

CITY COUNCIL OF THE CITY OF NOVATO

ORDINANCE NO. 1634

AN ORDINANCE OF THE CITY OF NOVATO
AMENDING SECTION 7-8 OF THE MUNICIPAL CODE
RELATING TO TOBACCO RETAILERS

The City Council of the City of Novato does ordain as follows:

SECTION 1. Subsection 7-8.3 (e) of the Novato Municipal Code is hereby amended to read as follows:

(e) **MINIMUM AGE FOR PERSONS SELLING TOBACCO.** No Person who is younger than 18 years of age shall engage in Tobacco Retailing.

SECTION 2. Subsection 7-8.3 (j) of the Novato Municipal Code is hereby amended to read as follows:

(j) **PHARMACIES CANNOT SELL TOBACCO PRODUCTS.** No license may be issued to authorize Tobacco Retailing in a Pharmacy and no pharmacy shall engage in Tobacco Retailing at any time.

SECTION 3. Subsection 7-8.4 (d) of the Novato Municipal Code is hereby amended to read as follows:

(d) Tobacco retailers in existence on the enforcement date specified in section 7-8.14 shall apply for a license during the 2019 business license renewal process which will be due on or before January 1, 2019. Existing Tobacco Retailers will then apply annually during the business license renewal process.

SECTION 4. Subsection 7-8.6 (a) of the Novato Municipal Code is hereby amended to read as follows:

(a) **RENEWAL OF LICENSE.** A Tobacco Retailer's license is invalid if the appropriate license fee has not been timely paid in full or if the term of the license has expired. The term of a Tobacco Retailer license is one calendar year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer's license and submit the license fee no later than January 1st of each year and annually thereafter.

SECTION 5. Subsection 7-8.11 (a) of the Novato Municipal Code is hereby amended to read as follows:

(a) **SUSPENSION OR REVOCATION OF LICENSE FOR VIOLATION.** In addition to any other penalty authorized by law, a Tobacco Retailer's license shall be suspended or revoked if any court of competent jurisdiction determines, or the Department finds based on a preponderance of the evidence, after the licensee is

afforded notice and an opportunity to be heard, that the licensee, or any of the licensee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this section or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 7-8.3 above.

- (1) Upon a finding by the Department of a first violation, the Tobacco Retailer will be issued a warning.
- (2) Upon a finding by the Department of a second violation of this section at a location within any sixty (60)-month period, the license shall be suspended for thirty (30) days.
- (3) Upon a finding by the Department of a third violation of this section at a location within any sixty (60)-month period, the license shall be suspended for ninety (90) days.
- (3) Upon a finding by the Department of a fourth violation of this section at a location within any sixty (60)-month period, the license shall be suspended for one (1) year.
- (4) Upon a finding by the Department of five or more violations of this section at a location within any sixty (60)-month period, the license shall be revoked.

SECTION 6. Subsection 7-8.14 of the Novato Municipal Code is hereby amended to read as follows:

This section shall not be enforced by the City until January 1, 2019 with the exception of Subsection 7-8.3, j which shall be enforced as of the effective date of this Ordinance.

SECTION 7. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of Novato hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 8. PUBLICATION AND EFFECTIVE DATE

This ordinance shall be published in accordance with applicable provisions of law, by either:

publishing the entire ordinance once in a newspaper of general circulation, published in the City of Novato, within fifteen (15) days after its passage and adoption, or

publishing the title or appropriate summary in a newspaper of general circulation, published in the City of Novato, at least five (5) days prior to adoption, and a second time within fifteen (15) days after its passage and adoption with the names of those City Councilmembers voting for and against the ordinance; and

This Ordinance shall become effective thirty (30) days from and after the date of its passage.

SECTION 9. CEQA FINDINGS.

This ordinance is exempt from the California Environmental Quality Act (“CEQA”) under 14 Cal. Code Regs. Section 15061(b)(3) because it can be seen with certainty that there is no possibility that its adoption will have a significant adverse effect on the environment. It is also categorically exempt under 14 Cal. Code Regs. Section 15308 because the ordinance constitutes a regulatory activity whose purpose is the protection of the environment and to reduce the adverse health effects of air pollutants caused by smoking.

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THE FOREGOING ORDINANCE was first read at a regular meeting of the Novato City Council on the 5th of December, 2017, and was passed and adopted at a regular meeting of the Novato City Council on the 9th day of January, 2018 by the following vote, to wit:

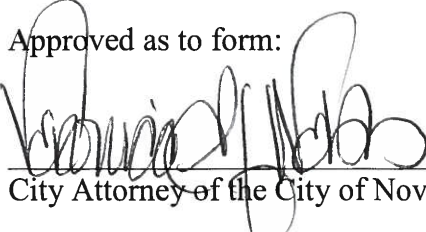
AYES:	Councilmembers	Athas Drew, Eklund, Lucan, Fryday
NOES:	Councilmembers	None
ABSTAIN:	Councilmembers	None
ABSENT:	Councilmembers	None



Mayor of the City of Novato

Attest:


City Clerk of the City of Novato

Approved as to form:


City Attorney of the City of Novato