

**FINDINGS FOR REVOCATION FOR COUNTY FILE #CDSE22-00009; AHMED DUBAIH
(BUSINESS OWNER) AND MATTHEW POURABEDIN & ROYA IRANPOUR (OWNER)**

FINDINGS

A. Revocation Findings:

A permit may be revoked on any of the following grounds:

1. *Required Finding: The failure to comply with any term, limitation or condition of the permit;*

Project Finding: 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.

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

Project Finding: 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.

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

Project Finding: 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.

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

Project Finding: 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.

B. California Environmental Quality Act (CEQA) Findings:

The project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act §15321, Class 21, Enforcement Actions

by Regulatory Agencies. 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). The County will revoke a land use entitlement in the form of the legal non-conforming status for a tobacco retailing use at the Subject Property.