circulation, 10 days prior to the hearing and again 5 days prior to the hearing, in accordance with Government Code §6062a.
2. Return an original, adopted Ordinance and an original, adopted Resolution and Minute Order to PHD Contracts Unit, 300 N. San Antonio Road, Bldg. 8, Santa Barbara, CA 93110, Attn: R. Davis.

Attachments:

1. Notice of Public Hearing
2. Presentation on Tobacco Retail Licensing Program
3. Tobacco Retail Licensing Fee Study
4. Ordinance to Amend Chapter 37A with Changes Tracked
5. Final Version of Ordinance to Amend Chapter 37A
6. Resolution for Tobacco Retail Licensure – Fee Schedule

Authored by:

Dawn M. Dunn, MPH

cc:

County Counsel, Sheriff Department, Auditor/Controller, Treasurer/Tax Collector