

Chapter 6.24 PERMITTING OF TOBACCO RETAIL ESTABLISHMENTS¹

6.24.010 Statement of purpose and intent.

The purpose and intent of this chapter is to encourage responsible tobacco retailing and discourage violations of tobacco-related laws, especially those that prohibit or discourage the sale or provision of tobacco and nicotine products to minors. There is no intent, however, to expand or reduce the degree to which the acts regulated by Federal or State law are criminally proscribed or to alter the penalties provided therein.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.020 Definitions.

For the purpose of this chapter, the following words and terms shall have the following meaning:

- A. *Arm's length transaction* shall mean a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither under any compulsion to participate in the transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter is not an arm's length transaction.
- B. *Business* shall mean any sole proprietorship, joint venture, corporation, or other business entity formed for profit-making purposes, including retail establishments where goods or services are sold, as well as professional corporations and other entities where legal, medical, dental, engineering, architectural, or other professional services are delivered.
- C. *Chief of Police* shall mean the Chief of Police of the City of Riverside or his/her designee.
- D. *Department* shall mean any City department designated to administer and/or enforce the provisions of this chapter.
- E. *Minor* shall mean any person under the age of 21 years old, except if the person is active-duty military and at least 18 years old with a valid identification card issued by the United States Armed Forces as proof of age.
- F. *Person* shall mean any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- G. *Proprietor* shall mean a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a ten percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have or share ultimate control over the day-to-day operations of a business.
- H. *Self-service display* shall mean an open display of tobacco products or tobacco paraphernalia in a manner that is accessible to the general public without the assistance of the retailer or employee of the retailer. A vending machine is a form of self-service display.

¹Editor's note(s)—Ord. 7550, § 1(Exh. A), adopted March 23, 2021, replaced Ch. 6.24, §§ 6.24.010—6.24.130, to read as set out herein. Formerly, Ch. 6.24 pertained to Licensure of Tobacco Retailers and derived from Ord. 6878 § 1, 2006, adopted in 2006.

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- I. *Smoking* shall mean possessing a lighted tobacco product, lighted tobacco paraphernalia, or any other weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind), or the lighting of a tobacco product, tobacco paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).
 - J. *Tobacco paraphernalia* shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.
 - K. *Tobacco product* shall mean:
 - 1. Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, or any other preparation of tobacco; and
 - 2. Any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body but does not include any product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.
 - L. *Tobacco retailer* shall mean any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products, or tobacco paraphernalia, or who distributes free or low-cost samples of tobacco products or tobacco paraphernalia. "Tobacco Retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.
 - M. *Tobacco retail establishment permit* or *permit* means the certificate issued by the Department which allows a facility to sell tobacco, tobacco products, and tobacco paraphernalia. The issuance of this permit does not indicate or imply that the facility is in compliance with all State, County or City regulations related to its operation; and may be suspended or revoked by the Department.
 - N. *Vendor-assisted* shall mean that only a store or tobacco retailer has access to the tobacco product or tobacco paraphernalia and assists the customer by supplying the tobacco product or tobacco paraphernalia. The customer does not take legal possession of the tobacco product or tobacco paraphernalia until it is purchased.
 - O. *Vending machine* shall mean a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or any other form of payment that is designated or used for vending purposes including, but not limited to, machines or devices that use remote control locking mechanisms.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.030 Sale and distribution of tobacco products; tobacco retail establishment permit required.

- A. It shall be unlawful for any person, business, or tobacco retailer to sell, permit to be sold, offer for sale, or display for sale any tobacco product or tobacco paraphernalia without first obtaining and maintaining a valid tobacco retail establishment permit from the Department.
- B. It shall be unlawful for any person, business, or tobacco retailer, except for a retail tobacco store, to sell, permit to be sold, offer for sale, or display for sale any tobacco product or tobacco paraphernalia by any means other than vendor-assisted sales. A vending machine, as defined in Section 6.24.020(N) above, is not a vendor-assisted sale.

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- C. It shall be unlawful for any person, business, or tobacco retailer to engage in the sale of tobacco products or tobacco paraphernalia without first posting a plainly visible sign at the point of purchase of tobacco products or tobacco paraphernalia which states: "THE SALE OF TOBACCO PRODUCTS OR TOBACCO PARAPHERNALIA TO PERSONS UNDER TWENTY-ONE (21) YEARS OF AGE IS PROHIBITED BY LAW AND SUBJECT TO PENALTIES. PHOTO IDENTIFICATION IS REQUIRED." The letters of the sign shall be at least one-quarter inch high.
 - D. It shall be unlawful for any person, business, or tobacco retailer to sell any tobacco product or tobacco paraphernalia to any individual who appears younger than 21 years old, without first verifying, by means of photographic identification containing the bearer's date of birth, that the purchaser is at least 21 years old at the time of purchase.
 - E. It shall be unlawful for any person to act as a tobacco retailer without first obtaining and maintaining a valid tobacco retail establishment permit pursuant to this chapter for each location at which that activity is to occur. Tobacco retailing without a valid tobacco retail establishment permit is a public nuisance.
 - F. A tobacco retailer or proprietor without a valid tobacco retail establishment permit, including, a revoked permit:
 - 1. Shall keep all tobacco products and tobacco paraphernalia from public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute an "offer for sale" for the purposes of Section 6.24.120 of this chapter.
 - 2. Shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location.
 - G. Nothing in this chapter shall be construed to grant any person obtaining and maintaining a tobacco retail establishment permit any status or right other than the right to act as a tobacco retailer at the location in the city identified on the face of the permit. Nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law including, but not limited to, any provision of this Code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. Obtaining a tobacco retail establishment permit does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.
 - H. In the event of any conflict with any other provision of the Riverside Municipal Code relating to tobacco, this chapter shall control subject to its enforcement by the Department and the District Attorney for the purposes for which this chapter is enacted.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.040 Tobacco retail establishment permit application process.

- A. Application for a tobacco retail establishment permit shall be submitted in the name of each proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or an authorized agent thereof. It is the responsibility of each proprietor to be informed regarding all laws applicable to tobacco retailing, including those laws affecting the issuance of a tobacco retail establishment permit.
- B. No proprietor may rely on the issuance of a permit as a determination by the City that the proprietor has complied with all laws applicable to tobacco retailing. A permit issued contrary to this Chapter, contrary to any other law, or on the basis of false or misleading information supplied by a proprietor shall be revoked pursuant to Section 6.24.100 of this chapter. Nothing in this chapter shall be construed to vest in any person obtaining and maintaining a tobacco retail establishment permit any status or right to act as a tobacco retailer in contravention of any provision of law.

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- C. All applications shall be submitted on a form supplied by the Department and shall contain the following information:
1. The name, address, and telephone number of each proprietor of the business that is seeking a permit.
 2. The business name, address, and telephone number of the single fixed location for which a tobacco retail establishment permit is sought.
 3. The name and mailing address authorized by each proprietor to receive all permit-related communications and notices ("Authorized Address"). If an authorized address is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address specified in subparagraph (2) above.
 4. Proof that the location for which a tobacco retail establishment permit is sought has been issued a valid state tobacco retailer's license and state seller's permit by the California Department of Tax and Fee Administration.
 5. Whether or not any proprietor is a person who has been determined to have violated this chapter or whose proprietorship has admitted violating, or has been found to have violated, this chapter, and, if so, the dates and locations of all such violations within the past five years.
 6. Such other information as the department deems necessary for the administration or enforcement of this ordinance.
 7. All information required to be submitted to apply for a tobacco retail establishment permit shall be updated with the department whenever the information changes. A tobacco retailer shall provide the department with any updates within ten business days of a change.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.050 Permit issuance; standards.

- A. No permit may be issued to authorize tobacco retailing at a place other than a fixed location. For example, including, but not limited to, tobacco retailing by persons on foot and tobacco retailing from vehicles are prohibited.
- B. Upon the receipt of an application for a tobacco retail establishment permit and the permit fee, required by this chapter, the Department shall issue a permit unless substantial evidence demonstrates that one of the following factors exists:
1. The application is incomplete, inaccurate, or false. The gross negligent or intentional supplying of inaccurate or false information shall be a violation of this chapter.
 2. The application seeks authorization for tobacco retailing at a location for which this Code or this chapter prohibits issuance of tobacco retail establishment permits.
 3. The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a permit to be issued.
 4. The application seeks authorization for tobacco retailing that is prohibited pursuant to this chapter, that is unlawful pursuant to this Code, or that is unlawful pursuant to any other law.
 5. The applicant has previously been issued a permit that is suspended or revoked for violation any provisions of this Code, state law, or federal law.
 6. The application is for a permit or renewal of a permit for a retail location that is the same retail location as that of a retailer whose permit was revoked or is subject to revocation proceedings for violation of any provision of this Code, state law, or federal law, unless:

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- a. It has been more than five years since a previous permit for tobacco retail location was revoked or suspended; and
 - b. The applicant provides the department with documentation demonstrating the applicant is acquiring the premises or business in an arm's length transaction.
 7. The applicant has been convicted of a felony pursuant to Section 30473 of the California Revenue and Taxation Code.
 8. The applicant does not possess all required permits or licenses required under the California Revenue and Taxation Code and this Code.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.060 Permits nontransferable.

- A. A tobacco retail establishment permit may not be transferred from one person to another or from one location to another. Whenever a tobacco retailing business has a change in proprietors or location, a new tobacco retail establishment permit is required prior to engaging in tobacco retailing. For example, if a proprietor to whom a permit has been issued changes business location, that proprietor must apply for a new permit prior to acting as a tobacco retailer at the new location. Or if the business is sold, the new owner must apply for a new permit for that location before acting as a tobacco retailer.
- B. Notwithstanding any other provision of this chapter, prior violations at a location or business shall continue to be counted against a location or business, and permit ineligibility periods shall continue to apply to a location or business unless:
 1. The location or business has been fully transferred to a new proprietor; and
 2. The new proprietor(s) provide the department with clear and convincing evidence that the new proprietor(s) have acquired, or are acquiring, the location or business in an arm's length transaction.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.070 Fees for permit renewal and expiration.

- A. *Permit fees.* The fee to issue or to renew a tobacco retail establishment permit shall be established by resolution of the City Council. The fee shall be calculated as to recover the total cost of both permit administration and permit enforcement including, for example, issuing the permit, administering the permit program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the cost of the regulatory program authorized by this chapter. All fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.
- B. *Permit renewal.* A tobacco retail establishment permit is invalid unless the appropriate fee has been paid in full and the term of the permit has not expired. The term of a tobacco retail establishment permit is two years. Each tobacco retailer shall apply for the renewal of his or her tobacco retail establishment permit and submit the permit fee no later than 30 days prior to expiration of the term.
- C. *Permit expiration.* A tobacco retail establishment permit that is not timely renewed shall expire at the end of its term. To reinstate a permit that has expired, or to renew a permit not timely renewed pursuant to subparagraph (B) above, the proprietor must:
 1. Submit the permit fee plus a reinstatement fee.

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2. Submit a signed affidavit affirming that the proprietor:
 - a. Has not sold and will not sell any tobacco product or tobacco paraphernalia after the permit expiration date and before the permit is renewed, or
 - b. Has waited the appropriate ineligibility period established for tobacco retailing without a permit, as set forth in Section 6.24.110 of this chapter, before seeking renewal of the permit.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.080 Other requirements and prohibitions.

- A. *Lawful business operation.* In the course of tobacco retailing or in the operation of the business or maintenance of the location for which a permit is issued, it shall be a violation of this chapter for a permit holder, or any of the permit holder's agents or employees, to:
 1. Violate any local, state, or federal law applicable to tobacco products, tobacco paraphernalia, or tobacco retailing;
 2. Violate any local, state, or federal law regulating exterior, storefront, window, or door signage.
- B. *Display of permit.* Each tobacco retail establishment permit shall be prominently displayed in a publicly-visible location at the permitted location.
- C. *Minimum age for person selling tobacco.* No person who is younger than the minimum age established by state law for the purchase or possession of tobacco products shall engage in tobacco retailing.
- D. *Permitted hours for tobacco sales.* No sales of tobacco products or tobacco paraphernalia shall occur between the hours of 2:00 am and 6:00 am. *Exemption:* Any business that generates fewer than 60 percent of its gross revenues annually from the sale of tobacco products and tobacco paraphernalia.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.090 Compliance monitoring.

- A. The City may monitor compliance with this chapter by using City staff, or the City Manager may designate the California Department of Public Health or another agency to perform these functions under agreement with that agency. Any peace officer may enforce the penal provisions of this chapter.
- B. The City, or the City Manager's designee as described in (A) above, shall endeavor to check the compliance of each tobacco retailer at least one time per 24-month period or as reasonably necessary. Nothing in this paragraph shall create a right of action in any Permit holder or other person against the Department or its agents.
- C. Compliance inspections shall determine, at a minimum, if the tobacco retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance inspections shall determine compliance with other laws applicable to tobacco retailing.
- D. The City, or the City Manager's designee as described in (A) above, shall not enforce any law establishing a minimum of age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of the person's age (hereinafter "minor decoy") if the potential violation occurs when:
 1. The minor decoy is participating in a compliance inspection supervised by a peace officer or a code enforcement official of the City; or

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2. The minor decoy is participating in a compliance inspection funded, in part, either directly or indirectly through subcontracting, by the City or the California Department of Tax and Fee Administration, or funded in part, either directly or indirectly, through subcontracting, by the California Department of Public Health.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.100 Tobacco retailing without a permit.

- A. In addition to any other penalty authorized by law, if the Department finds or any court of competent jurisdiction determines, after notice and an opportunity to be heard, that any person has engaged in tobacco retailing at a location without a valid tobacco retail establishment permit, either directly or through the person's agents or employees, the person shall be ineligible to apply for or be issued a tobacco retail establishment permit for that location as follows:
 1. After a first violation of this chapter at a location within a 60-month period, no new permit may be issued for the person at the location until 30 days have passed from the date of the violation.
 2. After a second violation of this chapter at a location within a 60-month period, no new permit may be issued for the person at the location until 90 days have passed from the date of violation.
 3. After a third or subsequent violation of this chapter at a location within a 60-month period, no new permit may be issued for the person at the location until five years have passed from the date of the violation.

(Ord. 7550, § 1(Exh. A), 2021)

6.24.110 Enforcement of permit violations.

The remedies provided by this ordinance are cumulative and in addition to any other remedies available at law or equity:

- A. Violators who operate without the necessary tobacco retail establishment permit shall be subject to closure of the tobacco retail facility.
- B. Whenever evidence of a violation of this ordinance is obtained, in part, through the participation of a person under the age of 21 years old, such a person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this Code, and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented. (Written declaration undersigned "minor informant".)
- C. Violations of this chapter may be prosecuted as infractions or misdemeanors by the City Attorney's Office or the District Attorney, and may result in the suspension or revocation of the tobacco retail establishment permit issued by the City.
- D. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.
- E. Violations of this chapter are hereby declared to be public nuisances.
- F. In addition to other remedies provided by this chapter or by other law, any violation of this chapter may be remedied by a civil action brought by the City Attorney or a criminal action brought by the District Attorney, including for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

6.24.120 Suspension or revocation of tobacco retail establishment permit.

- A. Subject to the procedures set forth in this section, the Chief of Police may revoke or suspend a tobacco retail establishment permit issued pursuant to this chapter whenever any of the following has occurred:
1. The holder of a tobacco retail establishment permit is acting in a manner contrary to, or has violated, any of the provisions of this Code.
 2. The holder of a tobacco retail establishment permit is acting in a manner that constitutes a public nuisance.
 3. The holder of a tobacco retail establishment permit is acting in a manner that is detrimental to the health, safety or welfare of the city or its inhabitants.
 4. The holder of a tobacco retail establishment permit or their agents, contractors or employees has violated any laws in connection with the operation of this business or failed to cooperate with the Riverside Police Department.
 5. The Chief of Police makes any of the findings that would have justified denying the application in the first instance.
- B. If, in the discretion of the Chief of Police, the violation is capable of correction, then prior to revocation or suspension, a written notice shall be given to the holder of a tobacco retail establishment permit, indicating the violation(s) involved, to allow a period of time to correct the violation(s), which period shall not exceed five business days, at the end of which period, the police department shall conduct an inspection to determine whether the violation(s) has been corrected. If the Chief of Police determines that the violation is not capable of correction or finds that the violation(s) continues without correction, then the Chief of Police may issue a notice of revocation or suspension. Examples of a violation that are incapable of correction, include but are not limited to, substantial evidence of sales of or furnishing to a minor any tobacco product or an immediate threat to health, safety or welfare.
- C. Any tobacco retail establishment Permit may be revoked or suspended by the Chief of Police upon determination that the holder of said permit has directly or indirectly allowed or has violated any regulation set forth in this chapter or state law. To revoke or suspend a tobacco retail establishment permit, the Chief of Police shall serve upon the holder thereof, either by personal service or by United States Mail sent to the last known address, a written notice that said permit shall be revoked or suspended on the tenth day from the date of said notice. If, however, the permit holder files a timely request for a hearing as set forth below in Section 6.24.130, the revocation or suspension of the permit shall be stayed pending a determination by an Administrative Hearing Officer at the hearing. Failure to timely request a hearing shall deem the tobacco retail establishment permit revoked.
- D. A revoked permit shall be immediately surrendered to the Chief of Police.
- E. *New permit after revocation.*
1. After revocation for a first permit violation of this chapter at a location within any 60-month period, no new permit may be issued for the location until ten days have passed from the date of the revocation.
 2. After revocation for a second violation of this chapter at a location within any 60-month period, no new permit may be issued for the location until 30 days have passed from the date of the last revocation.
 3. After revocation for a third violation of this chapter at a location within any 60-month period, no new permit may be issued for the location until 90 days have passed from the date of the last revocation.

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4. After revocation for a fourth or subsequent violation of this chapter at a location within any 60-month period, no new permit may be issued for the location until five years have passed from the date of revocation.
- F. *Revocation of permit issued in error.* A tobacco retail establishment permit shall be revoked if the Department finds, after the permit holder is afforded a reasonable notice and opportunity to be heard, that one or more of the basis for denial of a permit under Section 6.24.050 existed at the time application was made or at any time before the permit was issued. The revocation shall be without prejudice to the filing of a new permit application.
- (Ord. 7708, § 24, 2025; Ord. 7550, § 1(Exh. A), 2021)

6.24.130 Appeal.

- A. A denial, revocation, or suspension of a tobacco retail establishment permit may be appealed as set forth in Section 1.17.121 of this Code.
- (Ord. 7708, § 25, 2025; Ord. 7550, § 1(Exh. A), 2021)