

Department of Conservation and Development
County Zoning Administrator
Monday, July 7, 2025 – 1:30 P.M.

STAFF REPORT

Agenda Item # _____

Project Title:	Revocation of Legal-Nonconforming Status of Tobacco Retailing Use for Smoke Depot in El Sobrante
County File:	CDSE22-00009
Applicant:	Ahmed Dubaih
Owner:	Matthew Pourabedin
Zoning/General Plan:	Planned Unit District (P-1) / Mixed-Use Low Density (MUL)
Site Address/Location:	3770 San Pablo Dam Road, El Sobrante, CA 94803 APN: 420-140-035
California Environmental Quality Act (CEQA) Status:	Categorical Exemption, CEQA Guidelines Section 15321, Categorical Exemptions, Class 21: Enforcement Actions by Regulatory Agencies
Project Planner:	Everett Louie, Planner III (925) 655-2873 and email: Everett.louie@dcd.cccounty.us
Staff Recommendation:	Revoke legal nonconforming status of tobacco retailing use (See Section II for Full Recommendation)

I. PROJECT SUMMARY

A hearing to consider if cause exists to revoke the legal non-conforming status for a tobacco retailing use located at 3770 San Pablo Dam Road in El Sobrante ("Subject Property"), known as Smoke Depot. In accordance with Section 26-2.2022 of the County Ordinance Code, the causes for revocation are as follows:

- (a) A failure to comply with the terms, limitations and condition of the permit;
- (b) The property is being used or maintained in violation of the zoning code;

- (c) The use for which the permit was granted has been so exercised as to be detrimental to the public health or safety or as to constitute a nuisance; and
- (d) A license required for the conduct of the business on the premises covered by the permit has been suspended or revoked.

Revocation of the legal non-conforming status for tobacco retailing from the Subject Property would require any future tobacco retailing from the Subject Property to comply with the current provisions of the County Tobacco Retailing Businesses Ordinance (Chapter 88-26). Because the subject property is located within 500 feet from three other tobacco retailers (ARCO at 3753 San Pablo dam Road; Food Stop at 3800 San Pablo Dam Road, Suite A; Jay Vee Liquor at 3640 San Pablo Dam Road.[school/park/other tobacco retailer], the Subject Property does not comply with the location requirements of the Tobacco Retailing Businesses Ordinance. As a result, revocation of the legal non-conforming status would prevent Smoke Depot, or any other tobacco retailing business located at 3770 San Pablo Dam Road in El Sobrante, from obtaining zoning approval for a tobacco retailing business in accordance with the Tobacco Retailing Businesses Ordinance, and would preclude the issuance of a tobacco retailers license from the County Health Department.

II. RECOMMENDATION

The Department of Conservation and Development, Community Development Division (CDD) staff recommends that the Zoning Administrator:

- A. OPEN the public hearing on the revocation of the legal non-conforming status for tobacco retailing use at the Subject Property RECEIVE testimony, and CLOSE the public hearing.
- B. REVOKE the legal non-conforming tobacco retailing use established under County File CDSE22-00009, based on the attached Findings.
- C. DETERMINE that the revocation of the legal non-conforming status is categorically exempt from CEQA under Section 15321, of the CEQA Guidelines.
- D. DIRECT staff to file a Notice of Exemption with the County Clerk.

III. GENERAL INFORMATION

- A. General Plan – The subject property land use designation is Mixed-Use Low Density (MUL) General Plan Land Use designation.
- B. Zoning District – The Subject Property is zoned Planned Unit District (P-1).

C. California Environmental Quality Act (CEQA) – The revocation of the legal non-conforming status is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321, Categorical Exemptions, Class 21: Enforcement Actions by Regulatory Agencies, of the State CEQA Guidelines, which applies to actions by regulatory agencies to revoke an entitlement for a use issued by the County. Section 15321 exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered by the regulatory agency (County). Here, the County proposes to revoke a land use entitlement in the form of the legal non-conforming status for a tobacco retailing use at the Subject Property.

D. Prior DCD Files Related to the Property:

1. CDSE22-00009: A determination letter dated January 25, 2023, from Contra Costa County, Department of Conservation and Development determining that the retailing of tobacco products at the Subject Property is considered a legal nonconforming use under Section 88-26.406 of the County's Tobacco Retailing Business Ordinance (Chapter 88-26). (**Attachment B**.)
2. CDSE24-00006: An El Sobrante Administrative Permit to replace the copy/visual image of an existing roof mounted sign for "Smoke Depot" was approved on July 23, 2024.

IV. SITE/ AREA DESCRIPTION

The nonconforming tobacco retailing business is located at 3770 San Pablo Dam Road in the El Sobrante area of Contra Costa County (Subject Property) and is currently being operated under the business name Smoke Depot. The building is single story retail structure located on a 0.71-acre parcel which fronts on San Pablo Dam Road. There are two other buildings located on the Subject Property including a church and restaurant. All the buildings are separated by a parking lot which provides parking for all three uses. The parcel is approximately 102 feet west of the San Pablo Dam and Hillcrest Road intersection. The parcel is located within 500 feet of three other tobacco retailers on San Pablo Dam Road.

V. BACKGROUND

Jasmine Gifts and Tobacco operated continuously at the property since 1986. According to a Business Bill of Sale (Purchase Agreement) submitted with County File CDSE22-00009, the Jasmine Gifts & Tobacco business, was sold on May 20, 2022 and renamed Smoke Depot. Tobacco retailer's licenses are nontransferable. (Ordinance Code, Section

445-10.010(c).) Because tobacco retailer's licenses are nontransferable, Smoke Depot was required to apply for and obtain a new valid tobacco retailer's license.

On December 9, 2022, an application was submitted to the Department of Conservation and Development for a proposed tobacco retailing business to be located at the Subject Property. In a determination letter dated January 25, 2023, the County determined that the retailing of tobacco products at the subject property was considered a legal nonconforming use under Chapter 88-26.406 of the County's Tobacco Retailing Business Ordinance (Chapter 88-26). (See **Attachment B** - CDSE22-00009 Determination Letter). The legal nonconforming determination authorized the applicant to apply for a tobacco retailers license from the County Health Department, but a valid tobacco retailer's license was never obtained nor issued.

Nonetheless, Smoke Depot began to sell tobacco and tobacco products from the premises without having obtained a new and valid tobacco retailer's license from the County Health Department. In or around November 2022, the County began receiving complaints from community members alleging illegal activities occurring at Smoke Depot, including the sale of prohibited tobacco products and unlicensed cannabis sales. To verify these complaints, the Contra Costa County Sheriff's Department (Sheriff) conducted an inspection on November 9, 2022 and confirmed that (i) Smoke Depot was selling tobacco products despite not holding a valid County tobacco retailer's license, and (ii) Smoke Depot was selling illegal tobacco and other products. (See **Attachment C** – Sheriff's Inspection Report). Staff notes that the inspection reports incorrectly state that Smoke Depot had obtained a tobacco retailer's license; but that is incorrect. The County Health Department has confirmed that no valid tobacco retailer's license was ever obtained or issued for Smoke Depot at the Subject Property. See **Attachment E**.

Between 2023 and 2024, the County Health Department contacted Smoke Depot numerous times advising Smoke Depot on the County's Tobacco Retailing Ordinance and informing Smoke Depot of the need to obtain a new valid tobacco retail license. Smoke Depot applied for a tobacco retail license, but did not discontinue selling prohibited tobacco products while their application was processing. At no point did Smoke Depot receive a new valid tobacco retail license from the County Health Department. As a result of Smoke Depot's illegal tobacco sales, the County Health Department cited Smoke Depot for operating a tobacco retail business without a valid tobacco retail license and for selling prohibited tobacco products and other illegal contraband.

On January 27, 2023, the County Health Department issued an Administrative Penalty Notice of Fine to Smoke Depot for violations including operating without a valid tobacco retailer's license, for selling illegal tobacco products, and inadequate signage required to protect minors. See **Attachment G**. The Notice of Fine became a final administrative order when it was not appealed by Smoke Depot.

On April 24, 2024, the County Health Department issued Smoke Depot a Notice of Suspension Hearing for Smoke Depot's pending tobacco retail license application. (**Attachment D**.) On June 11, 2024, Contra Costa Health Department held the Suspension Hearing. At the Suspension Hearing, Dr. Sefanit Mekuria, the Contra Costa County Medical Director and the Deputy Health Officer, determined that Smoke Depot had been operating without obtaining a new, valid tobacco retailer's license and that illegal tobacco products were being sold from the Subject Property. As a result, the Public Health Director suspended the processing of Smoke Depot's current tobacco retail license application and prohibited all tobacco retailing at the Subject Property. On June 26, 2024, a written Notice of Decision was sent to the Smoke Depot informing them of the decision and appeal instructions. (See **Attachment E**). No appeal was filed within 30 days of the Contra Costa Health Department's decision, and the decision became final. A detailed timeline of the County Health Department's communications with and enforcement actions related to Smoke Depot is attached as **Attachment H**.

VI. STAFF ANALYSIS:

When cause can be shown, Chapter 26-2 of the County Ordinance Code allows the Department of Conservation and Development to revoke a land use entitlement, with issuance of written findings, following a public hearing. County Ordinance Code, Section 26-2.2022, provides that a land use entitlement may be revoked based on specific grounds provided in the code. The grounds for revocation along with the required findings are provided below.

Required Finding #1: Failure to comply with any term, limitation or condition of the permit.

Finding #1: County File #CDSE22-00009 determined that the retailing of tobacco products at the Subject Property was considered a legal non-conforming use and established that Smoke Depot would need to abide by County Ordinance Code Section 88-26.406(b), which governs nonconforming tobacco retailing uses. Section 88-26.406(b) requires all nonconforming tobacco retailing uses to maintain a valid tobacco retailer's license and that the nonconforming tobacco retailing use may not be increased, enlarged, or expanded.

First, Smoke Depot failed to obtain a tobacco retailer's license and as such, did not comply with the requirement. Since January 2023, the Health Department has issued multiple notices determining that Smoke Depot was operating without obtaining a new, valid tobacco retailer's license, including a Administrative Penalty Notice of Fine dated January 27, 2023, and a Notice of Decision dated June 26, 2024 following a suspension hearing. (See **Attachment G** – Notice of Fine; see also

Attachment D - Contra Costa Health Notice of Suspension Hearing, April 24, 2024; see also **Attachment E** - Contra Costa Health Notice Of Decision, June 26, 2024). Failure to obtain and maintain a valid tobacco retailer's license is a failure to comply with the conditions of maintaining a legal non-conforming status for a tobacco retailing use under CDSE22-0009 and Ordinance Code, Section 88-26.406(b).

Second, Smoke Depot actively expanded the tobacco products sold onsite to include prohibited items such as flavored tobacco products, other prohibited Tobacco products, and illegal contraband. Sheriff department citations from November 9, 2022, April 18, 2024, March 7, 2025, and April 29, 2025 (**Attachment C**) and Health Department site inspection records from April 18, 2024 (**Attachment F**) cite the following violations by Smoke Depot related to products sold at the Subject Property:

- a. Selling flavored tobacco products, including menthol cigarettes, in violation of County Ordinance Code, Section 445-6.006.
- b. Selling small pack of cigars in violation of County Ordinance Code, Section 445-6.010.
- c. Selling single cigars in violation of County Ordinance Code, Section 445-6.010.
- d. Selling electronic smoking devices in violation of County Ordinance Code, Section 445-6.014.
- e. Selling drug paraphernalia, including mushrooms and cannabis in violation of County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Sections 11364.5 and 11377.

Each of these violations is in direct violation of CDSE22-0009 and Ordinance Code, Section 88-26.406(b) which prohibits the expansion of the nonconforming tobacco retailing use. Therefore, County Staff recommends the Zoning Administrator revoke the legal non-conforming status for tobacco retailing use at the Subject Property.

Required Finding #2: The property or portion thereof subject to the permit is used or maintained in violation of any requirement of this code.

Finding #2: CDSE22-00009 and County Ordinance Code Section 88-26.406(b) require Smoke Depot to maintain a valid tobacco retailer's license in order to maintain its legal non-conforming status. Evidence submitted by the Health Department (**Attachment D**, **Attachment E**, and **Attachment F**) and Sheriff's Department (**Attachment C**) indicate that Smoke Depot was operating without a valid tobacco retailer's license and conducting the sale of prohibited or illegal tobacco and cannabis products. Thus, Smoke Depot was in direct violation of County Code 88-26.406(b). Additionally, the Health Department and Sheriff cited Smoke Depot on multiple occasions for violations of the County's Secondhand

Smoke and Tobacco Product Control Ordinance (Division 445 of the County Ordinance Code). Specifically, Smoke Depot has been cited for the following violations:

- a. Selling flavored tobacco products, including menthol cigarettes, in violation of County Ordinance Code, Section 445-6.006.
- b. Selling small pack of cigars in violation of County Ordinance Code, Section 445-6.010.
- c. Selling single cigars in violation of County Ordinance Code, Section 445-6.010.
- d. Selling electronic smoking devices in violation of County Ordinance Code, Section 445-6.014.
- e. Selling drug paraphernalia, including mushrooms and cannabis in violation of County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Sections 11364.5 and 11377.

Therefore, County Staff recommends the Zoning Administrator revoke the nonconforming tobacco retailing status for Smoke Depot.

Required Finding #3: The use for which the permit was granted has been so exercised as to be detrimental to the public health or safety or as to constitute a nuisance.

Finding #3: Violations of the County Code may be detrimental to public health and safety as the Ordinance Code exists to maintain public health and safety by requiring compliance with relevant regulations. Failure to abide by the Ordinance Code may create unsafe situations or public nuisances for members of the public. Smoke Depot was cited numerous times for violations to County Ordinance Code 445-6 (County's Tobacco Retail Sales Ordinance) for the following:

- Retailing tobacco without a valid tobacco retailer's license – Violation of 445-10.010(c) and 88-26.406(b). (See **Attachments D and E**).
- Flavored Tobacco Products on display and offered for sale – Violation of 445-6.006. (See **Attachment F** – Health Department Site Visit Photos for photo evidence and **Attachment C** – Sheriff's Inspection Report).
- Menthol Cigarettes on display and offered for sale – Violation of 445.6.006. (See **Attachment F** – Health Department Site Visit Photos for photo evidence).
- Electronic smoking devices on display and offered for sale – violation of 445-6.014. (See **Attachment C** and **Attachment F** – Health Department Site Visit Photos for photo evidence).

The operation of a tobacco business without a tobacco retailer's license in Contra Costa County directly violates all ordinances put in place to maintain the health

and safety of the public and therefore is considered to be detrimental to the public health and safety. Thus, County Staff recommends the Zoning Administrator revoke the nonconforming tobacco retailing use for Smoke Depot.

Required Finding #4: A license required for the conduct of the business on the premises covered by the permit has been suspended or revoked.

Finding #4: In order for a retailer, individual, or entity to conduct tobacco retailing in the unincorporated area of Contra Costa County, the retailer, individual, or entity must first obtain and maintain a valid tobacco retailer's license from Contra Costa County for the location where tobacco retailing is being conducted. On April 24, 2024, Contra Costa Health issued a Notice of Suspension Hearing for Smoke Depot. (**Attachment D**). The Notice cited multiple violations of the tobacco retailer's license ordinance and informed Smoke Depot that the Public Health Director will hold a License Suspension Hearing on June 11, 2024. At the June 11, 2024, License Suspension Hearing, the Contra Costa County Medical Director and Deputy Health Officer determined that Smoke Depot was operating without a new, valid tobacco retailer's license, in direct violation of the County Ordinance Code, Section 445-10.002. Accordingly, the Public Health Director suspended Smoke Depot's application for a new tobacco retailer's license and ordered the immediate cessation of all retailing of tobacco products at the Subject Property. (**Attachment E**.) Despite the Public Health Director's order, Smoke Depot has continued to sell tobacco products at the Subject Property. (**Attachment C**.) Therefore, County Staff recommends the Zoning Administrator revoke the nonconforming tobacco retailing use for Smoke Depot.

A. Violation of Chapter 88-26 – Tobacco Retailing Businesses

Smoke Depot, located at 3770 San Pablo Dam Road in El Sobrante, California, is a tobacco retailing business located within 500 feet of another tobacco retailing business, and within 1,000 feet of a school, park and playground, contrary to the provisions of Sections 88-26.402(a) and (b). However, because Smoke Depot existed under a different name and ownership (Jasmine Gifts & Tobacco), as a lawful tobacco retailing business prior to 2017 when the relevant Ordinance Code chapter became effective, DCD previously determined, under County File CDSE22-00009, that the retailing of tobacco products at the subject property was considered a legal nonconforming use where tobacco retailing of normal tobacco products were sold. Smoke Depot's legal nonconforming status is considered a form of special permit as it allows it to operate at the current location despite its nonconformance with the County Ordinance Code's tobacco retailing business location restrictions.

Nonconforming tobacco retailing use is subject to the County Ordinance Code, Section 88-26.406(b), which requires a nonconforming tobacco retailer to "maintain in full force

and effect all applicable permits and licenses, including a County tobacco retailer's license." Smoke Depot violated County Ordinance Code, Section 88-26.406(b) because Smoke Depot was operating the establishment without obtaining a new, valid tobacco retailer's license. Evidence of non-compliance include **Attachment D** (Contra Costa Health Notice of Suspension Hearing) which identified that the Subject Property does not have a valid County tobacco retailer's license. Furthermore, Smoke Depot was also identified as operating without a new, valid County tobacco retailer's license in **Attachment E** (– Contra Costa Health Notice of Decision). Staff included the relevant section from the Notice of Decision below (Box 1.1) which states that Smoke Depot has not maintained in full force and effect a valid tobacco retailer's license with the Contra Costa County Health Services.

Box 1.1

After considering the testimony and evidence, the Director makes the following factual findings:

1. The above-named retailer purchased the Smoke Depot, located at 3770 San Pablo Dam Road, El Sobrante, CA, in or around August 2023 and has been operating the Smoke Depot without obtaining a new, valid tobacco retailer's license. It is

Smoke Depot also violated County Ordinance Code, Section 88-26.406(b), which states "the nonconforming tobacco retailing use may not be increased, enlarged or expanded." As stated in CDSE22-00009, Smoke Depot was determined to only be allowed to retail tobacco products as defined under 445-2.006(u). However, Smoke Depot increased, enlarged and expanded the tobacco products sold at the business to exceed the definition of "tobacco product" as listed in the County Ordinance Code. In the April 18, 2024, site visit performed by the Health Department, Health Department Staff identified that Smoke Depot had expanded its retail sales to include the following tobacco related items: (Photos can be found in **Attachment F** – Health Department Site Visit Photos 4.18.2024).

- Flavored tobacco products. (not allowed under County Ordinance Code, Section 445-6.006);
- Menthol Cigarettes. (not allowed under County Ordinance Code, Section 445-6.006);
- Electronic smoking devices and e-liquids. (not allowed under County Ordinance Code, Section 445-6.014).

Because Smoke Depot is in direct violation with County Code Section 88-26.406(b) (requiring retailers to maintain a valid County tobacco retailer's license with the Contra Costa County Health Services) and because Smoke Depot has increased, enlarged and

expanded the tobacco retailing use including selling flavored tobacco products, menthol cigarettes and electronic tobacco smoking devices, Smoke Depot no longer qualifies as a nonconforming tobacco retailing use.

VII. CONCLUSION

Based on the evidence provided in this Staff Report and associated attachments, revocation findings, and evidence discovered during inspections by County Staff, the Department of Conservation and Development Staff recommends that the Zoning Administrator revoke the nonconforming tobacco retailing use located at 3770 San Pablo Dam Road in El Sobrante pursuant to the findings in **Attachment A**. Furthermore, Staff has determined that the use has been exercised as to be detrimental to the public health, safety, and welfare, and the manner of operation is creating a public nuisance.

Attachments:

- Attachment A – Revocation Findings
- Attachment B – CDSE22-00009 Determination Letter
- Attachment C – Sheriff’s Inspection Report
- Attachment D – Contra Costa Health Notice of Suspension Hearing, April 24, 2024
- Attachment E - Contra Costa Health Notice Of Decision, June 26, 2024
- Attachment F – Health Department Site Visit Photos 4.18.2024
- Attachment G – Administrative Notice Of Fine
- Attachment H – County Health Department Timeline

**Department of
Conservation and
Development**

30 Muir Road
Martinez, CA 94553

Phone: 1-855-323-2626

**Contra
Costa
County**



John Kopchik
Director

Aruna Bhat
Deputy Director

Jason Crapo
Deputy Director

Maureen Toms
Deputy Director

Deidra Dingman
Deputy Director

Gabriel Lemus
Asst. Deputy Director

January 25, 2023

Smoke Depot
3770 San Pablo Dam Road
El Sobrante, CA 94803

RE: Updated Zoning Determination for Tobacco Retailer (Smoke Depot)
Site Address: 3770 San Pablo Dam Road, El Sobrante, CA 94803
County File #CDSE22-00009 APN: 420-140-035 (Zoning: P-1/GP: M-13)

Dear Smoke Depot:

This letter is in response to an El-Sobrante P-1 administrative review request submitted to the Department of Conservation and Development on December 9, 2022, for a proposed tobacco retailing business to be located at 3770 San Pablo Dam Road in the El Sobrante area.

The establishment of a proposed tobacco retailing business (Smoke Depot) at the property identified above has been reviewed for compliance with County zoning regulations. The zoning determination of the Department of Conservation & Development is provided below.

El Sobrante P-1 (Planned Unit) District Zoning Consistency

The Department of Conservation and Development, Community Development Division (CDD), has determined that, based on the application materials submitted on December 9, 2022, the proposed retail business (Smoke Depot) is a permitted use within the San Pablo Dam Road Mixed Use (M-13) Land Use District and is consistent with the intent and purpose of the El Sobrante P-1.

Tobacco Retailing Businesses Ordinance (Ord. 88-26)

Based on additional information submitted to CDD on January 24, 2023, it has been shown that the subject property, 3770 San Pablo Dam Road in El Sobrante, was established as a tobacco retailer since at least December 1, 1986, operating as Jasmine Gifts & Tobacco. Historical business license and tobacco retail licenses for Jasmine Gifts & Tobacco were provided as evidence showing that both licenses have been maintained for the site up to the current date. Thus, the retailing of

tobacco products at the subject property is considered a nonconforming use under Chapter 88-26.406 of the County's Tobacco Retailing Businesses Ordinance (Chapter 88-26).

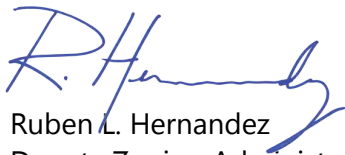
Please note that no evidence has been submitted to the Department of Conservation and Development that indicate that 3770 San Pablo Dam Road was operating as a *"significant tobacco retailing business"*. Therefore, the establishment of a significant tobacco retailing business is not allowed at this location. County Ordinance Code 88-26.204 defines a significant tobacco retailing business as follows: *"...any tobacco retailing business for which twenty percent or more of floor or display area is devoted to tobacco products, tobacco paraphernalia, or both."*

Additionally, no signage was reviewed or approved within this determination letter. Any proposed signage will be subject to the review and approval by the Department of Conservation and Development.

Please be aware that this determination letter does not constitute a building permit for any tenant improvements. Additionally, this approval does not constitute a business license. It is the responsibility of the business owner to obtain a business license from the County prior to engaging in commercial activities at the subject property. Attached hereto is a property use verification form needed to obtain your business license from the County Tax Collector.

If you have any additional questions, you may contact the project planner, Everett Louie at everett.louie@dcd.cccounty.us or at (925) 655-2873.

Sincerely,

A handwritten signature in blue ink, appearing to read 'R. Hernandez', is written over the printed name.

Ruben L. Hernandez
Deputy Zoning Administrator

Cc: County File #CDSE22-00009
Monica Marquez monica.marquez@cchealth.org

Attach: Property Use Verification Form



Date of Inspection: 11/9/22
DEC 14 PM

The Tobacco Enforcement Unit is aimed to eliminate the illegal sale of tobacco products to minors within unincorporated Contra Costa County. The unit conducts periodic inspections of tobacco retailer establishments, responds to complaints, and partners with local, state and federal law enforcement agencies to address laws pertaining to the sale of tobacco to minors and tobacco related business activity. This checklist is intended to provide retailers a general understanding of what is reviewed during the inspection.

HAVEN'T GOT ONE
APPLIED FOR ONE

PERMITS AND LICENSE REQUIREMENTS

Contra Costa County Business License?	Yes / <u>No</u>	Is Business License Visible?	Yes / <u>No</u>
Contra Costa County Tobacco Retailer's License?	<u>Yes</u> / No	Is County Tobacco Retailer Permit Visible?	<u>Yes</u> / No
California Cigarette & Tobacco Product License?	<u>Yes</u> / No	Is the California Tobacco Retailer License Visible?	<u>Yes</u> / No
California Tobacco Seller's Permit?	<u>Yes</u> / No	Is Seller's Permit Visible?	<u>Yes</u> / No
Inventory List of Tobacco Products?	Yes / <u>No</u>	Contra Costa County Health Permit	Yes / <u>No</u>

SIGNAGE AND DISPLAYS

Yes / No - **SIGN POSTING REQUIREMENT MET?**
Every store that sells tobacco must post a boldly printed, contrasting-color sign in a conspicuous place at each point of purchase saying that tobacco products may not be sold to minors. The sign must include 1-800-5ASK-4-ID (STAKE Act signs). [Ca Business & Professions Code Sections 22952, 22956 (STAKE Act); CA Code of Regulations, Title 17, Section 6902(a), CA Penal Code Section 308(c).]

Yes / No - **ARE THERE SELF-SERVICE SALES?**
It is unlawful to sell, offer for sale, or display any tobacco product or paraphernalia through a self-service display, which is accessible to the public without assistance of the clerk. For sale in packages of fewer than 20 cigarettes. [CA Business & Professions Code Section 22960, 22962 (STAKE Act), CCC Ord. 445-6.002]

Yes / No - **ARE THERE VENDING MACHINES?**
Tobacco products may not be sold, offered for sale, or distributed from vending machines. [CA Business & Professions Code 22960, 22958, 22957 (STAKE Act).]

Yes / No - **IS STOREFRONT ADVERTISING IN COMPLIANCE?**
No more than 33% of the square footage of windows and clear glass doors of a business establishment may be covered. [CA Business & Professions Code Sections 25612]. - WARNED

Yes / No - **IS THERE BLUNT WRAP ADVERTISING DISPLAY?**

Yes / No - **DOES IT MEET MINIMUM REQUIREMENTS?**
No person or business may place advertising for blunt wraps lower than four (4) feet above the floor. No person or business offering blunt wraps for sale may place blunt wrap advertising within two (2) feet of a candy, snack, or nonalcoholic beverage display. [CA Penal Code Section 308; CA Business & Professions Code Section 22962 (STAKE Act)].

Refusal of inspection is in violation of 22980(b) B&P and shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail or both the fine and imprisonment.

MERCHANDISE

Yes / No - **ARE SINGLE CIGARETTES PRESENT?**
No person shall sell one or more cigarette other than in the sealed and properly labeled package of the manufacturer or importer, which conform to Federal labeling requirements, including the Federal warning labeling [CA Penal Code Sections 308.2]. - WARNED ABOUT SELLING PACKS OF 2 BUNSTER SWEETS / CIGARETTES

Yes / No - **IS MINIMUM CIGARETTE PACK SIZE MET?**
Cigarettes may not be distributed, sold offered for sale in packages of fewer than 20 cigarettes. Roll-your-own tobacco may not be distributed, sold, or offered for sale in a package containing less than 0.60 Ounces of tobacco. [CA Penal Code Sections 308.3; 21 CFR 1140.14].

Yes / No - **DO CIGARETTES OR TOBACCO PRODUCTS MEET MINIMUM PACKAGE SIZE?**
Unpackaged or packages of smokeless tobacco may not be distributed, sold, or offered for sale in packages that are smaller than those distributed by the manufacturer for individual use. [21 CFR 1140.14].

Yes / No - **ARE BIDIS PRESENT?**
It is unlawful to sell, offer to sell, distribute, or import Bidis, defined as products containing tobacco wrapped temburni leaf or tendu leaf. [CA Penal Code 301.1].

Yes / No - **IS FLAVORED TOBACCO PRESENT?**
It is unlawful for any type of flavored tobacco product (Menthol is permitted) to be sold in Contra Costa County within 1,000 feet of schools, parks, playgrounds, or libraries. [CCC Ord. 445-6.006] NO FLAVORED

Yes / No - **IS DRUG PARAPHERNALIA KEPT, DISPLAYED, OR OFFERED IN ANY MANNER?** Removed from counter
"Drug Paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use in planting, cultivating, growing manufacturing, producing, processing, preparing, testing, analyzing, packaging, storing, concealing, injecting, ingesting, inhaling, or introducing into the human body a controlled substance as defined in Section 11364.5(d) H&S.

Business / Address: SMOKE DEROT
3770 SAN ANTONIO RD. EL SOBRANTE, CA
Clerk / Owner Name: PAWAN KUMAR
Clerk / Owner Signature: _____ ID#: 76164



TOBACCO RETAILER INSPECTION CHECKLIST
 CONTRA COSTA COUNTY OFFICE OF THE SHERIFF
 TOBACCO ENFORCEMENT
 1980 MUIR ROAD, MARTINEZ, CA 94555
 925-313-2500

Date of inspection: 4, 18, 24

The Tobacco Enforcement Unit is aimed to eliminate the illegal sale of tobacco products to minors within unincorporated Contra Costa County. The unit conducts periodic inspections of tobacco retailer establishments, responds to complaints, and partners with local, state and federal law enforcement agencies to address laws pertaining to the sale of tobacco to minors and tobacco related business activity. This checklist is intended to provide retailers a general understanding of what is reviewed during the inspection.

PERMITS AND LICENSE REQUIREMENTS

Contra Costa County Business License?	Yes / ☒ No	Is Business License Visible?	Yes / ☒ No
Contra Costa County Tobacco Retailer's License?	☒ Yes / No	Is County Tobacco Retailer Permit Visible?	☒ Yes / No
California Cigarette & Tobacco Product License?	Yes / No	Is the California Tobacco Retailer License Visible?	Yes / No
California Tobacco Seller's Permit?	☒ Yes / No	Is Seller's Permit Visible?	☒ Yes / No
Inventory List of Tobacco Products?	☒ Yes / No	Contra Costa County Health Permit?	Yes / No

SIGNAGE AND DISPLAYS

MERCHANDISE

Yes / ☒ No - SIGN POSTING REQUIREMENT MET?

Every store that sells tobacco must post a boldly printed, contrasting-color sign in a conspicuous place at each point of purchase, stating that tobacco products may not be sold to minors. The sign must include 1-800-5A5OK-4-3D (STAKE Act signs) [CA Business & Professions Code Sections 22952, 22956 (Stake Act) CA Code of Regulations, Title 17, Section 6902(a), CA Penal Code 308(c)].

☒ No - DO CIGARILLOS/LITTLE CIGARS OR TOBACCO PRODUCTS MEET MINIMUM PACKAGE SIZE OF 10?

Unpackaged or packages of smokeless tobacco may not be distributed, sold, or offered for sale in packages that are smaller than those distributed by the manufacturer for individual use [Contra Costa County Ordinance 445-6.010].

Yes / No - ARE ELECTRONIC SMOKING DEVICES OR E-LIQUIDS SOLD?

Only Vaping devices that have a premarket review order issued under Section 387(c)(1)(A)(i) of Title 21 of the U.S. Code [Contra Costa County Ordinance 445-6.014].

Yes / ☒ No - ARE CIGARS A MINIMUM OF \$5.00 U.S. DOLLARS?

[Contra Costa County Ordinance 445-6.010]

Yes / ☒ No - IS STOREFRONT ADVERTISING IN COMPLIANCE?

No more than 33% of the square footage of windows and clear glass doors of a business establishment may be covered [CA Business & Professions Code Sections 25612].

Yes / No - ARE ANY FLAVORED TOBACCO PRODUCTS PRESENT?

It is unlawful for any type of flavored tobacco product (fruity, liquor flavor, mint/menthol) to be sold in Contra Costa County, playgrounds, or libraries [Contra Costa County Ordinance 445-6.006].

Yes / No - IS DRUG PARAPHERNALIA KEPT, DISPLAYED, OR OFFERED IN ANY MANNER?

"Drug Paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use in planting, cultivating, growing, manufacturing, producing, processing, preparing, testing, analyzing, packaging, storing, concealing, injecting, ingesting, inhaling, or introducing into the human body a controlled substance as defined in Section 11364.5(d) Health & Safety Code.

Yes / No - ARE CANNABIS PRODUCTS SOLD?

A business that sells tobacco or alcohol cannot sell or offer to sell any cannabis products [Contra Costa County Ordinance 2018-18, § 3, 6-26-18].

Yes / No - DOES IT MEET MINIMUM REQUIREMENTS?

No person or business may place advertising for blunt wraps lower than four (4) feet above the floor. No person or business offering blunt wraps for sale may place blunt wrap advertising within (2) feet of a candy, snack, or nonalcoholic beverage display [CA Penal Code Section 308; CA Business & Professions Code Section 22962 (STAKE Act)].

Business Address: 3770 SAN PABLO DAM RD
EL SOBRANTE, CA

Clerk Name:

Owner Name:

PAULOS YOHANNES
ISMAEL ALTALAL

Signature (Job Title):

DETECTIVE CESAR GUERRA

Officer / IDS:

77161

Official Signature:

05:

osa13770@gmail.com

Business is responsible for amending

WHITE COPY: Contra Costa County
REVENUE + TAXATION
34061A1

have violated requirements by

YELLOW COPY: Business



TOBACCO RETAIL INSPECTION CHECKLIST
CONTRA COSTA COUNTY OFFICE OF THE SHERIFF
TOBACCO ENFORCEMENT
1980 MUIR ROAD, MARTINEZ, CA 94553
925-313-2500

Date of Inspection: 3, 7, 25

The Tobacco Enforcement Unit is aimed to eliminate the illegal sale of tobacco products to minors within unincorporated Contra Costa County. The unit conducts periodic inspections of tobacco retailer establishments, responds to complaints, and partners with local, state and federal law enforcement agencies to address laws pertaining to the sale of tobacco to minors and tobacco related business activity. This checklist is intended to provide retailers a general understanding of what is reviewed during the inspection.

PERMITS AND LICENSE REQUIREMENTS	
Contra Costa County Business License?	Yes / No
Contra Costa County Tobacco Retailer's License?	Yes / No
California Cigarette & Tobacco Product License?	Yes / No
California Tobacco Seller's Permit?	Yes / No
Inventory List of Tobacco Products?	Yes / No
Is Business License Visible?	Yes / No
Is County Tobacco Retailer Permit Visible?	Yes / No
Is the California Tobacco Retailer License Visible?	Yes / No
Is Seller's Permit Visible?	Yes / No
Contra Costa County Health Permit?	Yes / No

SIGNAGE AND DISPLAYS

MERCHANDISE

☒ Yes / ☐ No – **SIGN POSTING REQUIREMENT MET?**
Every store that sells tobacco must post a boldly printed, contrasting-color sign in a conspicuous place at each point of purchase, saying that tobacco products may not be sold to minors. The sign must include 1-800-5ASK-4-ID (STAKE Act signs). [CA Business & Professions Code Sections 22952, 22956 (Stake Act); CA Code of Regulations, Title 17, Section 6902(a), CA Penal Code 308(c)].

☒ Yes / ☐ No – **ARE ELECTRONIC SMOKING DEVICES OR E-LIQUIDS SOLD?**
Only Vaping devices that have a premarket review order issued under Section 387(c)(1)(A)(i) of Title 21 of the U.S. Code. [Contra Costa County Ordinance 445-6.014]

Yes / ☒ No – **IS STOREFRONT ADVERTISING IN COMPLIANCE?**
No more than 33% of the square footage of windows and clear glass doors of a business establishment may be covered [CA Business & Professions Code Sections 25612].

☒ Yes / ☐ No – **IS DRUG PARAPHERNALIA KEPT, DISPLAYED, OR OFFERED IN ANY MANNER?**
"Drug Paraphernalia" means all equipment, products, and materials of any kind which are intended for use or designed for use in planting, cultivating, growing manufacturing, producing, processing, preparing, testing, analyzing, packaging, storing, concealing, injecting, ingesting, inhaling, or introducing into the human body a controlled substance as defined in Section 11364.5(d) Health & Safety Code.

☒ Yes / ☐ No – **DOES IT MEET MINIMUM REQUIREMENTS?**
No person or business may place advertising for blunt wraps lower than four (4) feet above the floor. No person or business offering blunt wraps for sale may place blunt wrap advertising within (2) feet of a candy, snack, or nonalcoholic beverage display [CA Penal Code Section 308; CA Business & Professions Code Section 22962 (STAKE Act)].

☒ Yes / ☐ No – **DO CIGARILLOS/LITTLE CIGARS OR TOBACCO PRODUCTS MEET MINIMUM PACKAGE SIZE OF 10?**
Unpackaged or packages of smokeless tobacco may not be distributed, sold, or offered for sale in packages that are smaller than those distributed by the manufacturer for individual use [Contra Costa County Ordinance 445-6.010]

☒ Yes / ☐ No – **ARE CIGARS A MINIMUM OF \$5.00 U.S. DOLLARS?**
[Contra Costa County Ordinance 445-6.010]

☒ Yes / ☐ No – **ARE ANY FLAVORED TOBACCO PRODUCTS PRESENT?**
It is unlawful for any type of flavored tobacco product (fruity, liquor flavor, mint/menthol) to be sold in Contra Costa County, playgrounds, or libraries [Contra Costa County Ordinance 445-6.006].

☒ Yes / ☐ No – **ARE CANNABIS PRODUCTS SOLD?**
A business that sells tobacco or alcohol cannot sell or offer to sell any cannabis products [Contra Costa County Ordinance 2018-18, § 3, 6-26-18].

Business Address: 3770 SAN PABLO DAM RD
EL SOBRANTE CA 94803

Clerk Name: BAZEL ALQADHI

Owner Name: AHMAD

Signature (Job Title): [Signature]

Officer / ID#: CA 1 77482

Refusal of inspection is in violation of 22980(b) B&P and shall be punished by a fine not to exceed five thousand dollars (\$5,000), or imprisonment not exceeding one year in a county jail or both the fine and imprisonment.

Refusal Signature:

Notes:

Business is responsible for amending the above violated requirements by 3, 17, 25
WHITE COPY: Contra Costa County Sheriff's Office
YELLOW COPY: Business
CCCSO TBE Inspection Checklist Form 03/2023



CONTRA COSTA, COUNTY OFFICE OF THE SHERIFF
CA0070000

1850 Muir Road, Martinez, CA 94553

Report Number 250004345	Sup. No. ORIG
Beat 3	
Arrest? No	Domestic Viol? No

Incident

Report No. 250004345	Supp. No. ORIG	Rpt. Date 04/29/2025	Rpt. Time 19:39	Assignment VSU	Status Report To Follow				Confidential? No	Empl. No / ID AHERN005
From Date 04/29/2025	From Time 19:39	To Date	To Time	Use Of Force NA			Call Type 11359	CAD Call No. 251191013		
Location 3770 SAN PABLO DAM RD							City EL SOBRANTE		Zip	
Evidence No	Finger Print No	Body Camera No	Vehicle Camera No	Elder Abuse No	Strang. or Suffoc. SB40 No	Victim Response No	Marsy's Law No	Missing Value	Damaged Value	

Offense

Offense No. 1	Offense HS11359(B) M 35A 35451	Description POSS MRJN For Sale-Drug/NARC OFS
-------------------------	--	--

Cross Reference

No Cross Reference found

Synopsis

This report is regarding a Tobacco Retail Inspection conducted at Smoke Depot in El Sobrante.

Person

Suspect

Invl. No. 1	Name ALQADHI,BAZEL SADEQ			Type Individual	Dom. Vol. No	Juvenile No	DOB 09/25/2005	Age 19	To Age
Race Other				Sex Male		Height 509	To Height	Weight 199	To Weight
Hair Black		Eye Brown		Skin Brown		General Appearance			Build Heavy
Hair Description			Facial Features						
Deformity		Speech		Demeanor		Mask		Glasses	
Body Clothing		Further Description							
Address									
Address Type		Location			City			State	Zip
Phone Number									
Phone Type		Phone Number							
Email									
Email Type		Email Address							
ID Number									
ID Number Type		ID Number			License State				
Operator License		Y2030561			California				

Distribution List
INVESTIGATION CAPTAIN

Additional Routing

Reporting Deputy (Print) HERNANDEZ,AL	Date/Time Written 05/12/2025 15:50:08	Disposition Case Active
Approving Supervisor (Print) RODIER,JEFF	Supervisor ID. 68559	Date/Time 05/13/2025 09:18:20

**CONTRA COSTA, COUNTY OFFICE OF THE SHERIFF**Report Number
250004345Sup. No.
ORIG

Page 2 of 3

Suspect

SMT

Type	Code	Description

Alias

Alias Name	Race	DOB

Employment or School

Employer/School	Position	Location	City	Phone Number
SMOKE DEPOT				

Offense Link

Link	Offense No.	Offense	Description

Vehicle

No Vehicle Found

Vessel

No Vessel Found

Property

No Property Found

Modus Operandi

No Modus Operandi found

Narrative

On 04/29/2025 at approximately, 1910 hours, I was on duty, employed by the California Highway Patrol, assigned to the Contra Costa County Sheriff's Violence Suppression Unit (VSU). I, along with my VSU partners, were conducting Tobacco Retail Inspections within Contra Costa County. We were in plain clothes, identified by departmental badges hanging from a chain around our necks.

We conducted an inspection at Smoke Depot, located at 3770 San Pablo Dam Road, El Sobrante, CA 94803. Based on previous conversations with VSU detectives, I know Smoke Depot to consistently be in violation of County ordinances regarding the sale of Tobacco. Additionally, on 03/07/2025, Detective Ward issued a citation to Bazel Alqadhi for 11359(b) H&S.

Upon contacting the worker, later identified as Bazel Sadeq Alqadhi, Alqadhi was uncooperative and became increasingly aggressive towards detectives. Alqadhi was advised by VSU Detectives of the Tobacco Inspection, and reminded him that he was cited during the previous inspection VSU Detectives conducted. Alqadhi attempted to retreat into the back room of the shop, and was asked to reposition to the front of the shop. Alqadhi continued to be disrespectful and aggressive towards Detectives and was uncompliant. He used several profanities toward law enforcement and refused to answer any questions regarding the tobacco sales in the store.

While searching for the proper licenses, multiple individual packages of Marijuana were located behind the counter. Below the packages, a box of U.S. Currency, totaling \$285 was located. In the backroom, a white backpack was located on the floor. Inside the backpack additional individual packaged Marijuana was located, along with a large plastic bag containing processed Marijuana buds. During my inspection, I was unable to locate all of the appropriate

Distribution List

INVESTIGATION CAPTAIN

Additional Routing

Reporting Deputy (Print)
HERNANDEZ,ALApproving Supervisor (Print)
RODIER,JEFFDate/Time Written
05/12/2025 15:50:08Supervisor ID.
68559Disposition
Case ActiveDate/Time
05/13/2025 09:18:20



license's required to sell tobacco and/or marijuana products.

Additionally, while searching the backroom, a previous Tobacco Retail Inspection Checklist was located. The checklist showed Smoke Depot had multiple violations, including drug paraphernalia and the selling of Cannabis Products.

During a search of the backroom, a hidden compartment was located behind shelving affixed to the wall. Inside the hidden compartment, additional banned products were located, including Vapes and other flavored tobacco.

In the front of the store, I observed glass pipes, which based on my training and experience, I know to be commonly used as drug paraphernalia, which Smoke Depot was previously provided warnings about.

Based on my observation of the individual packaged Marijuana, the U.S. Currency separated from the cash register, and Alqadhi being cited previously for 11359(b) H&S, I determined that Bazel Sadeq Alqadhi was again in violation of 11359(b) H&S.

The prohibited products were seized, including Marijuana. All of the products were later booked into Sheriff's evidence.

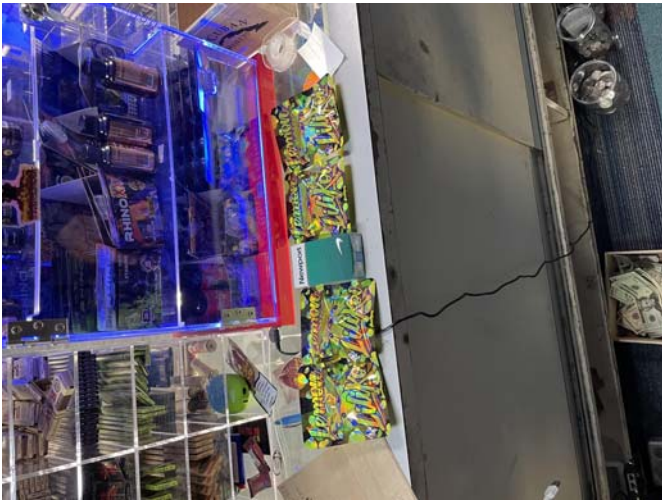
Distribution List

INVESTIGATION CAPTAIN

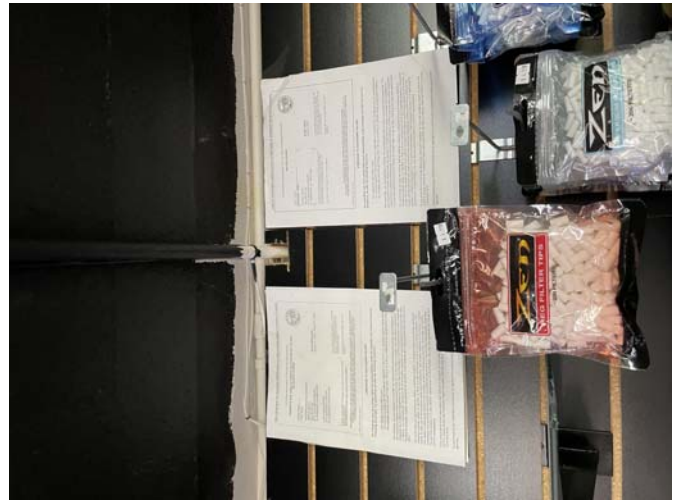
Additional Routing

Reporting Deputy (Print)
HERNANDEZ,ALDate/Time Written
05/12/2025 15:50:08Disposition
Case ActiveApproving Supervisor (Print)
RODIER,JEFFSupervisor ID.
68559Date/Time
05/13/2025 09:18:20

0001



0003



IMG_1236.JPG

0002



IMG_1238.JPG

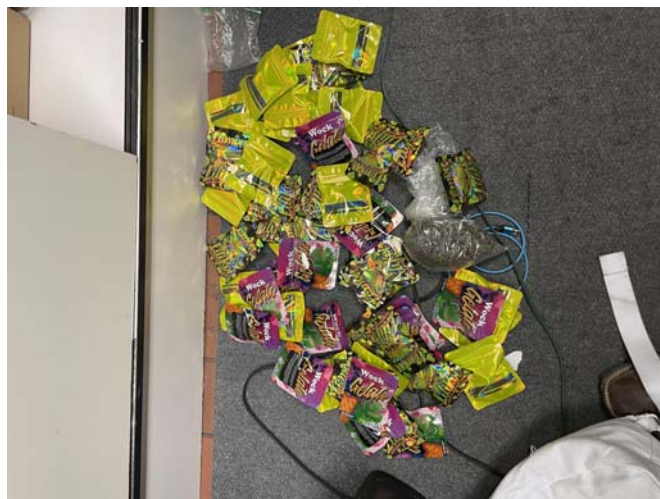
0004



IMG_1237.JPG

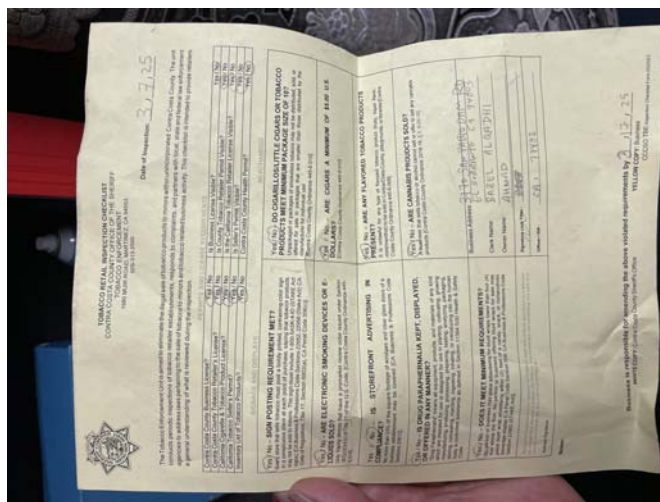
IMG_1239.JPG

0007



IMG_1242.JPG

0008



IMG_1243.JPG

0009



0011



IMG_1244.JPG

0010



IMG_1245.JPG

IMG_1246.JPG

0012



IMG_1247.JPG

0013



IMG_1248.JPG

0014



IMG_1249.JPG



2500 Bates Ave | Concord, CA, 94520 | Phone: (925) 608-5231
cchealth.org

NOTICE OF SUSPENSION HEARING
(Contra Costa County Ordinance Code, § 445-10.018)

April 24, 2024

Ahmed Dubaih
3770 San Pablo Dam Road
El Sobrante, CA 94803

RE: Smoke Depot
SITE ADDRESS: 3770 San Pablo Dam Road, El Sobrante, CA, 94803
APN: 420-140-035

Smoke Depot, located at 3770 San Pablo Dam Road, El Sobrante, California (the “Property”) operates pursuant to a tobacco retailer’s license regulated under Chapter 445-10 (Tobacco Retailer’s License Ordinance) of the Contra Costa County Ordinance Code. Our records indicate that you are the listed licensee for the above-referenced Property. Inspection of the Property was conducted on April 18, 2024, and the following violations of the Tobacco Retailer’s License Ordinance were observed:

April 18, 2024

1. Flavored tobacco products on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
2. Menthol cigarettes on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
3. Electronic smoking devices on display and offered for sale. (County Ordinance Code, Section 445-6.014.)
4. Drug paraphernalia, specifically mushrooms, cannabis flower, flavored cannabis vaping liquids, and blunts were on display and offered for sale, and offered for sale in a location that did not exclude unaccompanied persons under the age of 18. (County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Section 11364.5; Cal. Health and Saf. Code, Section 11377.)
5. Single cigars on display and offered for sale. (County Ordinance Code, Section 445-6.010.)
6. Self-service displays. (County Ordinance Code, Section 445-6.002.)

Staff has also become aware that you purchased the above-referenced property in or around August 2023 and have been operating the subject business under the previous tobacco retailer's license without obtaining a new, valid tobacco retailer's license. A tobacco retailer's license is nontransferable. Accordingly, this is a violation of County Ordinance Code, Section 445-10.010(c).

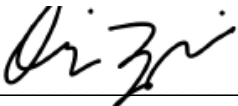
Due to the above-cited violations, the proposed time period of the tobacco retailer's license suspension is **90 days**.

The violations cited herein constitute the Smoke Depot's second violation of the Tobacco Retailer's License Ordinance. A Notice of Fine was issued and became a final administrative order on January 26, 2023, documenting Smoke Depot's first violation. A tobacco retailer's license may be suspended for up to 90 days for a second violation that occurs within five years after the first violation. (County Ordinance Code, Section 445-6.018.)

The processing of your current application for a new tobacco retailer's license for the above-referenced property will be placed on hold. If a suspension of the current tobacco retailer's license is ordered, your application may not be approved, and a new tobacco retailer's license will not be issued until the suspension period has concluded.

The Public Health Director will hold a license suspension hearing on **Tuesday, June 11, 2024, at 11:00am.**, at 597 Center Ave, Room 120, Martinez, CA 94553. At the hearing, you will be given the opportunity to testify and present any supporting evidence concerning the notice of suspension hearing. After consideration of the evidence and testimonies at the hearing, the Public Health Director will issue a written decision to suspend or not suspend the tobacco retailer's license. The written decision will include the reason or reasons for the decision and the time period of the tobacco retailer's license suspension.

Anna Roth
Director, Department of Health Services
Contra Costa County

By _____
Dr. Ori Tzvieli
Health Officer, Public Health Director



2500 Bates Ave | Concord, CA, 94520 | Phone: (925) 608-5231
cchealth.org

NOTICE OF DECISION

June 26, 2024

Ahmed Dubaih
3770 San Pablo Dam Road
El Sobrante, CA 94803

IN THE MATTER OF:

NAME: Smoke Depot
SITE: 3770 San Pablo Dam Road
El Sobrante, CA 94803
APN: 420-140-035

WRITTEN DECISION FOLLOWING
HEARING

This matter came on for hearing before Dr. Sefanit Mekuria, Contra Costa County Medical Director, Deputy Health Officer, on June 11, 2024, 11:00 a.m., at 597 Center Avenue, Suite 120, Martinez, CA 94553. The purpose of the hearing was to determine whether the above-referenced tobacco retailer committed violations of the County's Tobacco Product Control Ordinance (County Ordinance Code Division 445).

The following individuals testified on behalf of the County:

1. Monica Marquez, Senior Health Education Specialist, Contra Costa County
Public Health

The following individuals testified on behalf of the retailer:

1. Ismail Mahyoub Abduljala

The following evidence was submitted:

1. Contra Costa County Sheriff Tobacco Retail Inspection Report, dated April 18, 2024
2. Contra Costa County Sheriff Citation #20-1602762, dated April 18, 2024
3. Photos taken by Public Health Department Staff during April 18, 2024 site inspection

After considering the testimony and evidence, the Director makes the following factual findings:

1. The above-named retailer purchased the Smoke Depot, located at 3770 San Pablo Dam Road, El Sobrante, CA, in or around August 2023 and has been operating the Smoke Depot without obtaining a new, valid tobacco retailer's license. It is unlawful for any retailer, individual, or entity to conduct tobacco retailing in the unincorporated area of the county without first obtaining and maintaining a valid tobacco retailer's license from Contra Costa County for each location where tobacco retailing is conducted. Accordingly, this is a violation of County Ordinance Code, Section 445-10.002.
2. Additional violations occurred at the above-referenced retail location and were observed on April 18, 2024.

3. The additional violations include:

April 18, 2024

- a. Flavored tobacco products on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
 - b. Menthol cigarettes on display and offered for sale. (County Ordinance Code, Section 445-6.006.)
 - c. Electronic smoking devices on display and offered for sale. (County Ordinance Code, Section 445-6.014.)
 - d. Drug paraphernalia, specifically mushrooms, cannabis flower, flavored cannabis vaping liquids, and blunts were on display and offered for sale, and offered for sale in a location that did not exclude unaccompanied persons under the age of 18. (County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Section 11364.5; Cal. Health and Saf. Code, Section 11377.)
 - e. Single cigars on display and offered for sale. (County Ordinance Code, Section 445-6.010.)
 - f. Self-service displays. (County Ordinance Code, Section 445-6.002.)
4. The Sheriff's Report, Citation, and photos include documentary evidence that each of the violations occurred.
5. The herein cited violations constitute the second violation of the County's Tobacco Product Control Ordinance at the above-referenced Smoke Depot retail location within the past five years. A Notice of Fine was issued and became a final administrative order on January 26, 2023, documenting the first violation occurring at the Smoke Depot
6. The above-named retailer, Mr. Dubaih, through his representative or agent, has acknowledged the violations.

ORDER

The Public Health Director orders:

The above-referenced tobacco retailer does not have valid tobacco retailer's license from Contra Costa County to sell tobacco products at 3770 San Pablo Dam Road, El Sobrante, CA,

commonly known as Smoke Depot. **All retailing of tobacco products at this location must be discontinued immediately.** Tobacco products may not be retailed at this location until a valid tobacco retailer's license for this location has been issued.

The processing of the above-named retailer's application for a new tobacco retailer's license for the Smoke Depot will be placed on hold for a period of **90 days** from the date of this decision. The application may not be approved, and a new tobacco retailer's license for the Smoke Depot will not be issued, before **September 23, 2024**. Any additional violations of the County's Tobacco Product Control Ordinance during this period may further delay issuance of a tobacco retailer's license.

This decision may be appealed to the Board of Supervisors by filing a written notice of appeal with the Clerk of the Board of Supervisors, County Administration Building, 1025 Escobar Street, Martinez, California, within 30 days of the date this decision is served.

Date: 6/26/2024

Sefanit Mekuria
Sefanit Mekuria, MD
Medical Director,
Deputy Health Officer
Contra Costa County

1. Flavored tobacco products on display and offered for sale. (County Ordinance Code, Section 445-6.006.)



445-6.006 Flavored tobacco products

No tobacco retailer may sell, offer for sale, or exchange or offer to exchange for any form of consideration, to a consumer any flavored tobacco product.

(Ord. No. 2019-34 , § VI, 11-19-19; Ord. No. 2017-01, § IV, 7-18-17)

2. Menthol cigarettes on display and offered for sale. (County Ordinance Code, Section 445-6.006.)



445-6.006 menthol cigarettes.

No tobacco retailer may sell, offer for sale, or exchange or offer to exchange for any form of consideration, to a consumer menthol cigarettes.

(Ord. No. 2019-34 , § VI, 11-19-19; Ord. No. 2017-01, § IV, 7-18-17)

3. Electronic smoking devices on display and offered for sale. (County Ordinance Code, Section 445-6.014.)

445-6.014 – Electronic smoking devices and e-liquids.

No tobacco retailer may sell, offer for sale, or exchange or offer to exchange for any form of consideration, to a consumer any electronic smoking device or e-liquid where the electronic smoking device or e-liquid:

- Is a new tobacco product as defined in Section 387j(a)(I) of Title 21 of the U.S. Code;
- Requires premarket review under Section 387j of Title 21 of the U.S. Code; and
- Does not have a premarket review order issued under Section 387j(c)(I)(A)(i) of Title 21 of the U.S. Code. (Ord. No. 2019-34, § III, 11-19-19)



**Photos taken by the Health Department
Smoke Depot
3770 San Pablo Dam Road
El Sobrante, CA*



ADMINISTRATIVE PENALTY NOTICE OF FINE
(Contra Costa County Ordinance Code, § 14-12.006)

January 27, 2023

Goma Kafle
3770 San Pablo Dam Road
El Sobrante, CA

RE: Smoke Depot
SITE ADDRESS: 3770 San Pablo Dam Road, El Sobrante, CA
APN: 420-140-035

Our records indicate that you are the responsible party of record of the above-referenced property. Inspections of the property were conducted on 11/09/2022 and 12/16/2022, and the following violation(s) of the Tobacco Retailer's License Ordinance were observed:

11/09/2022

1. Selling small pack of cigars. This is a violation of Contra Costa County Ordinance Code, Section 445-6.010.
2. Selling electronic smoking devices. This is a violation of Contra Cost County Ordinance Code, Section 445-6.014.
3. No STAKE Act age of sale warning sign was posted. This is a violation of Contra Costa County Ordinance Code, Section 445-10.018(a); Cal. Code of Regs, Tit. 17, Section 6902.
4. Selling Drug paraphernalia. This is a violation of Contra Costa County Ordinance Code, Section 445-10.018(a); 21 U.S. Code, Section 863; Cal. Health and Saf. Code, Section 11364.5.
5. Retailing tobacco without a valid Tobacco Retailer's License. This is a violation of Contra Costa County Ordinance Code, Section 445-10.002.

12/16/2022

1. Selling electronic smoking devices. This is a violation of Contra Cost County Ordinance Code, Section 445-6.014.
2. Retailing tobacco without a valid Tobacco Retailer's License. This is a violation of Contra Costa County Ordinance Code, Section 445-10.002.



Administrative Penalty Notice of Fine

Goma Kafle

Page 2

The fine amount for a first violation is \$100. The fine amount for a second violation within one year of the first violation is \$200. There is a \$500 fine for each additional violation that occurs within one year of the first violation. Because a separate violation occurred on two days and were observed during two different inspections, the Director has imposed on you a fine in the amount of \$300. (Contra Costa County Ordinance Code, Section 14-12.006.)

On 1/12/2023 and 1/13/2023, County staff informed you that a valid Tobacco Retailer's License is required to legally retail tobacco under County Ordinance Code, section 445-10.002. On 1/23/2023, County staff met and discussed with you the requirements for obtaining a Tobacco Retailer's License and provided you with additional information related to retailing tobacco in Contra Costa County. County staff will continue to assist you in the procurement of a valid Tobacco Retailer's License for this location. The payment of outstanding fines is required prior to the issuance of a Tobacco Retailer's License. (Contra Costa County Ordinance Code, Section 445-10.010.)

Payment must be sent to Contra Costa County, Department of Health Services, Public Health Division, 597 Center Ave, Suite 110, Martinez, CA 94553 within thirty (30) days of the date of this notification. The administrative penalty is a personal obligation, and failure to pay the penalty may result in the amount being made a lien and/or special assessment against your property, and other legal action may be taken to collect the penalty. If a judicial action is required to collect the penalty, the County will seek to recover its attorney fees and cost from you.

RIGHT TO APPEAL

You may appeal this fine by filing a written appeal with the Contra Costa County, Department of Health Services, Public Health Division, at 597 Center Ave, Suite 110, Martinez, CA 94553, within 15 calendar days of the date of mailing of this notice. The written appeal must contain:

1. A brief statement setting forth the interest you have in the matter relating to the imposition of the penalty;
2. A brief statement of the material facts you claim support the contention that no fine should be imposed or that a fine of a different amount is warranted; and
3. An address at which you agree that notice of any additional proceedings or an order relating to imposition of the fine may be received by first class mail.

If you file an appeal, a notice of the appeal hearing will be mailed to you. The appeal hearing will be set no sooner than 20 days and no later than 45 days following the service date of the notice of appeal hearing. Failure to appear will cause this notice to become a final order. If you fail to request an appeal, this notice shall be final. Government Code section 53069.4 authorizes judicial review of a final administrative order.

The Director may record a copy of this Notice of Fine with the Contra Costa County Recorder.

Anna Roth

Director, Department of Health Services

Contra Costa County



By *Cedrita Claiborne*

Cedrita Claiborne, MPA, Director
Community Wellness and Prevention Program

