

ORDINANCE NO. _____

**ADOPT AND INCORPORATE BY REFERENCE
CHAPTER 15 OF TITLE 6 OF THE YOLO COUNTY CODE
RELATING TO TOBACCO RETAIL PERMITS**

WHEREAS, Business and Professions Code section 22971.3 authorizes local governments to enact local tobacco retail licensing ordinances, and suspend or revoke a local permit for a violation of a State tobacco control law; and

WHEREAS, the County of Yolo ("County") adopted a tobacco retail licensing ordinance, which requires tobacco retailers to obtain a local permit to sell tobacco products or tobacco paraphernalia and allows for the suspension or revocation of the permit for a violation of any tobacco control law within Chapter 15 of Title 6 of the Yolo County Code ("County Ordinance"); and

WHEREAS, pursuant to Government Code section 50022.9, the City of Woodland ("City") may adopt a county ordinance, or any parts thereof; and

WHEREAS, in 2015, the City Council adopted Ordinance No. 1582 and incorporated by reference the County Ordinance ; and

WHEREAS, the County administers and enforces its provisions within the City limits as it currently does in the unincorporated areas of the County under the County Ordinance; and

WHEREAS, in 2016, the County amended its County Ordinance to prohibit licensed tobacco retailers from selling, offering for sale, or exchanging flavored tobacco; and

WHEREAS, pursuant to Government Code 50020 et seq., if a code which the City has previously adopted by reference is amended by the County, the City Council may adopt the amended code by reference in the same manner it adopted the original code; and

WHEREAS, there is a rebuttable presumption that statutes operate prospectively and not retroactively; and

WHEREAS, the City desires to incorporate by reference the County's 2016 amendments to the County Ordinance to clarify that licensed tobacco retailers cannot sell, offer for sale, or exchange flavored tobacco within the City limits.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WOODLAND DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Amendment. Section 9.98.260 of the Woodland Municipal Code is hereby amended to read as follows:

Sec. 9.98.260. - Adoption of Yolo County Code relating to tobacco retail permits.

- A. Title 6, Chapter 15 of the Yolo County Code, pertaining to tobacco retailer permits, is hereby incorporated, in its entirety, with the exception of Section 6-15-04, by reference into this code and shall be enforced within the limits of the City.
- B. All references to the term "unincorporated areas of the County of Yolo" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "City limits." All references to the term "Chapter" in Title 6, Chapter 15 of the Yolo County Code shall be to the term "Article." All references to the term "Yolo County Code" in Title 6, Chapter 15 of the Yolo County Code shall be to the Woodland Municipal Code. The reference to the term "County" in Section 6-15.07(c) of the Yolo County Code shall be to the term "City." The reference to the term "County of Yolo" in Section 6-15.15(f) of the Yolo County Code shall be to the term "City." The reference to the term "Board of Supervisors of the County of Yolo" in Section 6-15.16 of the Yolo County Code shall be to the term "City Council of the City of Woodland."
- C. A tobacco retailer license may be renewed for any location in the City so long as:
 - (1) no permanent revocation (as opposed to temporary suspension) of a license previously held for the location has occurred;
 - (2) tobacco retailing has not ceased at the location for sixty (60) consecutive days or longer, whether due to a business closure or otherwise;
 - (3) the licensee does not substantially change the business premises or business operation; and
 - (4) the licensee retains the right to operate under other applicable laws, including without limitation the zoning ordinance, building codes, or other applicable codes

Section 2. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are severable. This City Council hereby declares that it would have adopted this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance be enforced.

Section 3. Effective Date and Publication. The City Clerk shall certify to the adoption of this Ordinance, and the City Clerk shall cause this Ordinance to be posted or published as prescribed by law. This Ordinance shall take effect on January 1, 2020.

PASSED AND ADOPTED by the City Council this 1st day of October, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Xóchitl Rodriguez, Mayor

ATTEST:

APPROVED AS TO FORM:

Ana B. Gonzalez, City Clerk

Kara K. Ueda, City Attorney