City of St. Helena
Regular City Council Meeting
Tuesday, August 11, 2020 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

In accordance with Executive Order N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofsthelena.org**. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.**
Please see the end of the agenda for detailed PUBLIC PARTICIPATION instructions.

Please click the link below to join the meeting: https://us02web.zoom.us/j/85282261080

Or iPhone one-tap: US: +16699006833,,85282261080# or +12532158782,,85282261080#

Or Telephone: Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or +1 253 215 8782 or +1 346 248 7799 or +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099

Meeting ID: 852 8226 1080

International numbers available: https://us02web.zoom.us/u/kbH9XsYCgv

PLEASE NOTE: Any person who wishes to speak regarding an item on the agenda or make a comment under the "Oral Communication" portion of the agenda may do so, but please observe the time limit of four minutes.

Page

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. ROLL CALL
   Mayor: Geoff Ellsworth, Vice Mayor: Paul Dohring, City Council Members: Anna Chouteau, David Knudsen and Mary Koberstein
4. PUBLIC FORUM:
   Members of the public are entitled to speak on matters of municipal concern not on the agenda during Public Forum. Each person's comments shall be limited to 4 minutes. Each person is entitled to speak on any non-agendized item only once at any meeting. Brief questions by Council Members for clarifications may be posed and answered, and Council Members may make

requests that items be placed on future agendas, but in accordance with state law, no substantive discussion or action may take place unless and until the matter properly appears on the agenda.

5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, AND AB 1234 REPORTS:

Reports by staff and/or Council Members on items of general interest. Brief questions for clarification may be posed and answered, and Council Members may request that items be placed on a future agenda. Except under certain circumstances, the Brown Act prohibits any other discussion or action by the City Council.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1. PG&E update on electronic transmission line infrastructure and public safety power shutoff program (PSPS) by Mark Van Gorder, Sr. Government and Public Affairs, North Bay, PG&E. 9 - 25

PGE Presentation

7. STAFF BRIEFING

7.1. Fire Preparedness Update by John Sorensen, Fire Chief

7.2. Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer

7.3. Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer

8. CONSENT ITEMS

Members of the Council or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

8.1. Consideration and proposed approval of Special City Council meeting minutes of July 8, 2020 and workshop of July 8, 2020, regular meeting minutes of July 14, 2020 and special City Council minutes of July 16, 2020. 27 - 44

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzafopoulos, City Clerk
Recommendation:
Approve the minutes.

7-8-2020 Special City Council - Minutes
7-8-2020 Special City Council - Workshop - Minutes
7-14-2020 Regular City Council - Minutes
7-16-2020 Special City Council - Police Workshop - Minutes

8.2. Consideration and approval of a Resolution Establishing Appropriation Limits for Fiscal Year 2020-21 and the Selection of Current Year Adjustment Factors 45 - 55

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Finance Manager
Recommendation:

Staff recommends the City Council of the City of St. Helena adopt a Resolution establishing an appropriation limit for Fiscal Year 2020-21.

Staff Report - Pdf

9. PUBLIC HEARINGS

9.1. Public Hearing for the Consideration of Potential Programs for Inclusion in the State Community Development Block Grant Coronavirus Aid, Relief, and Economic Security (CARES) Act (CDBG-CV1) Application. 57 - 95

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Finance Manager
Recommendation:
Receive public input and direct staff to prepare an application for funding for one or more of the options listed in the Potential Activities Identified by staff or receive public input and direct staff to prepare an application for funding for another activity or activities.

Staff Report - Pdf
Public Comment.Jenny Ocon
Public Comment.Tammy Harbison
Public Comment.Julio Olguin

10. OLD BUSINESS

10.1. City Manager Update on COVID-19 Emergency (Oral Report) 97

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Discussion and direction to the City Manager.

Staff Report - Pdf

10.2. Consideration of Ballot Argument for Advisory Measure Regarding Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street 99 - 105

CEQA Determination: Not a CEQA project
Prepared By: Kara Ueda, City Attorney
Recommendation:
Consider the three options noted above and decide how to approach submission of the ballot argument.

Staff Report - Pdf
Public Comment.Tom McBroom
Public Comment.Nancy Dervin

10.3. Discussion and Direction Regarding Flavored Tobacco and E-Cigarette Products 107 - 176

CEQA Determination: Not a CEQA project
Prepared By: Preya Nixon, Asst. to the City Manager
Recommendation:
Provide direction to staff on additional outreach and/or policy direction

regarding flavored tobacco and e-cigarette products.

Staff Report - Pdf
Public Comment.Carolyn Kelperis
Public Comment.Reese Dahline
Public Comment.Napa Youth Council
Public Comment.Regina Penna

10.4. **STAFF REPORT PROVIDED 8-7-2020 177 - 189

Review and Adoption of City Council Three-Year Goals and 2020 Workplan (~~Staff report forthcoming~~)

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Adopt citywide three-year goals and 2020 workplan.

Staff Report - Pdf
Public Comment.Patrick Band

11. NEW BUSINESS

11.1. **STAFF REPORT PROVIDED 8-7-2020 191 - 209

Discussion and Direction for the Agreement for Payment of Installments to Finance Private Sewer Laterals and Consideration and Approval of a Resolution Approving the Agreement for Payment of Installments to Finance Private Sewer Laterals for the Downtown Sidewalk Improvements Project No. R18-81 (~~Staff report forthcoming~~)

CEQA Determination: Not a CEQA project
Prepared By: Martin Beltran, Management Analyst
Recommendation:
Discussion and Direction for the Agreement for Payment of Installments to Finance Private Sewer Laterals and Consideration and Approval of a Resolution Approving the Agreement for Payment of Installments to Finance Private Sewer Laterals for the Downtown Sidewalk Improvements Project No. R18-81

Staff Report - Pdf

12. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

12.1.

August City Council Meetings: **8/25 (staff reports due 8/7)**
STAFF BRIEFING:
Fire Preparedness Update by John Sorensen, Fire Chief
Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer
Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
8/25 Monthly Water Update
CONSENT:
8/25 City conflict of Interest Code Update
8/25 COVID-19 related CDBG noncompetitive Grant adoption

8/25 Qtrly Grant report
8/25 Mills Lane storm drain design award
8/25 NOC tennis courts rehab
OLD BUSINESS:
8/25 Will Serve Policy Discussion
8/25 Scout Hall Discussion
PH or NEW BUSINESS:
8/25 Finance Qtrly Report
8/25 1484 & 1486 Sulphur Springs Measure E discussion
8/25 Designating LOCC virtual voting delegate
8/25 Social justice discussion
8/25 Generator discussion
September City Council Meetings: **9/8 (staff reports due 8/21)** **9/22 (staff reports due 9/4)**
STAFF BRIEFING:
Fire Preparedness Update by John Sorensen, Fire Chief
Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer
Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
Monthly Water Update
CONSENT:
9/8 Cell Tower Lease Renewal
OLD BUSINESS:
September - Second reading for Vaping Ordinance
PH or NEW BUSINESS:
9/8 User fee and impact fee study discussion/Discussion of Council cost recovery policy

13. ADJOURNMENT

The next Regular City Council meeting is scheduled for August 25, 2020, at 6:00 p.m.

I do hereby certify that a copy of the foregoing agenda was posted on the City website on August 3, 2020. Republished August 3, 2020 to include staff reports that were forthcoming.

Cindy Tzafopoulos

Cindy Tzafopoulos, City Clerk

In Compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please call the City Clerk's Office (707) 967-2792. Notification 72 hours prior to the meeting as required by Section 202 of the Americans with Disabilities Act will enable the City to make reasonable arrangements to ensure accessibility to this meeting

CHALLENGING DECISIONS OF CITY ENTITIES

The time limit within which to commence any lawsuit or legal challenge to any quasi-adjudicative decision made by the City of St. Helena is governed by Section 1094.6 of the Code of Civil Procedure, unless a shorter limitation period is specified by any other provision, including without limitation Government Code section 65009 applicable to many land use and zoning decisions, Government Code section 66499.37 applicable to the Subdivision Map Act, and Public Resources Code section 21167 applicable to the California Environmental Quality Act (CEQA). Under Section 1094.6, any lawsuit or legal challenge to any quasi-adjudicative decision made by the City must be filed no later than the 90th day following the date on which such decision becomes final. Any lawsuit or legal challenge, which is not filed within that 90-day period, will be barred. Government Code section 65009 and 66499.37, and Public Resources Code section 21167, impose shorter limitations periods and requirements, including timely service in addition to filing.

If a person wishes to challenge the above actions in court, they may be limited to raising only those issues they or someone else raised at the meeting described in this notice, or in written correspondence delivered to the City of St. Helena, at or prior to the meeting. In addition, judicial challenge may be limited or barred where the interested party has not sought and exhausted all available administrative remedies.

SUPPLEMENTAL MATERIAL RECEIVED AFTER THE POSTING OF THE AGENDA

Any supplemental writings or documents distributed to a majority of the City Council regarding any item on this Agenda, after the posting of the Agenda, will be available for public review in the City Clerk's Office located at 1480 Main Street, St. Helena, California, during normal business hours. In addition, such writings or documents will be made available on the City's web site at https://sthelena.civicweb.net and will be available for public review at the respective meeting.

THE CITY OF ST. HELENA ENCOURAGES ONLINE PUBLIC PARTICIPATION IN VIRTUAL CITY COUNCIL MEETINGS

St. Helena, CA– The City of St. Helena is committed to public participation in City government in a manner that is consistent with guidance provided by the Napa County Public Health Official and Governor Newsom's Executive Order N-25-20. These guidelines relate to social distancing, and are intended to protect everyone by limiting the spread of COVID-19 in our community. In adherence to these guidelines, the St. Helena City Council will host a Virtual Council Meeting on Zoom; a free teleconferencing tool that enables users to watch and/or call into the meeting from their computers or phones. This meeting will be open to public and allows for live public comment. The meeting will also be recorded, livestreamed, and posted on the City's website after the adjournment of the meeting if technical difficulties occur: https://sthelena.civicweb.net/Portal/

The ZOOM web link, meeting ID, and phone number will be listed at the top of the City Council Meeting Agenda. You will be required to enter

the meeting ID, but there will be no password or participant ID.

How to Watch or Listen to Council Meetings:

1. Watch on Comcast Channel 28
2. Watch the livestreaming video on the City's website
3. Watch and Listen on Zoom.us by clicking on the link in the Council Agenda
4. Listen only by calling the Zoom number listed on the Council Agenda

Watch Council Meeting by Joining the Zoom Meeting:

1. **By Computer, Tablet, or Smart Phone:**
1. Before joining the virtual City Council Meeting, it is highly encouraged that you download the Zoom App. To sign up for your own free account, visit zoom.us/signup and enter your email address. You will receive an email from Zoom (no-reply@zoom.us). In this email, click Activate Account.
2. If you are logged into your account, Enter the **Meeting ID** listed on the City Council Agenda. If you have not created an account go to: https://zoom.us/join and enter the **Meeting ID**
3. Select if you would like to connect audio and/or video and tap **Join Meeting**.
4. For specific instructions for your device, go to: https://support.zoom.us/hc/en-us/articles/201362193-Joining-a-Meeting

1. **Listen Only by Telephone:**
1. **Dial** the number listed on the Council Agenda.
2. At the prompt, enter the **Meeting ID** provided on the top of the City Council Meeting Agenda and **Press #. A participate ID is not required.**
3. To disconnect from the meeting, hang up the phone.

Ways to Provide Public Comment:

While attending the virtual City Council Meeting, the public will have the opportunity to provide live public comment during Public Forum and after each agenda item. When it is the appropriate time for public comment the Mayor will verbally open public comment. At this time each individual is permitted 4 minutes to speak.

1. **Send a Public Comment in by 4:00 PM Prior to the Meeting to:** publiccomment@cityofsthelena.org

The easiest way to provide public comment is to email your public comment. Public comments may be emailed to publiccomment@cityofsthelena.org. Please include in the subject line "COMMENT TO COUNCIL and the AGENDA ITEM". Any public comment is required to be submitted no later than 2 hours before the scheduled meeting and will be included as an attachment to the agenda. All public comments will be made publicly available and attached to the agenda item and will not be read out loud. All public comments that are received after 4:00 PM will be attached to the agenda the following day.

2. **Provide Comment through Zoom meeting from a computer, tablet, or smart phone**

This option allows the public to virtually attend the meeting as a muted 'attendee' with no video or screen sharing capabilities. You will be able to see and hear those participating in the meeting, but they will not be able to hear you until the host unmutes you.

If you wish to provide public comment during a specific agenda item or during public forum, you can use the **"raise hand"** feature located in the control panel at the bottom of your screen. The icon is a small blue hand. In Windows you can also use the Alt+Y keyboard shortcut to raise or lower your hand. In Mac you can also use the Option+Y keyboard shortcut to raise or lower your hand.

The host will be notified that you've raised your hand and you will be placed in a queue with all incoming requests.
When it is your turn to speak, you will be notified that the host has unmuted you. To be removed from the queue, just click the '**raise hand'** button again.

3. **Call in to the ZOOM meeting from a cell phone or landline phone only**

This option allows the member of the public with the opportunity to verbally participate in public comment.

If you wish to speak during public comment time dial ***9** on your telephone.

The host will be notified that you would like to speak and you will be placed in a queue with all incoming requests.

When it is your turn to speak, you will be notified that the host has unmuted you. You may press ***9** again if you wish to be removed from the queue.

You will be notified at the end of your statement that you have been muted.

Community Wildfire Safety Program

ST. HELENA CITY COUNCIL

August 11, 2020

PG&E

2019 PSPS Overview – Napa County

EVENT DETAILS	JUNE 8 - 9	SEPT 23 - 26	OCT 9 - 12	OCT 23 - 25	OCT 26 - NOV 1	NOV 20 - 21
CUSTOMERS IMPACTED	~1,300	~700	~32,200	~6,900	~18,800	~10,700
CRCs OPENED	2	2	2	2	3	2
CRC VISITORS	-	~10	~170	~50	~515	~100

Note: All data is subject to change based on ongoing data reconciliation.

CRC attendance was not tracked until 09/23/2019.

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

2019 PSPS Overview – City of St. Helena

EVENT DETAILS	OCT 9 - 12	OCT 23 - 26	OCT 26 – NOV 1	NOV 20 - 21
CUSTOMERS IMPACTED	~5,600	~1,200	~2,300	~2,200
CRCs OPENED	0	1	1	1
CRC VISITORS	N/A	~20	360	~70

Note: All data is subject to change based on ongoing data reconciliation.

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Discussion Topics and Agenda

DISCUSSION TOPICS

- Share progress on important work to prevent wildfires and reduce PSPS impacts
- Partner to prepare for PSPS events

We understand how busy your teams must be responding to COVID-19 and appreciate your time

AGENDA:

2020 PSPS IMPROVEMENTS
LOCAL PROJECTS

Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

2020 PSPS Improvements

	GOAL	INITIATIVES
SMALLER IN SIZE	**Reduce the number of customers affected by a PSPS events by one-third compared to last year**	• Installing **sectionalizing devices** on the transmission and distribution systems capable of re-directing power and limiting the size of outages • Developing **microgrids** that use generators to keep the electricity on • **Placing lines underground** in targeted locations
SHORTER IN LENGTH	**Restore customers twice as fast after severe weather has passed**	• Deploying **more PG&E and contractor crews** for inspection and restoration efforts • Expanding **helicopter fleet** from 35 to 65 for aerial line inspections • Using two new **airplanes** for aerial line inspections • Utilizing **infrared equipment** to inspect at night
SMARTER FOR CUSTOMERS	**Provide better information and additional resources**	• Using better **weather monitoring technology and installing new weather stations** to more precisely forecast the weather that could lead to a PSPS event • Improving PG&E's **website bandwidth** • Improving **customer notifications** • Opening **Community Resource Centers** • **Working more collaboratively** with local agencies and critical service providers
	Provide more assistance before, during and after a PSPS event	• Working with the **California Foundation for Independent Living Centers (CFILC)** and other **Community-Based Organizations (CBOs)** to support customers with medical needs • Making it **easier for eligible customers to join and stay in the Medical Baseline Program** • Providing **emergency information in 13 languages**

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Wildfire Safety Progress – Napa County

WILDFIRE SAFETY AND CUSTOMER SUPPORT PROGRAM EFFORTS	2019 COMPLETE	2020 TARGET
Weather Stations Enhancing weather forecasting and modeling	**27** STATIONS	**1+** IN PROGRESS*
High-Definition Cameras Improving real-time monitoring of high-risk areas and conditions	**6** CAMERAS	**1+** IN PROGRESS*
Community Resource Centers Provide basic power needs and up-to-date information	**7** EXECUTED	**8** SITES READY
Sectionalizing Devices Separating the grid into small sections for operational flexibility	**8** DEVICES	**43** DEVICES
System Hardening Stronger poles, covered lines and/or targeted undergrounding	**14** LINE MILES	**7** LINE MILES
Enhanced Vegetation Management Inspecting, pruning and removing vegetation	**87** LINE MILES	**100** LINE MILES

*Locations identified on a monthly basis

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Electric Power Supply – Napa County

Transmission lines carry high-voltage electricity over long distances, like the freeways of the electric system. The higher the voltage, the more power that line is carrying.

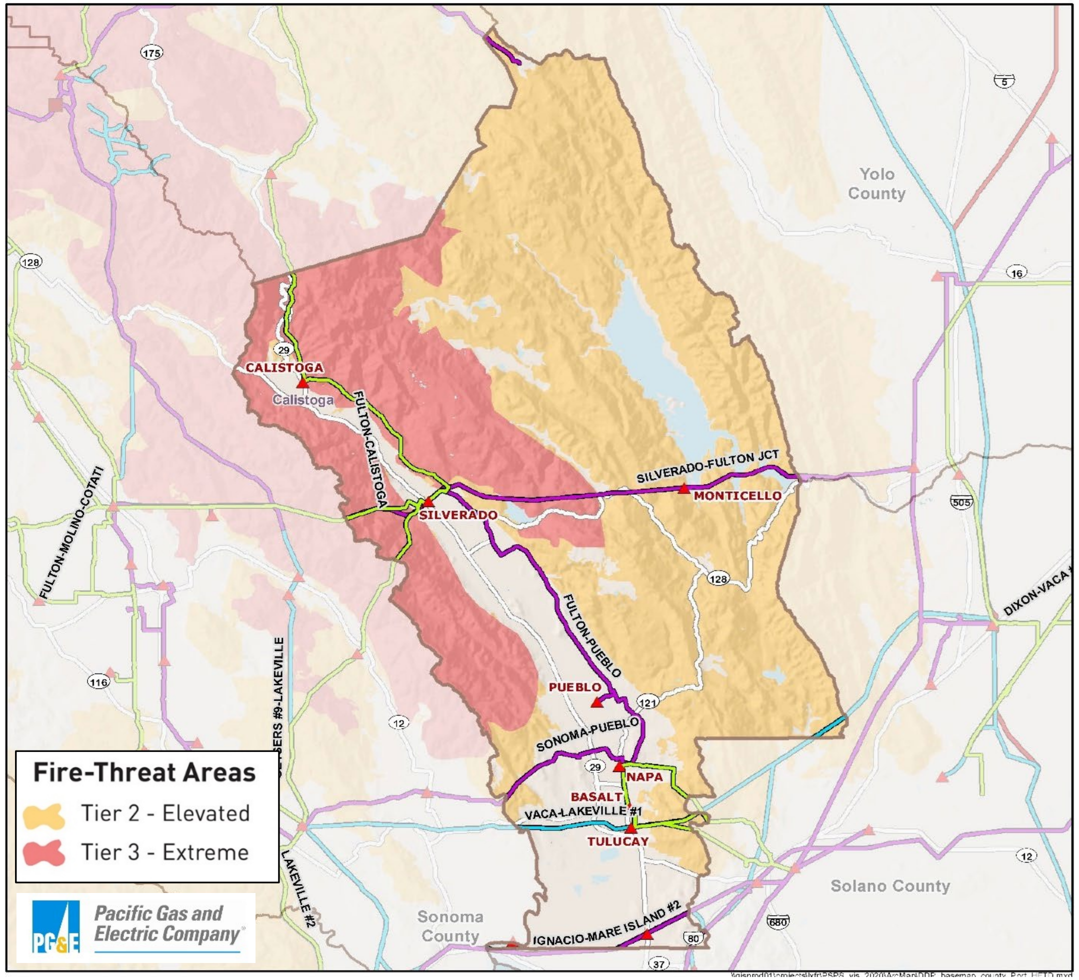
Electric Transmission Line

- 60 kV
- 115 kV
- 230 kV
- 500 kV

PG&E Facility

- Substation

2019 Peak Load:
300 MW



This data is also publicly available at:

- www.pge.com/wildfiremitigationplan
- County Energy Commission (CEC) website: https://cecgis-caenergy.opendata.arcgis.com/

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Local Sectionalizing – Napa County and City of St. Helena

We're installing new sectionalizing devices to limit the number of customers impacted during a PSPS event.

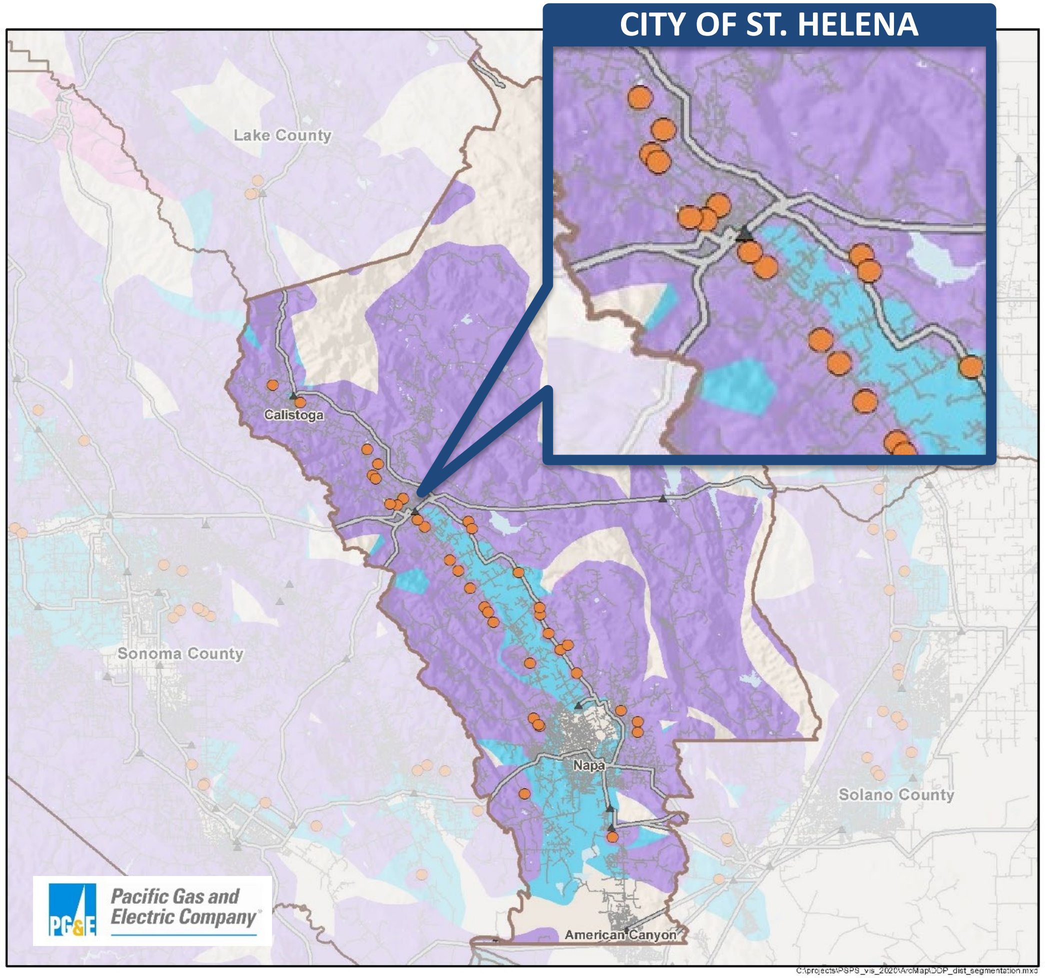
2020 TARGET	**43** DEVICES
2020 PROGRESS	**32** DEVICES*

**Installed*

MAP LEGEND:

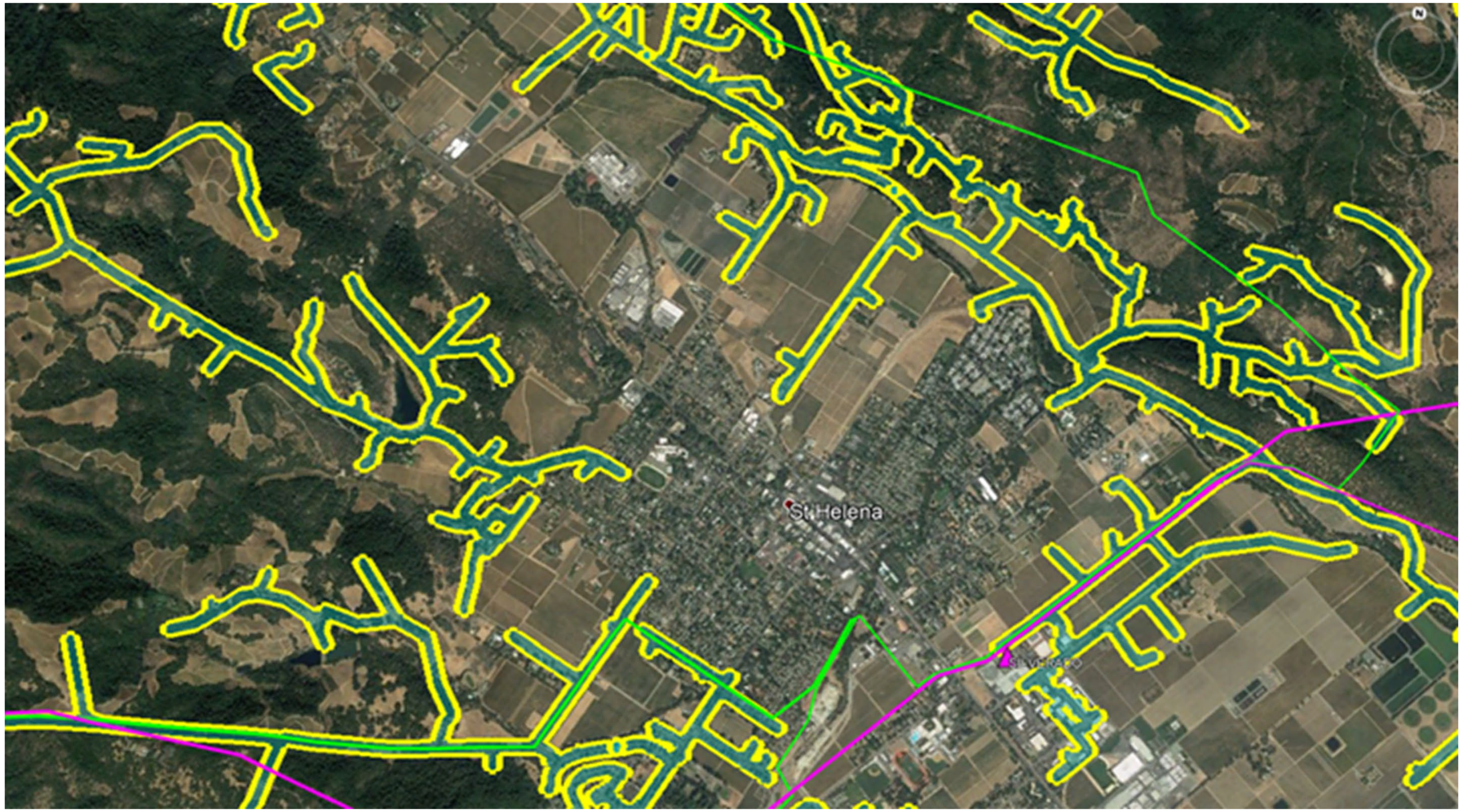
- Distribution sectionalizing devices installed in late 2019 or planned in 2020
- Area potentially removed from scope due to planned sectionalizing (distribution level event only)
- New area now in scope
- No change from 2019
- PG&E Substation

Note: Map reflects projects in planning and/or underway and is subject to change. Some data points may overlap.



All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Example of Potential PSPS Event Impacts – City of St. Helena



Note: This is a sample only and changes in weather may have greater or lesser impacts.

Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Local System Hardening – Napa County

We are **installing stronger and more resilient poles** and **covered power lines** in high-risk areas, **replacing equipment**, and conducting **targeted undergrounding** where appropriate.

2020 TARGET **7** LINE MILES

2020 PROGRESS **6** LINE MILES*

**Complete*

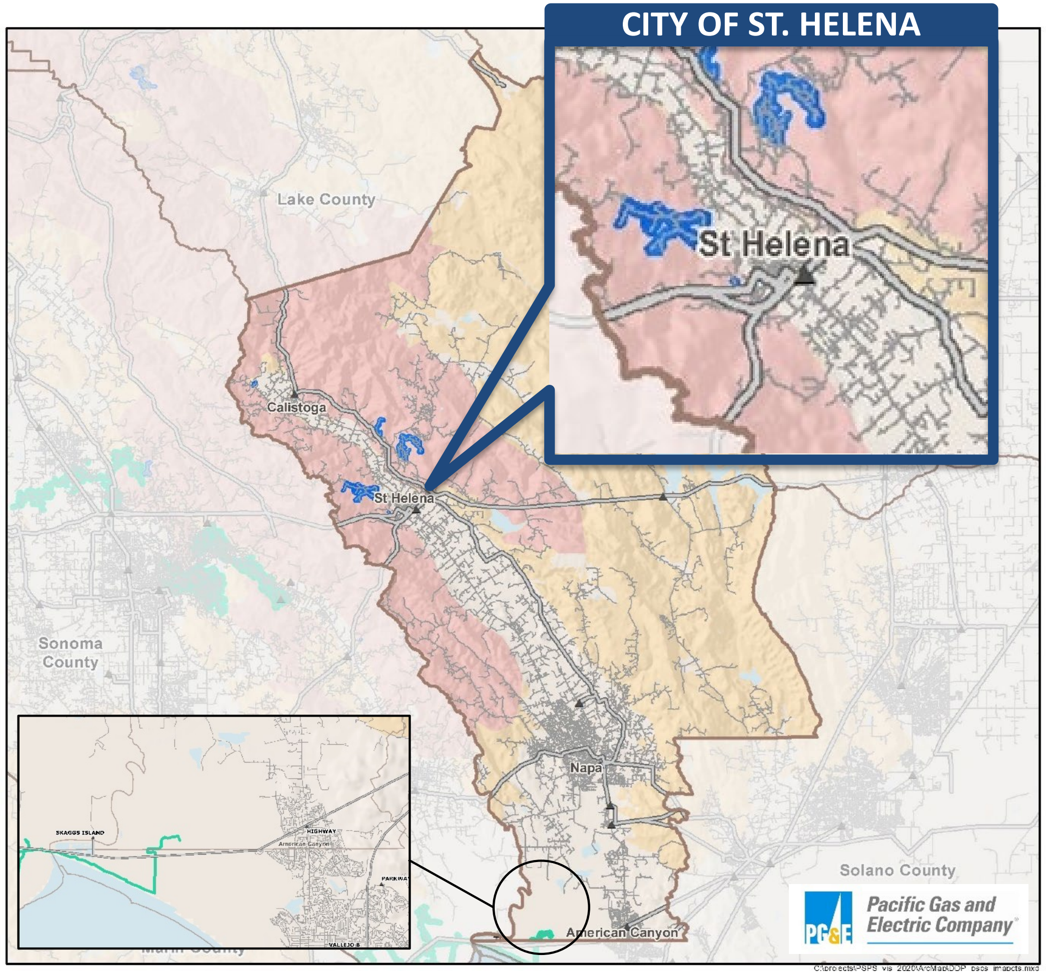
MAP LEGEND:

Wildfire risk reduction planned project

PSPS mitigation planned project

Substation

Note: Map reflects projects in planning and/or underway and may not include all miles planned for 2020



All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

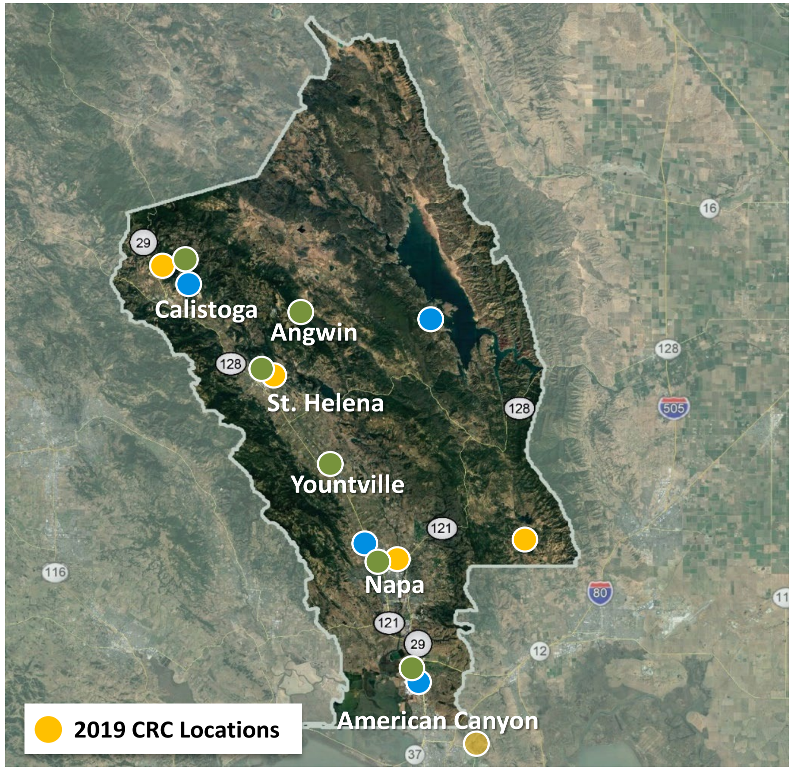
CRC Locations – Napa County

PG&E is adapting our approach to CRCs to reflect appropriate COVID-19 public health considerations.

Our goal is to work together to identify and secure multiple CRC locations within each county/tribe in our service area.

	Proposed CRC Locations	Status/Notes
1	Calistoga Fairgrounds, Calistoga	Site event ready
2	Crosswalk Community Church, Napa	Site event ready
3	Berryessa Senior Citizen Center, Napa	In construction
4	American Canyon Community Center, American Canyon	In permitting process
5	Family Worship Center, American Canyon	Agreement in place
6	Highlands Christian Fellowship, Calistoga	Agreement in place
7	First Christian Church of Napa, Napa	Agreement in place
8	Saint Helena Catholic School, Saint Helena	Agreement in place
9	Yountville Seventh-Day Adventist Church, Yountville	Agreement in place
10	Pacific Union College, Angwin	Agreement in place
11	Las Flores Community Center, Napa	All Reviews Completed; Site no longer in consideration
12	St. Helena Public Library, St. Helena	All Reviews Completed; Site no longer in consideration; Does not have capacity per site owner

Napa County Recommended   Outdoor Location



In 2019, one CRC was established in Vallejo serving Napa County.

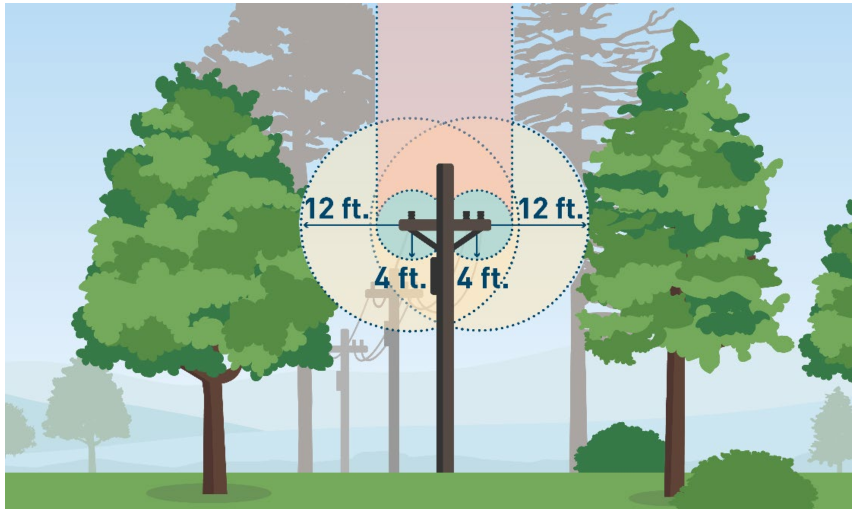
Locations will be activated as needed, depending on event scope and potential customer impacts. **During a PSPS event, the locations will be made available** on pge.com/pspsupdates and via social media, local news and radio.

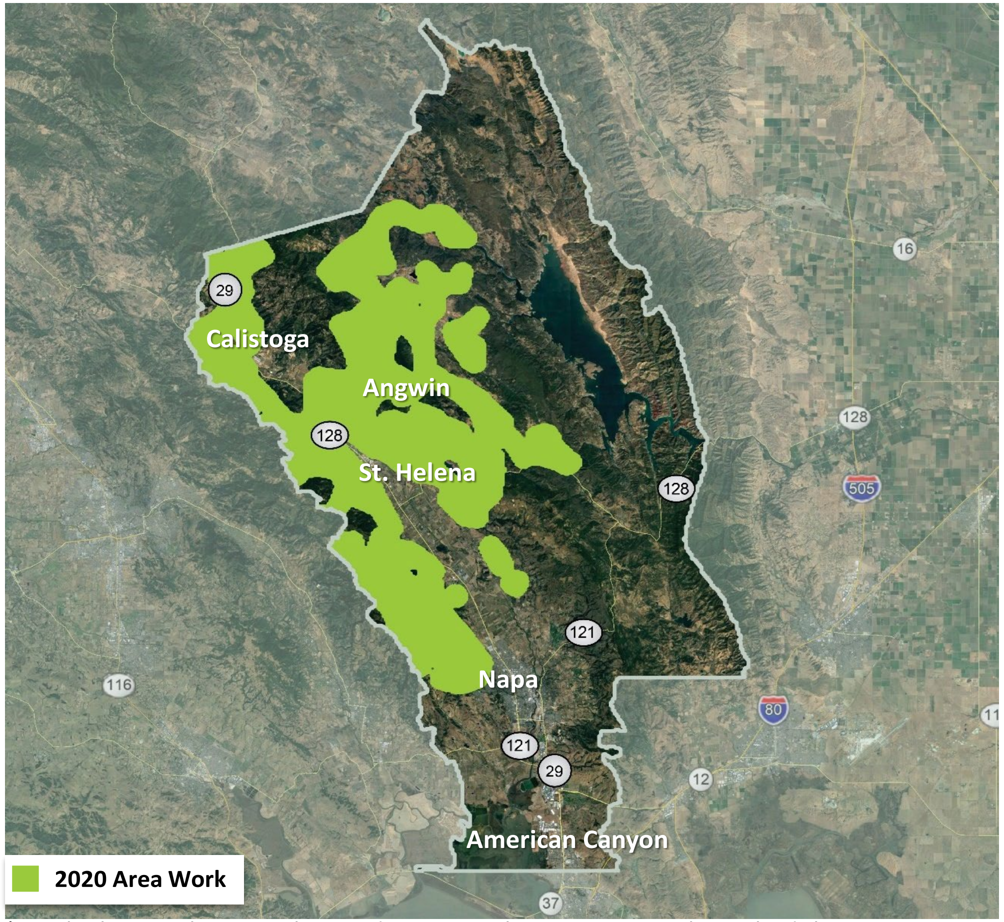
All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Enhanced Vegetation Work in Your Community – Napa County

We are exceeding state vegetation and fire safety standards by addressing vegetation that poses a higher potential for wildfire risk to maximize the safety of our customers and communities.

2020 TARGET **100** LINE MILES

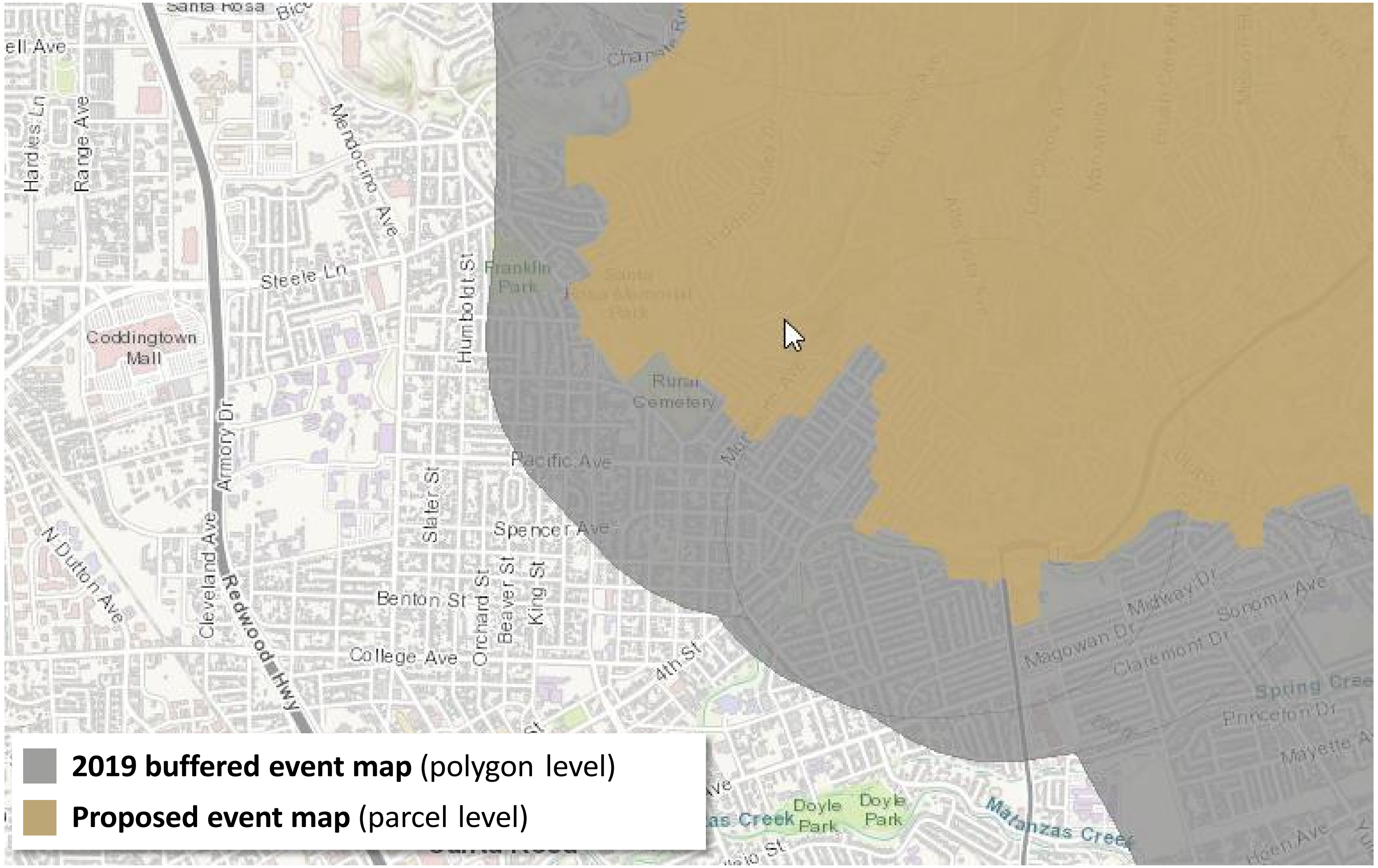




*Work plan is subject to change due to weather, access or other schedule constraints

All data is preliminary and based on early 2020 work planning. Data as of July 2020.
Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Sample PSPS Event Map Refinement



Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Medical Baseline Program

What is Medical Baseline?

- The **Medical Baseline Program** provides **financial assistance to residential customers** that have **special energy needs** due to certain **qualifying medical conditions**.
- Eligible customers may receive a "standard" Medical Baseline quantity of **approximately 500 kilowatt-hours (kWh) of electricity and/or 25 therms of gas per month**, in addition to regular baseline quantities.

Who Qualifies for Medical Baseline?

If a full-time resident in your home is:

- Dependent on **life-support equipment** used in the home.
- A **paraplegic, hemiplegic, quadriplegic or multiple sclerosis patient** with special **heating and/or air-conditioning needs**.
- A **scleroderma patient** with special heating needs.
- Being treated for a **life-threatening illness, compromised immune system or other medical condition** with **special heating and/or air-conditioning requirements** necessary to sustain the patient's life or prevent deterioration of the patient's medical condition.

Applying for Medical Baseline:

1. **Complete the "Medical Baseline Allowance" application form.** Forms can be found by visiting pge.com/medicalbaseline.
2. **Mail the completed and signed application form** to:

PG&E
Attention: Medical Baseline
P.O. Box 8329
Stockton, CA 95208

Due to novel coronavirus (COVID-19) shelter-at-home guidelines and changing medical practitioner priorities, customers can now **self-certify their eligibility to enroll in the Medical Baseline Program**. A signature from a qualified medical practitioner is **not required** to apply but may be requested to remain in the program beyond one year.

Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Where To Go For Additional Information

STAY UP TO DATE DURING A PSPS EVENT

pge.com/PSPSupdates

WEATHER AND PSPS FORECASTING

Live weather information, a 7-day PSPS potential lookahead and images from PG&E's high-definition cameras deployed in high fire-threat areas.

pge.com/weather

BACKUP POWER

Information on backup power options, safety tips, financing options, a marketplace to search major backup power retailers and more.

pge.com/backuppower

SAFETY ACTION CENTER

Information about wildfire risks and what customers can do before, during and after an emergency to keep their home, family or business safe.

safetyactioncenter.pge.com

PREPARING FOR OUTAGES

Tips for making a safety plan, building an emergency kit, planning for medical needs and more.

prepareforpowerdown.com

Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Preparedness Resources

prepareforpowerdown.com
Statewide education and awareness resource, led jointly by PG&E, San Diego Gas & Electric and Southern California Edison at the direction of the CPUC

ready.gov
Disaster preparedness information from the U.S. Department of Homeland Security

readyforwildfire.org
CAL FIRE's wildfire preparedness website

cpuc.ca.gov/wildfiresinfo
Information on the CPUC's wildfire safety efforts

caloes.ca.gov
California Governor's Office of Emergency Services website

cafiresafecouncil.org
California Fire Safe Council website

noaa.gov
National Oceanic and Atmospheric Administration website

Some of the measures included in this presentation are contemplated as additional precautionary measures intended to further reduce the risk of wildfires.

Thank You

Please direct customers with questions to:

- Call us at **1-866-743-6589**
- Email us at **wildfiresafety@pge.com**
- Visit **pge.com/wildfiresafety**

MINUTES
City of St. Helena
Special City Council Meeting
Wednesday, July 8, 2020 @ 6:00 PM
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at https://sthelena.civicweb.net/Portal/ or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein

Absent: None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC COMMENT:

Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item.

5. NEW BUSINESS:

5.1 Initiative Measure Prohibiting Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street
(~~Staff report forthcoming~~ Provided 7-6-20)

CEQA Determination: Not a CEQA project. Environmental review of a voter petition-initiated measure is not required. Tuolumne Jobs & Small Business Alliance v. Superior Court (City of Sonora), (2014) 59 Cal. 4th 1029
Prepared By: Kara Ueda, City Attorney
Recommendation:
Decline to place the measure on the ballot.

City Attorney Kara Ueda reported on this item.

Mike Hacket, Glenn Smith, Richard Seiferheld, Cio Perez, Leti Olivier, Nancy Dirven, Bobbi Monnette and Anne Carr addressed the City Council.

Council Member Anna Chouteau moved to decline to put the measure on the ballot for the November 3, 2020 general municipal election. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Council Member Anna Chouteau, and Council Member Mary Koberstein
NOES: Vice Mayor Paul Dohring and Council Member David Knudsen
ABSENT: None
ABSTAIN: None
RECUSE: None

Council Member Mary Koberstein moved to proceed with an advisory measure on the November 3, 2020 general municipal election. The motion was seconded by Council Member Anna Chouteau and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

6. ADJOURNMENT

Mayor Ellsworth adjourned the meeting at 7:55 p.m.

The special meeting minutes of July 8, 2020 was adopted at the August 11, 2020 regular meeting.

APPROVED:	**ATTEST:**
______________________________	_________________________
Geoff Ellsworth, Mayor	Cindy Tzafopoulos, City Clerk

MINUTES
City of St. Helena
Special City Council Meeting
Wednesday, July 8, 2020 @ 3:00 PM
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at https://sthelena.civicweb.net/Portal/ or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein

Absent: None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC COMMENT:

Under California law, public comments at special meetings are limited to subjects on the agenda only. Therefore public comment will take place during consideration of the item. Each person's comments shall be limited to 4 minutes.

5. NEW BUSINESS:

5.1 Review and Discussion of City Council Three Year Goals and 2020 Workplan

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Discuss and provide direction to the City Manager.

City Manager Mark Prestwich reported on this item and reviewed the City Council three year goals 2020 workplan. (See attachment A for updates.

Erica Sklar addressed the City Council.

6. ADJOURNMENT

Mayor Ellsworth adjourned the meeting at 5:33 p.m.

The special meeting minutes of July 8, 2020 was adopted at the August 11, 2020 regular meeting.

APPROVED: **ATTEST:**

Geoff Ellsworth, Mayor

Cindy Tzafopoulos, City Clerk

MINUTES
City of St. Helena
Regular City Council Meeting
Tuesday, July 14, 2020 @ 6:00 PM
Vintage Hall Board Room - Second Floor
465 Main Street, St. Helena

A complete video recording of this meeting, except for closed session, can be found at https://sthelena.civicweb.net/Portal/ or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein

Absent: None

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. PUBLIC FORUM:

Kellie Anderson, Lester Hardy and Susan Crosby addressed the City Council.

Mayor Ellsworth requested that a City Council meeting be held in Spanish and Vice Mayor Dohring agreed.

5. REPORTS BY STAFF AND CITY COUNCIL, FUTURE AGENDA ITEMS, and AB 1234 REPORTS:

City Attorney Kara Ueda noted that there was no reportable action taken at the July 14, 2020 closed session meeting.

Reports by Staff and City Council Members were made.

6. PRESENTATIONS AND PUBLIC RECOGNITIONS

6.1 Informational Presentation of Farmstead Restaurant Use Permit (738 Main Street) and New Proposed Lodging (1000 Mills Lane) by Ted Hall

CEQA Determination: Mitigated Negative Declaration
Prepared By: Maya DeRosa, Planning & Building Director

Regular City Council
July 14, 2020

Recommendation:
Receive presentation from project applicant.

Ted Hall provided a presentation.

Chris Malen, Mary Stephenson, Mike Hackett and Kellie Anderson addressed the City Council.

7. STAFF BRIEFING

7.1 Monthly Water Update by Erica Ahmann Smithies, Public Works Director and City Engineer

Public Works Director Erica Ahmann Smithies provided an update.

7.2 Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer

Public Works Director Erica Ahmann Smithies provided an update.

7.3 Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer

Public Works Director Erica Ahmann Smithies provided an update.

8. CONSENT ITEMS

Members of the Council or the public may ask that any items be considered individually for purposes of considering alternative action, for extended discussion, or for public comment. Unless that is done, one motion may be used to adopt all recommended actions. (Roll Call Vote)

8.1 Consideration and proposed approval of Regular and Special Meeting Minutes of June 23, 2020.
Prepared By: Cindy Tzafopoulos, City Clerk

8.2 Consideration and proposed approval of a resolution 2020-74 authorizing the sale and transfer of ownership of a surplus fire engine (E-217) to the City of Dunsmuir, California for $80,000.

CEQA Determination: Not a CEQA project
Prepared By: John Sorensen, Fire Chief
Recommendation:
Staff recommends that City Council approve a resolution authorizing the sale and transfer of ownership of a surplus fire engine (E-217) to the City of Dunsmuir, California for $80,000.

8.3 Consideration and proposed approval of a resolution 2020-75: (1) approving temporary closure of Oak Avenue, Adams Street, Tainter Street, and the Oak Avenue City Parking Lot, for the October 17, 2020, Hometown Harvest Festival festivities, (2) authorizing possession of open alcoholic beverages on those public streets, and (3) approving the waiving of the encroachment fee.

CEQA Determination: Not a CEQA project
Prepared By: Andre Pichly, Parks & Recreation Director
Recommendation:
Staff recommends the City Council of the City of St. Helena adopt the attached resolution: (1) approving temporary closure of Oak Avenue, Adams Street, Tainter Street, and the Oak Avenue City Parking Lot, for the October 17, 2020, Hometown Harvest Festival festivities, (2) authorizing possession of open alcoholic beverages on those public streets, and (3) approving the waiving of the encroachment fee.

Item 8.4 was removed from consent.

8.4 ~~Second reading and proposed adoption by title only and waive further reading of an ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code to impose new limits on local authority to regulate Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that took effect on January 1, 2020. The action is exempt from CEQA pursuant to CEQA Guidelines Section 15303.~~

8.5 *7-7-20 Updated MOU Attachment
Consideration and approval of a Resolution 2020-76: (1) ratifying amendment to Memorandum of Understanding between the City of St. Helena and the St. Helena's Employee Association (SHEA); (2) ratifying amendment to Memorandum of Understanding between the City of St. Helena and the Police Officer Association (POA); (3) ratifying the third amendment to the Unrepresented Compensation Program for Full-time Fire Department; (4) duly approving and adopting publicly available compensation schedules in accordance with California code section 570.5 for Police Officers Association, Unrepresented Full-time Fire Department, and permanent part-time firefighters and part-time Casual Workers; and (5) authorizing use of General Fund reserves in the amount of $39,600, Water Fund fund balance of $9,500, and Wastewater Fund fund balance of $7,250 and authorizing budget increases to Salary & Benefits of the same.

CEQA Determination: Not a CEQA project
Prepared By: Kathy Robinson, Human Resources & IT Director
Recommendation:
Approve resolution: (1) ratifying amendment to Memorandum of Understanding between the City of St. Helena and the St. Helena's Employee Association (SHEA); (2) ratifying amendment to Memorandum of Understanding between the City of St. Helena and the Police Officer Association (POA); (3) ratifying the third amendment to the Unrepresented Compensation Program for Full-time Fire Department; (4) duly approving and adopting publicly available

compensation schedules in accordance with California code section 570.5 for Police Officers Association, Unrepresented Full-time Fire Department, and permanent part-time firefighters and part-time Casual Workers; and (5) authorizing use of General Fund reserves in the amount of $39,600, Water Enterprise fund balance of $9,500, and Wastewater Enterprise fund balance of $7,250 and authorizing budget increases to Salary & Benefits of the same.

8.6 Consideration and proposed approval of a resolution 2020-77 approving the FY 2020-21 Springbrook service agreement for financial software services for $42,882 and a one-time migration fee of $8,000 for Cloud based services for a total not-to-exceed amount of $50,882 for FY 2020-21 and authorizing the City Manager to execute the agreement for a total not-to-exceed amount of $50,882.

CEQA Determination: Not a CEQA project
Prepared By: Mandy Kellogg, Finance Manager
Recommendation:
Staff recommends City Council approve a resolution approving the FY 2020-21 Springbrook service agreement for financial software services for $42,882 and a one-time migration fee of $8,000 for Cloud based services for a total not-to-exceed amount of $50,882 for FY 2020-21 and authorizing the City Manager to execute the agreement for a total not-to-exceed amount of $50,882.

Item 8.7 was removed from consent.

8.7 ~~Consideration and proposed approval of a resolution appointing applicants to the Active Transportation & Sustainability Committee, Parks & Recreation Commission and Library Board of Trustees and consider leaving the recruitment open for the unfilled terms of office for Active Transportation & Sustainability Committee until filled.~~

8.8 Consideration and proposed approval of a Resolution 2020-79: (1) adopting Seventh amendment to the Unrepresented Compensation Program for Mid-Managers and Department Heads; (2) approving employment agreements with department heads and in accordance with the requirement of California Code Section 54953(c)(3), the recommended final action on salary related to the compensation for department heads is an across the board compensation reduction of 5% resulting in an annual salary of $119,943 for the City Clerk, $125,970 for the Fire Chief, $144,148 for the Library Director, $145,988 for the Parks & Recreation Director, $148,287 for the Human Resources & IT Director, $148,414 for the Police Chief, $150,018 for the Finance Director, $161,557 for the Planning & Community Improvement Director, $175,279 for the Public Works Director, and $186,700 for the City Manager, effective July 1, 2020 through June 30, 2021; and (3) duly approving and adopting publicly available compensation schedules in accordance with California code section 570.5 for Mid-Managers and Department Heads.

CEQA Determination: Not a CEQA project

Prepared By: Kathy Robinson, Human Resources & IT Director
Recommendation:
Approve resolution Resolution: (1) adopting Seventh amendment to the Unrepresented Compensation Program for Mid-Managers and Department Heads; (2) approving employment agreements with department heads and in accordance with the requirement of California Code Section 54953(c)(3), the recommended final action on salary related to the compensation for department heads is an across the board compensation reduction of 5% resulting in an annual salary of $119,943 for the City Clerk, $125,970 for the Fire Chief, $144,148 for the Library Director, $145,988 for the Parks & Recreation Director, $148,287 for the Human Resources & IT Director, $148,414 for the Police Chief, $150,018 for the Finance Director, $161,557 for the Planning & Community Improvement Director, $175,279 for the Public Works Director, and $186,700 for the City Manager, effective July 1, 2020 through June 30, 2021; and (3) duly approving and adopting publicly available compensation schedules in accordance with California code section 570.5 for Mid-Managers and Department Heads.

8.9 Consideration and Proposed Approval of a Resolution 2020-80 of the City Council of the City of St. Helena, State of California, Calling and Giving Notice of a General Municipal Election to be Held on Tuesday, November 3, 2020; Requesting the Consolidation by the Napa County Supervisors for the Statewide General Election and that Napa County Provide Election Services with full Reimbursement by the City of St. Helena

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzafopoulos, City Clerk
Recommendation:
Approve the resolution.

Council Member Anna Chouteau moved to approve items 8.1 through 8.3, 8.5, 8.6 and 8.8 through 8.9. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

8.4 Second reading and proposed adoption by title only and waive further reading of an ordinance 2020-5 amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code to impose new limits on local authority to regulate Accessory Dwelling Units and Junior Accessory Dwelling Units in compliance with the provisions of Government Code sections 65852.2 and 65852.22 as amended by recently approved legislation that took effect on January 1, 2020. The action is exempt from CEQA pursuant to CEQA Guidelines Section 15303.

CEQA Determination: Class 3 Categorical Exemption under Section 15303 of CEQA
Prepared By: Aaron Hecock, Senior Planner
Recommendation:
It is recommended by the Planning Commission of the City of St. Helena that the City Council review the draft ordinance and:

1. Determine that the ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15303; and
2. Hold second reading and adopt an ordinance by title only and waiving further reading of an ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units and junior accessory dwelling units.

City Attorney Kara Ueda reported on this item.

No public comment was received.

Vice Mayor Paul Dohring moved to determine that the ordinance is exempt from the requirements of CEQA pursuant to CEQA Guidelines Section 15303; and approve as amended to fix a typo graphical grammar error the second reading and adopt the ordinance by title only and waiving further reading of an ordinance amending Chapter 17.116, Section 17.116.030 of the St. Helena Municipal Code relating to accessory dwelling units and junior accessory dwelling units. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

8.7 Consideration and proposed approval of a resolution appointing applicants to the Active Transportation & Sustainability Committee, Parks & Recreation Commission and Library Board of Trustees and consider leaving the recruitment open for the unfilled terms of office for Active Transportation & Sustainability Committee until filled.

CEQA Determination: Not a CEQA project
Prepared By: Cindy Tzafopoulos, City Clerk

Recommendation:
Staff recommends adopting a resolution appointing the following applicants and leaving the recruitment open for the unfilled terms of office for Active Transportation & Sustainability Committee until filled.:

Active Transportation Sustainability Committee
- Appoint Madelyn Chandler to a regular term expiring June 30, 2022.

Library Board of Trustees
- Appoint Skip Lane and Rebecca Wendt to terms expiring June 30, 2022.

Parks & Recreation Commission
- Appoint Michelle Deasy to a term expiring June 30, 2022

No public comment was received.

Vice Mayor Paul Dohring moved to approve item 8.7. The motion was seconded by Council Member Anna Chouteau and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

9. PUBLIC HEARINGS

9.1 None

10. OLD BUSINESS

10.1 *New item added 7-10-20
Consideration and Proposed Approval of a Resolution 2020-81 Placing an Advisory Measure G Regarding City-Owned Property Located at the Corner of Library Lane and Adams Street on the November 3, 2020 General Municipal Election Ballot

CEQA Determination: Not a CEQA project
Prepared By: Kara Ueda, City Attorney
Recommendation:
Adopt the proposed resolution.

City Attorney Kara Ueda reported on this item.

Nancy Dervin addressed the City Council.

Council Member Anna Chouteau moved to adopt the proposed resolution. The motion was seconded by Vice Mayor Paul Dohring and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

10.2 *New item added 7-10-20
City Manager Update on COVID-19 Emergency (Oral Report)

CEQA Determination: Not a CEQA project
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Discussion and direction to the City Manager.

City Manager Mark Prestwich reported on this item.

Ann Nevero addressed the City Council.

Mayor Ellsworth called for a five minute break at 8:20 pm.

11. NEW BUSINESS

The items were heard in the following order: 11.4, 11.3, 11.1 and concluded with item 11.2.

11.1 Discussion and Direction Regarding Parks and Recreation Commission Recommendations on Walking Routes, Trails, and Publicly Accessible Open Space

CEQA Determination: Exempt
Prepared By: Mark T. Prestwich, City Manager
Recommendation:
Review, discuss, and provide direction.

City Manager Mark Prestwich and Council Member David Knudsen reported on this item.

Nancy Dirven addressed the City Council.

It was the consensus of the City Council to proceed forward and include it in the workplan and refer it back to the Parks and Recreation Commission subcommittee for refinement.

11.2 Discussion Regarding Timeshare Issues

CEQA Determination: Not a CEQA project
Prepared By: Kara Ueda, City Attorney
Recommendation:
Receive this report, discuss, and provide direction to staff if desired. City staff is seeking guidance and clarification from the City Council concerning the specific problem(s) a Zoning Code amendment could help resolve, but with the limitations noted above for regulating timeshares and partial ownership.

City Attorney Kara Ueda reported on this item.

No public comment was received.

The City Council directed the City Attorney to further evaluate by speaking with state legislators, League of California Cities and other cities to explore options to address fractional ownership.

Vice Mayor Paul Dohring moved to continue the meeting beyond 9:30 pm. The motion was seconded by Council Member Mary Koberstein and on roll call carried by the following vote:

AYES: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein
NOES: None
ABSENT: None
ABSTAIN: None
RECUSE: None

11.3 Discussion of County of Napa's Ordinance Imposing a Moratorium on Residential and Commercial Evictions

CEQA Determination: Not a CEQA project
Prepared By: Kara Ueda, City Attorney
Recommendation:
This is a discussion item. The Council may choose to direct staff to return with an ordinance imposing an eviction moratorium on residential and/or commercial tenants.

City Attorney Kara Ueda reported on this item.

No public comment was received.

It was the consensus of the City Council to take no action.

11.4 *New item added 7-10-20
Discussion and possible direction to staff regarding the Local Agency Formation Commission of Napa County Draft Countywide Water and Wastewater Municipal Service Review

CEQA Determination: Exempt
Prepared By: Erica Ahmann Smithies, Public Works Director and City Engineer
Recommendation:
Discuss and authorize the City Manager or designee to submit a Comment Letter to Napa LAFCO by July 20, 2020.

Public Works Director Erica Ahmann Smithies reported on this item.

No public comment was received.

It was the consensus of the City Council to designate Council Member Koberstein and Mayor Ellsworth to work with the City Manager and Public Works Director to prepare a comment letter to LAFCO by July 20, 2020.

12. ITEMS LIKELY TO BE PLACED ON THE NEXT OR FUTURE MEETING AGENDA:

12.1

<u>July City Council Meetings</u>: **7/8 3pm Goals/Workplan & 6pm Initiative Report** **7/16 6pm Police Policy Workshop/Study Session** **7/28 Cancelled** **7/30 Utility Master Plan discussion & Meadowood Discussion**
<u>August City Council Meetings</u>: **8/11 (staff reports due 7/24)** **8/25 (staff reports due 8/7)**
STAFF BRIEFING:
Upper York Creek Dam Project Update by Erica Ahmann Smithies, Public Works Director and City Engineer
Update on Waste Water Treatment Plant Upgrade Project by Erica Ahmann Smithies, Public Works Director and City Engineer
Monthly Water Update
CONSENT:
Cell Tower Lease Renewal
City conflict of Interest Code Update
PH 8/25 CDBG noncompetitive Grant
OLD BUSINESS:

September - Second reading for Vaping Ordinance
Discussion of Council cost recovery policy
Task Force Discussion
Vaping Ordinance Discussion
8/11 Will Serve Policy Discussion
8/11 Scout Hall Discussion
8/11 Meadowood Discussion
PH or NEW BUSINESS:
PH 8/11 CDBG noncompetitive Grant

13. ADJOURNMENT

Mayor Ellsworth adjourned the meeting at 9:39 p.m.

The special meeting minutes of July 14, 2020 was adopted at the August 11, 2020 regular meeting.

APPROVED: **ATTEST:**

____
Geoff Ellsworth, Mayor

____
Cindy Tzafopoulos, City Clerk

MINUTES
City of St. Helena
Special City Council Meeting
Thursday, July 16, 2020 @ 6:00 PM

In accordance with Executive Order N-29-20, and guidance from the California Department of Public Health on gatherings, remote public participation is allowed. We will address the Order in the following ways: Members of the public may not physically attend meetings. The City Council meeting will be live-streamed on Comcast Channel 28 and on the City's website, barring technical difficulties. Those members of the public wishing to participate must do so remotely via Zoom electronic meetings in the following ways; by either logging onto the Zoom link located on the meeting agenda (please download the app to your computer or mobile device) and enter the meeting ID or by calling a listed number and enter the meeting ID. Public comment for City Council meetings will be accepted via email to publiccomment@cityofsthelena.org. All public comments must be emailed by 4:00 PM prior to the meeting. Emailed public comments will not be read out loud but will be publicly available and attached to the on-line City Council agenda.

A complete video recording of this meeting, except for closed session, can be found at https://sthelena.civicweb.net/Portal/ or by calling the City Clerk at (707) 968-2742. The City Council video is the official record of the Council meeting.

Present: Mayor Geoff Ellsworth, Vice Mayor Paul Dohring, Council Member Anna Chouteau, Council Member David Knudsen, and Council Member Mary Koberstein

Absent: None

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT:

4. NEW BUSINESS:

4.1 Community update on status and updates regarding City of Saint Helena Police Use of Force Policies.
Prepared By: Chris Hartley, Chief of Police

Chief of Police Chris Hartley provided a presentation.

Vanessa Von Hessert, Beth Lincoln and Holly Hubbard Preston addressed the City Council.

5. ADJOURNMENT

Mayor Ellsworth adjourned the meeting at 7:10 p.m.

The special meeting minutes of July 16, 2020 was adopted at the August 11, 2020 regular meeting.

APPROVED:

____
Geoff Ellsworth, Mayor

ATTEST:

____
Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **CONSENT ITEMS**

Subject: **Consideration and approval of a Resolution Establishing Appropriation Limits for Fiscal Year 2020-21 and the Selection of Current Year Adjustment Factors**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Finance Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

State law requires the City to set an appropriation limit after adoption of the annual budget. This limit is commonly known as the "Gann Limit." The limit is based on appropriations (formal authorization by the City Council to spend funds) only from proceeds of taxes, as defined by the law and statewide reporting guidelines. The appropriation limit amount is increased each year by a formula that uses a combination of percent changes in the Statewide Per Capita Income (PCI), city or county population, and the City non-residential assessed valuation. The factors are allowed to be used in combination to provide the greatest increase or least decrease in the annual appropriation limit.

In November 1979, the people of California added Article XIII-B to the State Constitution, which placed limitations on the appropriations of State and local governments. In June 1990, the people approved Proposition 111, which, among other things, amended the Article XIII-B. The amendment created a new base year of FY 1986-87, allowed annual increases based on the city or county population growth and assessed valuation growth of non-residential property, provides for exclusion of capital expenditures over $100,000, and requires an annual independent auditor review of the calculations. Statewide reporting guidelines were developed to define and implement the changes and establish the annual audit requirements.

The City's appropriation limit and the appropriations subject to the limit are calculated based on the statewide reporting guidelines and are reviewed by the independent auditor for compliance with the State law and guidelines. The appropriations limit has increased significantly since 1987 by applying the higher of county or city population growth rates and the percentage of non-residential assessed valuation growth. The State Department of Finance provides the PCI and population growth rates. The County Assessor provides the non-residential assessed valuation information.

DISCUSSION

The appropriations limit for FY 2020-21 is $54,658,014. This increased form the prior year by an increase in the Statewide Per Capita Personal Income of 3.73% in combination with the 0.46% decrease in City population growth rate for a cumulative compound change factor of 1.0325 (1.0373 x 0.9954).

The FY 2020-21 appropriations of $54,658,014 is the portion funded from proceeds of taxes that are subject to the limit. This amount is $45,651,341 or 83.52% under the appropriation limit.

The FY 2020-21 GANN Limit Calculation Sheets and supporting documents are included as Attachment 2.

FISCAL IMPACT

None, since the Appropriation Limit is higher than the Appropriations subject to Limit for Fiscal Year 2020-21.

RECOMMENDED ACTION

Staff recommends the City Council of the City of St. Helena adopt a Resolution establishing an appropriation limit for Fiscal Year 2020-21.

ATTACHMENTS

Attachment 1 - FY 2020-21 GANN Limit Calculations
Attachment 2 - Resolution Establishing the GANN Limit for FY 2020-21

Attachment 1

DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

GAVIN NEWSOM - GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

May 2020

Dear Fiscal Officer:

Subject: Price Factor and Population Information

Appropriations Limit
California Revenue and Taxation Code section 2227 requires the Department of Finance to transmit an estimate of the percentage change in population to local governments. Each local jurisdiction must use their percentage change in population factor for January 1, 2020, in conjunction with a change in the cost of living, or price factor, to calculate their appropriations limit for fiscal year 2020-21. Attachment A provides the change in California's per capita personal income and an example for utilizing the price factor and population percentage change factor to calculate the 2020-21 appropriations limit. Attachment B provides the city and unincorporated county population percentage change. Attachment C provides the population percentage change for counties and their summed incorporated areas. The population percentage change data excludes federal and state institutionalized populations and military populations.

Population Percent Change for Special Districts
Some special districts must establish an annual appropriations limit. California Revenue and Taxation Code section 2228 provides additional information regarding the appropriations limit. Article XIII B, section 9(C) of the California Constitution exempts certain special districts from the appropriations limit calculation mandate. The code section and the California Constitution can be accessed at the following website: http://leginfo.legislature.ca.gov/faces/codes.xhtml.

Special districts required by law to calculate their appropriations limit must present the calculation as part of their annual audit. Any questions special districts have on this requirement should be directed to their county, district legal counsel, or the law itself. No state agency reviews the local appropriations limits.

Population Certification
The population certification program applies only to cities and counties. California Revenue and Taxation Code section 11005.6 mandates Finance to automatically certify any population estimate that exceeds the current certified population with the State Controller's Office. **Finance will certify the higher estimate to the State Controller by June 1, 2020**.

Please Note: The prior year's city population estimates may be revised. The per capita personal income change is based on historical data. Given the stay-at-home orders due to COVID-19, growth in the coming years may be substantially lower than recent trends.

If you have any questions regarding this data, please contact the Demographic Research Unit at (916) 323-4086.

/s/ Keely Martin Bosler

KEELY MARTIN BOSLER
Director

Attachment

May 2020

Attachment A

A. **Price Factor**: Article XIII B specifies that local jurisdictions select their cost of living factor to compute their appropriation limit by a vote of their governing body. The cost of living factor provided here is per capita personal income. If the percentage change in per capita personal income is selected, the percentage change to be used in setting the fiscal year 2020-21 appropriation limit is:

Per Capita Personal Income

Fiscal Year (FY)	Percentage change over prior year
2020-21	3.73

B. Following is an example using sample population change and the change in California per capita personal income as growth factors in computing a 2020-21 appropriation limit.

2020-21:

Per Capita Cost of Living Change = 3.73 percent
Population Change = 0.22 percent

Per Capita Cost of Living converted to a ratio: $\frac{3.73 + 100}{100} = 1.0373$

Population converted to a ratio: $\frac{0.22 + 100}{100} = 1.0022$

Calculation of factor for FY 2020-21: 1.0373 x 1.0022 = 1.0396

Fiscal Year 2020-21

Attachment B
Annual Percent Change in Population Minus Exclusions*
January 1, 2019 to January 1, 2020 and Total Population, January 1, 2019

County City	Percent Change 2019-2020	--- Population Minus Exclusions --- 1-1-19	 1-1-20	Total Population 1-1-2020
Napa				
American Canyon	-0.78	21,000	20,837	20,837
Calistoga	-0.56	5,378	5,348	5,348
Napa	-0.57	79,730	79,278	79,278
St Helena	-0.46	6,101	6,073	6,073
Yountville	-0.51	1,942	1,932	2,685
Unincorporated	-0.64	23,751	23,598	24,867
County Total	-0.61	137,902	137,066	139,088

*Exclusions include residents on federal military installations and group quarters residents in state mental institutions, state and federal correctional institutions and veteran homes.

CITY OF ST. HELENA
APPROPRIATIONS LIMITATION SUMMARY
Fiscal Year 2020-21

PROCEEDS OF TAXES	$	9,006,673
EXCLUSIONS	$	-
APPROPRIATIONS SUBJECT TO LIMITATION	$	9,006,673
CURRENT YEAR LIMIT	$	54,658,014
OVER (UNDER) LIMIT	$	(45,651,341)
AVAILABLE CAPACITY AS A % OF LIMIT		83.52%

In November, 1979, the voters of the State of California approved Proposition 4, commonly known as the Gann Initiative. The Proposition created Article XIIIB of the State Constitution placing limits on the amount of revenue which can be spent by all entities of government Prop 4 became effective for the 1980/81 fiscal year, but the formula for calculating the limits was based on the 1978/79 "base year" revenues.

increase the accountability of local government in adopting their limits, the voters approved Prop 111 in June 1990. Among other things, Prop 111 provides new adjustment formulas which should make the Appropriations Limit more responsive to local growth issues. It also requires an annual review of Limit calculations.

amount of revenue which can be appropriated in any fiscal year. The Limit is based on actual population and inflation. Not all revenues are restricted by the Limit, only those which are referred to as "Proceeds of Taxes."

CITY OF ST. HELENA
Spending Limit Calculation
Fiscal Year 2020-21

APPROPRIATIONS SUBJECT TO LIMIT

Fiscal year 2020-2021 estimated revenues		$	11,187,232
Less:			
Nonproceeds of tax		$	(2,180,559)
Plus:			
User fees in excess of costs		$	-
Total appropriations subject to limit:		$	9,006,673

APPROPRIATION LIMIT

Fiscal year 2019-2020 appropriation limit:		$	52,936,087
A. Cost of living adjustment [1]	1.0373		
B. Population adjustment [2]	0.9954		
Change Factor (A x B)	1.0325		
Increase in appropriation limit		$	1,721,927
FISCAL YEAR 2020-2021 APPROPRIATION LIMIT		$	54,658,014
REMAINING APPROPRIATION CAPACITY		$	45,651,341
AVAILABLE CAPACITY AS A PERCENT OF LIMIT			83.52%

[1] Based on percentage change in California per capita income.
[2] Based on annual population change for St. Helena.

CITY OF ST. HELENA
Spending Limit Calculation
Fiscal Year 2020-21

REVENUE SOURCE	PROCEEDS OF TAX	NON-PROCEEDS OF TAX	TOTAL
Property tax	4,242,842		4,242,842
Retail sales/use tax	2,439,700		2,439,700
Transient occupancy tax	1,246,359		1,246,359
Business license tax	156,228		156,228
Real property transfer tax	110,000		110,000
Motor vehicle in-lieu	755,188		755,188
Public Safety Sales Tax		60,848	60,848
Franchise Taxes		212,930	212,930
Charges for Services		616,430	616,430
Other Revenues		1,276,707	1,276,707
SUBTOTAL	$ 8,950,317	$ 2,166,915	$ 11,117,232
PERCENT OF TOTAL	80.51%	19.49%	100.00%
INTEREST INCOME	$ 56,356	$ 13,644	$ 70,000
TOTAL - GENERAL FUND	$ 9,006,673	$ 2,180,559	$ 11,187,232

(excludes interfund transfers & Sales Tax Set-Aside)

CITY OF ST. HELENA
Appropriation Limitation Adjustments Since 2002

BUDGET YEAR	PRICE FACTOR	POPULATION FACTOR	CHANGE FACTOR	PRIOR YEAR APPROP LIMIT	CURRENT APPROP LIMIT
2002/2003	0.9873	0.9985	0.9858	32,739,266	32,274,992
2003/2004	1.0231	1.0027	1.0259	32,274,992	33,109,700
2004/2005	1.0328	1.0099	1.0430	33,109,700	34,534,236
2005/2006	1.0526	1.0150	1.0684	34,534,236	36,895,998
2006/2007	1.0396	0.9119	0.9480	36,895,998	34,978,144
2007/2008	1.0460	1.0150	1.0617	34,978,144	36,586,269
2008/2009	1.0429	-1.0029	1.0400	36,586,269	38,049,720
2009/2010	1.0062	1.0114	1.0177	38,049,720	38,722,084
2010/2011	0.9746	1.0069	0.9813	38,722,084	37,998,939
2011/2012	0.9749	1.0069	0.9816	37,998,939	37,300,777
2012/2013	1.0377	1.0068	1.0448	37,300,777	38,970,224
2013/2014	1.0512	1.0029	1.0542	38,970,224	41,084,299
2014/2015	0.9977	1.0124	1.0101	41,084,299	41,498,079
2015/2016	1.0382	1.0209	1.0599	41,498,079	43,983,747
2016/2017	1.0537	1.0123	1.0667	43,983,747	46,915,726
2017/2018	1.0369	1.0025	1.0395	46,915,726	48,768,534
2018/2019	1.0367	1.0078	1.0448	48,768,534	50,856,633
2019/2020	1.0385	1.0023	1.0409	50,856,633	52,936,087

Attachment 2

CITY OF ST. HELENA

RESOLUTION NO. 2020-_____

APPROVING THE APPROPRIATION LIMIT FOR FISCAL YEAR 2020-21 AND THE SELECTION OF CURRENT FISCAL YEAR ADJUSTMENT FACTORS

RECITALS

A. **WHEREAS,** the people of California on November 6, 1979 added Article XIII-B to the State Constitution placing various limitations on the appropriations of the State and local governments; and

B. **WHEREAS,** the State Legislature adopted Chapters 1205 and 1342 of the 1980 Statutes which implemented Article XIII-B; and

C. **WHEREAS,** the people of California on June 5, 1990 amended Article XIII-B effective July 1, 1990; and

D. **WHEREAS,** the provisions of the amendments have been interpreted by a coalition of statewide organizations, and the organizations have issued through the League of California Cities revised guidelines to recalculate the appropriations limit; and

E. **WHEREAS,** the Government Code provides the process in which to calculate the appropriation limit and requires cities to adopt a resolution setting the annual appropriation limit; and

F. **WHEREAS,** The City of St. Helena has complied with the provisions of Article XIII-B in determining the appropriations limit for Fiscal Year 2020-21.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

1. The annual adjustment factors used to calculate the FY 2020-21 appropriations limit shall be the change in statewide per capita personal income percentage of 3.73% and the change in City population growth rate of -0.46%; and

2. The FY 2020-21 appropriation limit shall be $54,658,014; and

3. The City reserves the right to change this factor selection at some future time when the necessary information becomes available on a regularly accepted and/or legislated basis.

Approved at a Regular Meeting of the St. Helena City Council on August 11, 2020, by the following vote:

Mayor Ellsworth:

Vice Mayor Dohring:

Councilmember Koberstein:

Councilmember Chouteau:

Councilmember Knudsen:

APPROVED:

____
Geoff Ellsworth, Mayor

ATTEST:

____
Cindy Tzafopoulos, City Clerk

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **PUBLIC HEARINGS**

Subject: **Public Hearing for the Consideration of Potential Programs for Inclusion in the State Community Development Block Grant Coronavirus Aid, Relief, and Economic Security (CARES) Act (CDBG-CV1) Application.**

CEQA Determination: **Not a CEQA project**

Prepared By: Mandy Kellogg, Finance Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

On June 5, 2020, the California Department of Housing and Community Development announced the availability of approximately $18.7 million in new federal funds for the Community Development Block Grant Coronavirus Response Round 1 (CDBG-CV1) funding for local assistance. Funding for this Notice of Funding Availability (NOFA) is made available pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act signed into law March 27, 2020.

Eligible cities and counties may submit applications for CDBG-CV1 funds under the NOFA. An allocation of $74,487 has been made available to the City of St. Helena through an over-the-counter application process. A maximum of three (3) activities will be allowed under this application cycle and each activity must expend all funds within 12 months of the contract execution.

The CDBG-CV1 Notice of Funding Availability (NOFA) provides funding ONLY for the following Activities, which are narrowly tailored as described in Section II.A and Section II.B of the NOFA (*Attachment A*):

- Assistance to businesses and microenterprises impacted by COVID-19 stay-at-home orders and shut-downs;
- Public services related to COVID-19 support;
- Facility improvements related to COVID-19 healthcare and homeless housing needs;
- Acquisition of real property to be used for the treatment or recovery of infectious diseases in response to COVID-19.

All activities are required to meet a National Objective as outlined under Section IV. of the NOFA *(Attachment A)*.

Before submitting an application, the first step required is to hold a public hearing. The purpose of the public hearing is to gather information regarding the needs of the community and business community. Staff will then work to present the final resolution approving an application for funding designating the selected activity at the August 25, 2020 Council meeting. The deadline for the application submittal is August 31, 2020.

DISCUSSION

Eligible activities for the grant funding are limited to the following categories:

A. Community Development
1. Public services to respond to COVID-19 impacts;
2. Public facility improvements to increase capacity for healthcare facilities (facility improvements must include a documented connection with healthcare facility needs);
3. Public facility acquisition, provided that the end use increases healthcare facility capacity;
4. Acquisition and/or improvement of housing facilities for persons experiencing homelessness.

B. Economic Development with a focus on job retention
1. Business assistance
2. Microenterprise assistance (including Micro-financial assistance and Technical assistance).

The activity applied for must not be a Duplication of Benefits, which occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular funding need. In addition, the activity must meet the Low-to Moderate-Income National Objective where at least 70 percent of the funds awarded shall benefit low-to moderate-income individuals or households.

Potential Activities Identified by Staff

The following are the potential projects/activities to receive public input and possible direction to staff to prepare an application for funding:

- Develop a loan program for businesses that have cash flow needs for working capital in order to retain or create jobs.
    - Pro: Forgivable loans will be allowed under the CDBG-CV program.
    - Con: Due to the extensive process required by HCD, City staff may be unable to manage the program in-house. HCD strongly recommends that applicants consider their capacity to run an Economic Development Program and suggests partnering with an organization or consultant that has experience with CDBG Economic Development Programs, which will be taken into consideration when reviewing the application for approval.
- Assistance to business for modifications to retail buildings to reduce touch points.
    - Pro: Modifications to reduce touch points may significantly reduce impacts from COVID-19 and increase business continuity.
    - Con: Businesses receiving the funds must meet the National Objective for this activity to be eligible.
- Funding for non-profits to assist with food or rental assistance.
    - Pro: Partnership with a local non-profit agency can ensure that an immediate need is met by utilizing the agency's experience. City staff has conducted an exploratory call with one non-profit agency and has received feedback that there is interest in partnering for this type of activity.
    - Con: An agreement is required at the time of submittal of the application, which will require the City to identify which non-profit agency they will be partnering with prior to application submission.
- Marketing for Economic Development.
    - Pro: Assist with necessary outreach to highlight businesses during the pandemic to assist in economic recovery.
    - Con: Eligibility may be difficult to achieve based on the Program Expectations for Economic Development Activities outlined in Attachment B.

When adopting the resolution, the City must indicate the amount that is being requested for each activity listed on the resolution. Therefore, it is important to prioritize which activity will be included in the resolution since the City's eligible allocation to apply for is only $74,487 and may not be enough to fund multiple activities. For this reason, city staff is recommending selection of one activity to be included in the application submittal.

FISCAL IMPACT

If awarded, an approved CDBG application is 100% grant funded, which allows for up to 17% of the grant allocation to be used for administrative costs.

RECOMMENDED ACTION

Receive public input and direct staff to prepare an application for funding for one or more of the options listed in the Potential Activities Identified by staff or receive public input and direct staff to prepare an application for funding for another activity or activities.

ATTACHMENTS
CDBG_CV NOFA
Program Expectations for Economic Development Activities

Attachment A

STATE OF CALIFORNIA - BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY GAVIN NEWSOM, *Governor*
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF FINANCIAL ASSISTANCE
2020 W. El Camino Avenue, Suite 670
Sacramento, CA 95833
(916) 263-2771
www.hcd.ca.gov

June 5, 2020

MEMORANDUM FOR: All Potential Applicants

FROM: Jennifer Seeger, Acting Deputy Director
Division of Financial Assistance

SUBJECT: Community Development Block Grant Program – Coronavirus Response Round 1 (CDBG-CV1) Notice of Funding Availability

The California Department of Housing and Community Development (Department) is pleased to announce the availability of approximately $18.7 million in new federal funds for the Community Development Block Grant Coronavirus Response Round 1 (CDBG-CV1) funding for local assistance. Funding for this Notice of Funding Availability (NOFA) is made available pursuant to the Coronavirus Aid, Relief, and Economic Security (CARES) Act signed into law March 27, 2020.

The Department will be accepting applications through the Grants Network portal beginning June 8, 2020. Applications and required documentation must be received by the Department no later than **Monday, August 31, 2020, 5:00 p.m. Pacific Daylight Time. Any applications received after this time will not be accepted.**

Applications will be reviewed and awarded as received. Applicants must submit their approved governing body resolution prior to the Department's execution of a Standard Agreement. The Department will not execute agreements without an approved governing body resolution that is acceptable to the Department. In the event that the CDBG-CV1 funds are not fully awarded by the application closing date, the Department will either allocate additional funding to active contracts that have met performance and timeliness milestones, or it will roll unawarded funds into subsequent rounds of CARES Act funding as appropriate and available.

Applicants are encouraged to set-up their profiles in the Grants Network portal located at https://portal.ecivis.com/#/login as early as possible. Profile set-up instructions can be found in the Grants Network portal, external user manual on the CDBG webpage at https://www.hcd.ca.gov/grants-funding/active-funding/cdbg.shtml.

Applicants are encouraged to begin the application process early to ensure successful submission before the application deadline. If you have any trouble logging into the portal or have questions on how to complete the online application, please contact the CDBG staff at cdbg@hcd.ca.gov and make sure to include CDBG-CV1 in the subject line of your message.

To receive CDBG-CV1 NOFA FAQs, notice of the NOFA webinar, and other program information and updates, please subscribe to the CDBG listserv at https://www.hcd.ca.gov/HCD_SSI/subscribe-form.html. For questions or assistance, please email cdbgnofa@hcd.ca.gov.

Attachment

Community Development Block Grant Program -

Coronavirus Response Round 1 (CDBG-CV1)

Notice of Funding Availability

Gavin Newsom, Governor
State of California

Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency

Gustavo Velasquez, Director
California Department of Housing and Community Development

Division of Financial Assistance, Federal Programs Branch
Community Development Block Grant Program
2020 W. El Camino Avenue, Suite 200, Sacramento, CA 95833

CDBG Program Email: cdbg@hcd.ca.gov

June 5, 2020

Contents

Appendices

I. Notice of Funding Availability

The California Department of Housing and Community Development (Department) receives funding from the United States Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG) Program and allocates funds to CDBG eligible non-entitlement jurisdictions. Approximately $18.7 million in new CDBG coronavirus response round 1 (CDBG-CV1) federal funds authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act, will be allocated to eligible jurisdictions to perform Activities related to COVID-19 response and recovery. The CARES Act provides extra CDBG funds specifically targeted to prevent, prepare for, and respond to coronavirus.

The CDBG-CV1 Notice of Funding Availability (NOFA) provides funding ONLY for the following Activities, which are narrowly tailored as described in Section II.A and Section II.B of this Notice of Funding Availability (NOFA):

- Assistance to businesses and microenterprises impacted by COVID-19 stay-at-home orders and shut-downs
- Public services related to COVID-19 support
- Facility improvements related to COVID-19 healthcare and homeless housing needs
- Acquisition of real property to be used for the treatment or recovery of infectious diseases in response to COVID-19

CDBG-CV1 funds will be distributed through a simplified application via the Grants Network portal online grant management system and will be available to all CDBG-eligible non-entitlement jurisdictions as outlined in the Department's Annual Plan Amendment located at https://www.hcd.ca.gov/policy-research/plans-reports/index.shtml.

This NOFA outlines application requirements, timelines for eligible jurisdictions, and provides documentation requirements.

A. Tentative program timeline

EVENT	DATE
CDBG-CV1 NOFA and application released	**June 5, 2020**
OTC application window opens	**June 8, 2020**
Application deadline	**August 31, 2020**
Department announces awards	**As applications are received**

* Award timeline is dependent on receipt of HUD's grant agreement.

B. Authorizing Legislation

Funding under this NOFA is made available pursuant to the CARES Act (Public Law No: 116-136) and the Housing and Community Development Act of 1974 (HCDA) as amended and codified at Title 42 United States Code (U.S.C.) § 5301 et. seq., and Subpart 1 of the Federal CDBG Regulations, found at Title 24 Code of Federal Regulations (CFR) § 570.480 et seq. The requirements of the state administered CDBG program are in California Health and Safety Code (HSC) §§ 50825-50834. This NOFA should be read in conjunction with the following regulations that establish state and federal CDBG requirements. Relevant legal authority includes, but is not limited to, the following:

- Housing and Community Development Act of 1974 (HCDA) as amended and codified at Title 42 United States Code 5301 et seq., and Subpart 1 of the Federal CDBG Regulations
- HSC §§ 50825-50834
- CFR, Title 24, Part 570, Subpart I
- 24 CFR Part 58
- 2 CFR Part 200
- CDBG Guidelines (Guidelines)
- The State of California 2015-2020 Consolidated Plan as amended
- The State of California 2019-2020 Annual Action Plan as amended
- Governor of California Executive Order N-66.20

If state or federal statutes or regulations, or other laws, relating to the CDBG-CV1 funds are modified by the United States Congress, HUD, the Department, California State Legislature, or the Governor, the changes may become effective immediately and may be applicable to this NOFA and existing Standard Agreements.

If there is a conflict between the state and federal regulations, the federal regulations shall prevail. In addition, the Department reserves the right, at its sole discretion, to suspend or amend the provisions of this NOFA. If such an action occurs, the Department will notify interested parties. Awards made under this NOFA are also contingent upon the Department executing a grant agreement from HUD for the CARES Act funds.

C. Conditions

Applicants and Awardees acknowledge that the funding opportunities referenced in this NOFA, and all obligations of the Department herein, are expressly subject to the following conditions:

1. The ongoing availability of funds

2. The continued authority of the Department to administer the CDBG-CV1 funds

3. The execution of the CARES Act funding grant agreement with HUD

4. Issuance of the Governor's Executive Order providing regulatory relief from state statute

In the event that funds are not available to fund any, or all, Activities offered herein, or if the Department's authority to administer the CDBG-CV1 funds or act under this NOFA is eliminated, or in any way restricted, the Department shall have the option, at its sole discretion, to amend, rescind, suspend, or terminate this NOFA and any associated funding pursuant to the provision set forth immediately above. **This NOFA is not a commitment of funds to any Activity or Applicant**.

D. Applicant responsibility

It is the Applicant's responsibility to ensure that the application submitted is clear, complete, and accurate. It is also the Applicant's responsibility to ensure that the governing body resolution submitted is clear, complete, and accurate. The Department will not execute agreements without a resolution that is also acceptable to the Department. In this NOFA, the Department has gone to great lengths to explain what will be an acceptable resolution to the Department. After the application submittal deadline, Department staff may request clarifying information to make sure the application is complete and accurate and meets federal eligibility requirements. Applicants may be asked to make changes to their Activities to meet eligibility requirements. Applications that do not meet federal minimum eligibility requirements will be returned to draft status for Applicant changes. No Applicant may appeal the Department's evaluation of another Applicant's application.

II. Eligible Activities (24 CFR §§ 570.201-203

Applicants can apply for a total of three (3) Activities with the total request not exceeding the allocation amount in Appendix A. **Activities funded under this NOFA will have a 12-month expenditure period**. See Appendix E for a list of eligible HUD Matrix Codes. Applicants must show a relationship between the need for services and COVID-19 impacts.

For the CDBG-CV1 NOFA, the following Activities are permitted:

A. Community Development

1. Public services to respond to COVID-19 impacts

2. Public facility improvements to increase capacity for healthcare facilities (facility improvements must include a documented connection with healthcare facility needs)

3. Public facility acquisition, provided that the end use increases healthcare facility capacity

4. Acquisition and/or improvement of housing facilities for persons experiencing homelessness

B. Economic Development with a focus on job retention

1. Business assistance

2. Microenterprise assistance (including Micro-financial assistance and Technical assistance)

III. Duplication of benefits

A Duplication of Benefits (DOB) occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular funding need. The amount of the duplication is the amount of assistance provided in excess of the need. It is the Department's responsibility to ensure that each CDBG-CV1 Activity provides assistance only to the extent that the project's funding needs have not been met by another source. See the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. § 5155; HUD Memorandum dated 9 April 2020, subject: 'CARES Act Flexibilities for CDBG funds used to support coronavirus response and plan amendment waiver').

Section 312 of the Stafford Act prohibits federal agencies from providing assistance to any "person, business concern, or other entity" for any loss to which the entity has already received financial assistance from another source (42 USC § 5155(a)). The Federal Register Notice, published November 16, 2011 (Docket No. FR-5582-N), requires adequate policies and procedures in place to prevent a DOB and the recapture of funds, if necessary.

Applicants will be required to complete DOB documentation at application and will be required to continue to report on DOBs throughout the expenditure period for the CDBG-CV1 funds.

IV. National Objectives (24 CFR §§ 570.483-484)

A. Low- to Moderate-Income National Objective

At least 70 percent of the funds awarded shall benefit low- to moderate-income (LMI) individuals or households. No Activity or portion of a program assisted by these funds may exclude from its benefits the lowest-income eligible group.

Persons, households, and/or neighborhoods benefiting from LMI Activities must meet HUD's LMI requirements. Income limits are regularly updated. Applicants will be notified via a news email blast and information will be posted on the Department's website if the HUD Adjusted Median Family Income (HAMFI) limits or low- to moderate-income areas (LMA) are updated during the application period.

The LMI National Objective consists of the following categories:

1. LMI Limited Clientele (LMC), as defined by income limits or presumed benefit.

   LMC refers to persons who earn 80 percent or less of HAMFI for the county of residence, as updated annually by HUD.

   Presumed benefit LMC refers to persons who, as a category, are typically low income. This includes:

   - Seniors
   - Persons with a disability (must meet the Bureau of the Census' Current Population Report's definition of "severely disabled")
   - Homeless persons
   - Abused children and battered spouses
   - Illiterate adults
   - Persons living with acquired immunodeficiency syndrome (AIDS)
   - Migrant farmworkers

2. LMI Area (LMA), as defined by census tracts and block groups.

   - LMA eligibility is based on the American Community Survey using Census Geographies.
   - At least 51 percent of households in the area must be earning at 80 percent or below HAMFI to meet LMA.

- Must be contiguous – the area must be a solid area, without certain streets or buildings being excluded, and the area should be mapped to show eligibility. If a service area is not contiguous it will be determined to be a separate Activity and will need a separate application.

- Activity must be a public benefit for the area, for example, the construction of a facility to be used for testing, diagnosis, or treatment of infectious disease.

  LMA eligibility should be determined from the map application at HUD's Low- and Moderate-Income Summary Data Application page. Instructions for HUD's mapping application can be found at this link: https://hud.maps.arcgis.com/apps/webappviewer/index.html?id=ffd0597e8af24f88b501b7e7f326bedd

3. LMI Housing (LMH), as defined by household income limits

   - Households earning 80 percent or less of HAMFI.

4. LMI Job Creation or Retention (LMJ) Activities

   - LMJ is based on the number of full-time equivalent jobs created or retained.

   - Must create or retain jobs, and 51 percent of those jobs must be for LMI persons.

   - To meet the public benefit requirements for LMJ Activities, for every $35,000 spent (including Activity delivery), one full-time equivalent job must be created or retained.

B. Urgent Need National Objective

Urgent Need is a National Objective that is available for instances where the existing conditions in a community:

- Pose a serious and immediate threat to the health or welfare of the community.

- Are of recent origin or recently became urgent.

- The applicant is unable to finance the Activity.

- Other resources of funding are not available to carry out the Activity.

The availability of Urgent Need as a National Objective depends on the overall LMI performance of the state. The state may only offer Urgent Need in the margin above the statutory 70 percent LMI requirement. As a result, Urgent Need will not be a default National Objective and may only be designated on a case-by-case basis.

Applicants that have no option but to use Urgent Need must contact the Department to discuss how to prepare and submit their application.

Please note that if HUD should provide waivers of the 70 percent LMI requirement or other guidance that will allow for greater utilization of Urgent Need, the Department may make changes to the program allocation process to incorporate Urgent Need as a default National Objective without amending this NOFA. Applicants will be notified of any such changes via email.

V. Eligible applications

Applicants must meet the following requirements when the application is submitted to be eligible to apply for funding under this NOFA:

A. Eligible jurisdictions

Any California city or county is eligible to apply for CDBG-CV1 funding except a city or county that participates in the HUD-administered CDBG Entitlement program either as a direct entitlement, or as part of an Urban County consortium. Incorporated cities located in an Urban County as defined by 42 U.S.C. 5302(a)(6) must formally elect to be excluded from participation in the Urban County entitlement status.

HUD must be notified that the city has elected to be excluded from the Urban County participation as per 24 CFR 570.307(g) for it to be eligible for the state administered CDBG program, including CDBG-CV1 funding. Eligible Applicants may use the following approaches. Only eligible Activities from eligible Applicants will be reviewed.

1. An eligible Applicant may apply on its own behalf.

2. An eligible Applicant may apply on behalf of one or more other eligible Applicants. An application on behalf of one or more other eligible applications will need to include a Memorandum of Understanding (MOU), or similar formal agreement, fully executed by all parties of the application, that clearly identifies the lead Applicant and that details the roles, responsibilities, and requirements for each party. The agreement must be enforceable.

3. Two or more eligible Applicants, which share a program, may submit a joint application. A joint application must include a MOU, or similar formal agreement, fully executed by all parties of the application, that clearly identifies the lead Applicant and that details the roles, responsibilities, and requirements for each party. The agreement must be enforceable. Only one Applicant in a joint application may be designated as the lead agency and will have the lead responsibility for administering the Standard Agreement, financial management, and Activity reporting.

B. Financial Management Compliance (2 CFR Part 200)

The Applicant must demonstrate to the satisfaction of the Department that it is in compliance with the financial management requirements at 2 CFR §200, et seq., including the single audit requirements of 2 CFR §200.501.

C. Good standing

The Applicant, and any co-Applicant, together with the respective affiliates, must be in good standing with the Department (*i.e.*, are current on all loan and/or grant obligations, have a satisfactory past performance history in all of their prior dealings with the Department, and are in full compliance with all Department contracts and reporting requirements). Applicants not meeting the foregoing requirements shall include with their application evidence that they are actively working with the Department to resolve any issue.

D. Federal debarment

Pursuant to 24 CFR Part 5, all CDBG-CV1 Applicants are required to verify they and their principals, or any/all persons, contractors, consultants, businesses, sub-recipients, etc., that will be conducting business with the Applicant as part of the Activity are not presently debarred, proposed for debarment, suspended, declared ineligible, or voluntarily excluded from participation in the covered transaction or in any proposal submitted in connection with the covered transaction.

The Department will not award any CDBG-CV1 funds to Applicants that are debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from participation from federally assisted programs, or that are proposing to partner, contract, or otherwise fund Activities through an organization that is debarred, suspended, proposed for debarment, or otherwise ineligible from participation in federally assisted programs. Applicants are responsible for providing proof that all program partners, subrecipients, contractors, and any other program participants, current or future, are not debarred. Applicants must provide proof from the federal System for Award Management that the Applicant, all application partners, and any subrecipients, developers, consultants, and contractors that are or may be participating in the application, the potential administration of the award, or the potential implementation of the Activity, are not debarred. Applicants are not required to run debarment checks against individual employees. If the Applicant has not yet procured the contractor or identified a subrecipient for a specific Activity, the Applicant will be required to check for debarment prior to executing a contract or agreement for that Activity and shall include proof of debarment evaluation in the Activity file.

E. Restrictions on multiple Activities in the same political districts

Applications for eligible Activities outside the Applicant's jurisdiction must include a legally binding agreement, acceptable to the Department, with the city or county in which the eligible Activity is located. Applicants may not apply to both the state administered CDBG program (including CDBG-CV1) and to a CDBG program administered by an Urban County or other entitlement entity during the same program year.

VI. Funding and Activity limits

IMPORTANT NOTE:

All applications must be submitted through the Department's online Grants Network portal via https://portal.ecivis.com/#/login; no hard copies will be accepted. Jurisdictions will submit **one application per** Activity. Each jurisdiction **can submit up to three (3) applications** during this NOFA cycle. Each Activity must have a unique application with a complete budget, National Objective, scope of work, and milestone timeline. There will be no "combo" Activities or applications accepted in this NOFA cycle. Each Activity, both projects and programs, is stand-alone with a separate budget and scope of work. General Administration should be budgeted for each Activity up to 17 percent of the total Activity budget. HUD allows a total of 20 percent of funding to be used for planning and administration. HUD limits the state to 3 percent, which allows up to 17 percent for local jurisdictions. The Department is not proposing to allocate any funding for planning only Activities, which will allow local jurisdictions to access the full administration balance. Each Activity will have a stand-alone Standard Agreement for that Activity. Applicants are encouraged to review the attached draft Standard Agreement as a sample of the applicable terms and conditions.

- Funds from this NOFA cycle will be available to eligible Applicants via allocation through a simplified application (See Appendix A for final jurisdiction allocations).

- Maximum total grant amount limits are the allocation for your jurisdiction. Program income is not included in the allocation amounts. Total Activity budgets may exceed the award limits if program income is included in the Activity application. Note that program income included in a CDBG-CV1 application will be required to meet the same performance terms, duplication of benefits, and expenditure period for the CDBG-CV1 funds.

- Milestones: All CDBG-CV1 funded Activities must be implemented according to the milestones defined in the Standard Agreement. Applicants must include at least two milestones per Activity application – a milestone for Activity initiation and a milestone for Activity closeout. Additional milestones are optional, though encouraged for best practice Activity implementation.

VII. Program administrative costs

Grantees will be allowed to use a total of 17 percent of their allocation for program administration costs. Costs incurred in COVID-19 response prior to the allocation may be eligible for reimbursement as per the CARES Act. Applicants will be asked to identify pre-agreement costs as part of the simplified application.

VIII. Pre-agreement costs

Costs incurred in COVID-19 response prior to allocation may be eligible for reimbursement as per the CARES Act. Applicants will be required to identify pre-agreement costs. Pre-agreement costs not identified as part of the application budget will not be eligible for reimbursement. See the attached sample Standard Agreement for pre-agreement cost reimbursement terms.

IX. Threshold requirements

- A city or county must be a non-entitlement jurisdiction and must not currently be party to an Urban County Agreement or participate in, or be eligible to participate in, the HUD-administered CDBG Entitlement program.

- The Activity applied for must be an eligible Activity as defined by 24 CFR §§ 570.201-203 and the CARES Act.

- The Activity must meet a CDBG National Objective as defined by 24 CFR §570.483.

- The Applicant must provide the Department with its most recent single audit, if applicable. If the Applicant has open single audit findings and does not have a plan or agreement to remediate those findings, the Applicant will be deemed ineligible for CDBG-CV1 funding through the state administered CDBG program until the findings are resolved or a remediation plan or agreement is established.

- Pursuant to 24 CFR § 570.486, applications must follow CDBG Public Participation regulations as identified in the state's updated Citizen Participation Requirements for Federal Programs, Plans, and Reports. Applicants will be expected to provide opportunities for virtual meetings that include opportunities for the public to pose questions about the program and receive answers. Applicants will also be expected to meet noticing and public information requirements for the program as per federal regulations and the Citizen Participation Requirements.

- As per HSC § 50829, the Applicant must submit a draft and adopted Housing Element to the Department in accordance with the requirements listed in Government Code (GC) § 65580 et seq., most specifically GC § 65585. Applicants must demonstrate compliance with HSC § 50829 with documented proof at the time of application submittal. Documented proof includes, at a minimum, correspondence, resolutions or email verification from the Department. Failure to comply with the procedural requirements (i.e., GC § 65585) of Housing Element Law will invalidate the application for this NOFA and the Applicant will be deemed ineligible for funding through the state administered CDBG program, including CDBG-CV1 funding, until the Applicant has met procedural requirements. Applicants triggering the provision of HSC § 50830 must meet and document all pertinent requirements. See Appendix A for information on Housing Element status. For additional information and assistance, please contact Paul McDougall at paul.mcdougall@hcd.ca.gov.

- The Applicant must be in good standing with the Department as defined in Section V of this NOFA.

- The Applicant must demonstrate compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 relocation requirements, as applicable.

- The Applicant must demonstrate compliance with Article XXXIV, as applicable.

- To reduce delays in the application review, award, and contracting processes, Applicants are required to use the Department's *Sample Resolution of the Governing Body*. For reference, please see Appendix D.

X. Applications

A. Application webinar

The Department will hold a NOFA workshop webinar on June 24, 2020. Please visit the Department's website at https://www.hcd.ca.gov/grants-funding/active-funding/cdbg.shtml to register.

Applicants are also strongly encouraged to review available webinars and training materials on the CDBG program in general, the CDBG Redesign, using the Grants Network portal, and preparing a CDBG program application in the Grants Network portal.

B. Application submission

Applicants **must** follow instructions in both this NOFA and the online application. Failure to follow instructions will result in disqualification, and applications will be returned to draft status for correction and re-submittal.

The CDBG-CV1 application and all required attachments must be submitted to the Department through the Grants Network portal located at https://portal.ecivis.com/#/login. Applications must include all required information to be submitted. Applicants must certify that all information is true and complete to the best of their knowledge, under penalty of perjury.

Applicants that do not have an account with the Grants Network portal should log into the https://portal.ecivis.com/#/login. Use the "Create an account" option to initiate a profile.

Applications must meet all threshold and eligibility requirements upon submission. It is the Applicant's responsibility to ensure that the submitted application is clear, complete, and accurate. Department staff may request clarifying information and may request that applications be revised and resubmitted to help address eligibility and threshold issues prior to approving applications and issuing awards.

C. Disclosure of application

Information provided in the application will become public record available for review by the public pursuant to the California Public Records Act (PRA) (GC § 6250 et seq.). As such, the Department may disclose any materials provided by the Applicant to any person making a request under the PRA. The Department cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, home addresses, or other personally identifiable information. By providing this information to the Department, the Applicant is waiving any claims of confidentiality, and consents to the Department's disclosure of the Applicant's material upon receipt of a PRA request.

XI. Application review, approval and commitment process

A. Application review

All applications are required to pass threshold requirements. Failure to meet threshold will result in immediate disqualification. Applications that do not meet threshold will not be further reviewed and will be returned to a draft status for Applicant revisions.

All applications will be reviewed for Activity eligibility. Activities that do not meet program eligibility will be disqualified, and the application will be returned to a draft status for Applicant revisions.

B. Recommendations

The Department will review applications and make award recommendations according to the above criteria. Applicants that are recommended for awards will be contacted and provided with an opportunity to update project schedules or other date-dependent data that may have aged during the application review period. Applicants will officially be notified of awards through the Grants Network portal. Applicants should ensure that the appropriate contact information is included in applicant profiles to facilitate notifications of awards and requests for changes. The award notification will include instructions for accepting or declining the award, as well as an executable Standard Agreement. Applicants that are not recommended for awards will be notified through the Grants Network portal that their application has been returned to draft status for Applicant revision, as applicable.

C. Standard Agreements

Successful Applicants (Grantees) will enter into a Standard Agreement with the Department. A draft sample is included as Appendix K of this NOFA. The Standard Agreement contains all the relevant state and federal requirements, Activity performance and management requirements, and disbursement requirements. A condition of award will be that a Standard Agreement must be executed by the Grantee within 30 days (contracting period) of the Grantee's receipt of the Standard Agreement(s). Failure to execute and return the Standard Agreement(s) to the

Department within the contracting period will result in award cancellation. Award cancellations are final.

XII. Awards announcement and grant implementation

The Department anticipates awards will be announced as applications are approved for funding.

XIII. Federal program requirements

A. Cross-cutting requirements

The CDBG-CV1 funding is administered under the general rules and regulations promulgated primarily in 24 CFR § 570.600, et seq. These primary regulations are known as the federal cross-cutting requirements and form the basis of the programmatic requirements. The Department incorporates all federal cross-cutting requirements into the state administered CDBG program, and the regulations in Part 570 are translated into required actions on the part of all Grantees of the state administered CDBG program, including CDBG-CV1 funds.

This following is a summary of the federal cross-cutting requirements:

1. Environmental Standards (based on the National Environmental Policy Act of 1969 [NEPA])
2. Labor Standards (Davis-Bacon and related laws)
3. Achieving a HUD National Objective
4. Public participation requirements
5. Fair Housing and Affirmatively Furthering Fair Housing
6. Equal Opportunity and Non-Discrimination in federal Grant Programs
7. Federal Procurement Guidelines
8. National Flood Insurance Program compliance
9. Relocation and displacement requirements
10. Employment and Contracting Opportunities Section 3 compliance
11. Lead-based paint requirements
12. No use of debarred, ineligible, or suspended contractors or sub-recipients
13. Uniform Administrative Requirements and Cost Principles
14. Conflict of interest prohibitions
15. Compliance with the Architectural Barriers Act and the Americans with Disabilities Act
16. Compliance with Eligibility Restrictions for certain resident aliens
17. Federal reporting requirements
18. Grant and subrecipient monitoring requirements

B. Relocation Plan requirement

Applicants engaging in project-specific Activities that may or will cause the temporary or permanent relocation and displacement of persons, property, or businesses must provide a project-specific relocation plan as part of the application. The plan must meet the standards established in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Applicants must successfully demonstrate that they have met URA requirements prior to the start of the project or displacement Activity. Applicants should include relocation costs in project budgets.

Applicants must provide General Information Notices to persons who may be displaced if the Activity in the grant application is funded. This plan must outline how the Grantee will enforce and manage the project's temporary relocation and displacement Activities and estimate what relocation benefits will be required so those costs can be included in the project's development budget.

C. Article XXXIV compliance

Applicants engaging in low-income housing project Activities that are subject to Article XXXIV of the California Constitution must show that the project approval process complies with Article XXXIV requirements as defined in the California Constitution, California state statutes, and applicable case law. The state statutes implementing Article XXXIV can be found at HSC § 37000, et seq.

D. Procurement

Pursuant to 24 CFR §570.489(g), all Grantees must comply with federal procurement requirements. The Department will review the Grantee's procurement documents for services (i.e., administrative sub-contractor, Davis-Bacon Act consultant, etc.) at time of monitoring.

Requirements for federal procurement can be found at 2 CFR §200.317-326. Applicants are responsible for meeting all federal procurement standards for goods and services funded through federal programs. Failure to meet procurement requirements may result in disqualification, recapture of federal funds, and debarment.

E. Certifications and Statement of Assurances

Applicants must sign and submit the Certifications and Statement of Assurances (Appendix J) with their application to meet threshold. Please review the Statement and confirm compliance with each requirement. Failure to comply with the certifications and assurances may result in disqualification, recapture of federal funds, and debarment.

JURISDICATION ALLOCATIONS

Housing Element Eligibility status is as of June 1, 2020. This is a static list. Ineligible jurisdictions are encouraged to resolve Housing Element issues as early to be able to participate in the CDBG-CV1 funding. Eligible jurisdictions that fail to meet Housing Element timelines may be ineligible at application. For additional information and assistance, please contact Paul McDougall at paul.mcdougall@hcd.ca.gov.

Jurisdiction Low-Mod Income percentages are based on HUD's 2020 Area Benefit instructions.

Jurisdiction	CDBG-CV1 Allocation	Jurisdiction-Wide % Low-Mod Income	Housing Element Eligibility
Alpine County	$56,890	39.82%	Currently Ineligible
Alturas	$66,337	48.47%	Eligible
Amador City	$55,037	46.67%	Currently Ineligible
Amador County	$112,462	38.76%	Eligible
American Canyon	$98,383	33.80%	Eligible
Anderson	$86,899	61.16%	Currently Ineligible
Angels	$68,004	43.94%	Eligible
Arcata	$147,657	67.47%	Eligible
Artesia	$113,758	53.95%	Eligible
Arvin	$116,166	66.80%	Eligible
Atwater	$132,653	49.81%	Eligible
Auburn	$100,421	43.22%	Eligible
Avenal	$87,639	74.18%	Eligible
Benicia	$118,575	23.60%	Eligible
Biggs	$59,113	58.07%	Eligible
Bishop	$70,042	49.67%	Eligible
Blue Lake	$57,075	39.69%	Currently Ineligible
Brawley	$126,725	52.15%	Eligible
Butte County	$279,919	45.99%	Eligible
Calaveras County	$173,220	41.57%	Eligible
Calexico	$170,998	51.68%	Eligible
Calimesa	$74,302	38.19%	Eligible
Calipatria	$64,484	57.63%	Eligible
Calistoga	$71,338	54.19%	Eligible
Capitola	$88,010	52.78%	Eligible
Carmel-by-the-Sea	$68,560	28.46%	Eligible
Chowchilla	$92,456	61.49%	Currently Ineligible
Clearlake	$122,279	71.16%	Eligible
Coalinga	$86,343	40.56%	Eligible
Colfax	$60,224	56.79%	Eligible
Colusa	$71,894	47.70%	Eligible
Colusa County	$69,856	38.92%	Eligible
Corcoran	$95,420	67.17%	Eligible
Corning	$77,451	66.47%	Eligible
Crescent City	$67,634	62.71%	Eligible

Jurisdiction	CDBG-CV1 Allocation	Jurisdiction-Wide % Low-Mod Income	Housing Element Eligibility
Del Norte County	$118,019	45.60%	Eligible
Dinuba	$124,317	60.81%	Eligible
Dixon	$96,716	38.99%	Eligible
Dorris	$55,593	72.58%	Eligible
Dos Palos	$69,301	65.38%	Currently Ineligible
Dunsmuir	$60,224	62.58%	Eligible
El Dorado County	$403,103	34.73%	Eligible
Etna	$56,149	68.57%	Eligible
Eureka	$157,290	50.52%	Eligible
Exeter	$81,897	54.96%	Eligible
Farmersville	$82,268	59.18%	Eligible
Ferndale	$59,483	34.69%	Eligible
Firebaugh	$79,859	61.04%	Eligible
Fort Bragg	$89,492	52.65%	Eligible
Fort Jones	$57,816	47.96%	Eligible
Fortuna	$90,974	49.51%	Eligible
Fowler	$67,819	49.83%	Eligible
Glenn County	$89,492	48.08%	Eligible
Grass Valley	$113,573	65.31%	Eligible
Greenfield	$117,278	64.77%	Eligible
Gridley	$77,451	45.79%	Eligible
Grover Beach	$101,532	53.61%	Eligible
Guadalupe	$84,676	69.04%	Eligible
Gustine	$61,521	46.42%	Eligible
Hidden Hills	$59,668	18.33%	Eligible
Hollister	$151,177	45.57%	Eligible
Holtville	$69,115	59.48%	Eligible
Humboldt County	$289,181	46.58%	Eligible
Huron	$83,379	70.69%	Eligible
Imperial	$76,525	20.91%	Eligible
Imperial County	$145,805	48.54%	Eligible
Indian Wells	$74,302	23.11%	Eligible
Industry	$54,815	65.85%	Eligible
Inyo County	$86,899	41.44%	Eligible
Ione	$63,003	38.75%	Eligible
Jackson	$73,191	49.71%	Eligible
King City	$112,462	68.41%	Eligible
Kings County	$137,099	46.93%	Eligible
Lake County	$202,859	51.44%	Currently Ineligible
Lakeport	$66,337	41.50%	Currently Ineligible
Lassen County	$85,417	38.47%	Eligible
Lemoore	$121,724	41.05%	Eligible

Jurisdiction	CDBG-CV1 Allocation	Jurisdiction-Wide % Low-Mod Income	Housing Element Eligibility
Lincoln	$170,442	33.27%	Eligible
Lindsay	$98,198	67.17%	Eligible
Live Oak	$75,043	55.17%	Eligible
Livingston	$91,159	41.01%	Eligible
Loomis	$68,375	24.55%	Eligible
Los Banos	$157,845	52.59%	Eligible
Loyalton	$56,519	55.81%	Currently Ineligible
Madera County	$229,904	47.90%	Eligible
Mammoth Lakes	$68,375	53.34%	Eligible
Maricopa	$55,778	60.66%	Currently Ineligible
Marina	$132,097	46.32%	Currently Ineligible
Mariposa County	$107,645	38.31%	Eligible
Marysville	$92,456	56.37%	Eligible
McFarland	$94,493	75.01%	Eligible
Mendocino County	$293,812	45.87%	Eligible
Merced County	$261,024	51.54%	Eligible
Modoc County	$63,929	48.50%	Currently Ineligible
Mono County	$64,484	50.27%	Eligible
Montague	$57,445	43.29%	Eligible
Mount Shasta	$75,228	45.91%	Eligible
Napa County	$120,057	41.84%	Eligible
Nevada City	$65,966	48.00%	Eligible
Nevada County	$257,134	39.32%	Eligible
Orange Cove	$84,861	75.54%	Currently Ineligible
Orland	$77,451	55.25%	Eligible
Oroville	$114,870	55.20%	Eligible
Pacific Grove	$99,495	23.93%	Eligible
Palos Verdes Estates	$80,971	15.31%	Eligible
Parlier	$111,906	71.45%	Eligible
Pismo Beach	$83,379	43.06%	Eligible
Placer County	$382,171	31.45%	Eligible
Placerville	$92,826	55.93%	Eligible
Plumas County	$101,532	41.09%	Eligible
Plymouth	$56,334	55.42%	Eligible
Point Arena	$56,334	53.85%	Eligible
Portola	$63,003	59.34%	Eligible
Rancho Mirage	$144,323	34.32%	Eligible
Red Bluff	$103,941	58.69%	Eligible
Rio Dell	$66,152	48.88%	Currently Ineligible
Rio Vista	$80,600	43.80%	Eligible
Riverbank	$102,273	35.70%	Eligible
San Benito County	$101,532	45.98%	Eligible
San Joaquin	$65,781	76.81%	Eligible

Jurisdiction	CDBG-CV1 Allocation	Jurisdiction-Wide % Low-Mod Income	Housing Element Eligibility
San Juan Bautista	$63,558	51.56%	Eligible
San Juan Capistrano	$198,413	51.84%	Eligible
Sand City	$56,112	62.90%	Eligible
Sanger	$129,689	47.09%	Eligible
Santa Cruz County	$475,347	50.09%	Eligible
Scotts Valley	$86,899	24.62%	Eligible
Shasta County	$240,833	42.64%	Currently Ineligible
Shasta Lake	$85,602	44.42%	Eligible
Sierra County	$56,519	42.56%	Eligible
Siskiyou County	$119,130	50.10%	Eligible
Solano County	$107,460	39.35%	Eligible
Soledad	$101,347	56.49%	Eligible
Sonora	$76,525	54.59%	Eligible
South Lake Tahoe	$138,951	59.15%	Eligible
St. Helena	$74,487	36.53%	Eligible
Suisun City	$129,689	41.31%	Eligible
Susanville	$78,007	42.62%	Eligible
Sutter County	$97,457	40.84%	Eligible
Sutter Creek	$65,781	50.48%	Eligible
Taft	$75,784	45.35%	Eligible
Tehama	$54,815	47.56%	Currently Ineligible
Tehama County	$156,586	47.18%	Eligible
Trinidad	$55,222	27.27%	Eligible
Trinity County	$101,903	48.72%	Eligible
Truckee	$87,639	27.72%	Eligible
Tulare County	$490,166	53.64%	Eligible
Tulelake	$57,260	63.50%	Eligible
Tuolumne County	$203,229	38.07%	Eligible
Ukiah	$108,757	49.25%	Eligible
Vernon	$54,630	75.00%	Eligible
Wasco	$113,573	57.01%	Eligible
Weed	$64,114	65.41%	Eligible
Westmorland	$60,780	77.14%	Eligible
Wheatland	$60,224	30.21%	Eligible
Williams	$67,634	36.54%	Eligible
Willits	$77,266	55.82%	Eligible
Willows	$78,377	44.56%	Eligible
Winters	$74,302	40.32%	Eligible
Woodlake	$75,228	62.74%	Currently Ineligible
Yolo County	$114,499	50.42%	Eligible
Yountville	$67,819	44.71%	Eligible
Yreka	$85,417	59.78%	Eligible
Yuba County	$228,607	45.13%	Eligible

Local Assistance Total	$17,579,805
Non-Federal Tribe 1.25%	$234,397
Colonia 5%	$937,590
Total Local Assistance	**$18,751,792**
State of California Operations	$579,952
Program Total	**$19,331,744**

IDIS Matrix- CDBG Eligibility Activity Codes and National Objectives

Matrix Code Key - National Objective Codes (N = Not Allowed)

Code	Eligible Activity	LMA	LMC	LMH	LMJ	URG
01	Acquisition of Property - 570.201(a)					
03B	Facility for Persons with Disabilities	N		N		
03C	Homeless Facilities (not operating costs)	N		N		
03P	Health Facilities			N		
03T	Operating Costs Homeless/AIDS Patients	N		N	N	
05A	Senior Services	N		N	N	
05B	Services for Persons with Disabilities	N		N	N	
05C	Legal Services			N	N	
05D	Youth Services	N		N	N	
05F	Substance Abuse Services			N	N	
05G	Services for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking	N		N	N	
05H	Employment Training			N	N	
05J	Fair Housing Activities-Subj.to Pub.Serv.Cap			N	N	
05K	Tenant/Landlord Counseling	N		N	N	
05L	Child Care Services	N		N	N	
05M	Health Services			N	N	
05N	Abused and Neglected Children	N		N	N	
05O	Mental Health Services			N	N	
05Q	Subsistence Payments	N		N	N	
05S	Rental Housing Subsidies	N	N		N	
05T	Security Deposits	N	N		N	
05U	Housing Counseling Only, under 24 CFR 5.100	N	N		N	N
05W	Food Banks			N	N	
05X	Housing information and referral services	N			N	N
06	Interim Assistance		N	N	N	
08	Relocation					
09	Rental Income Loss					
14B	Rehab; Multi-Unit Residential	N	N		N	
14G	Acquisition for Rehabilitation	N	N		N	
14H	Rehabilitation Administration					
14I	Lead-Based Paint Abetment	N	N		N	
18A	ED Assistance to For-Profits		N	N		
18B	Economic Development: Technical Assistance		N	N		
18C	Micro-Enterprise Assist.			N		
21A	General Program Admin. - 570.206	N	N	N	N	N

Please contact the Department’s Division of Housing Policy Development with questions and current status at (916) 263-2911.

Appendix M: Program Expectations for Economic Development Activities

This outline identifies the program expectations and parameters for Economic Development programs funded with both CARES Act funds and 2019-2020 CDBG allocation funds for job retention activities. These parameters are intended to provide limited-term **minimum standards** for program operations to respond to the current economic impacts due to COVID impacts. Local jurisdictions are encouraged to design their local programs to address local needs and priorities within these parameters. These parameters are aligned with HUD's current requirements for the CDBG program. Future waivers or adjustments to HUD's Economic Development requirements will be updated in this document.

Economic Development for COVID response is intended to provide support for job retention. Job creation activities will be expected to follow program parameters identified in the upcoming grant management manual. Jurisdictions interested in participating in job creation activities are encouraged to reach out to the HCD CDBG team. CARES Act (CV) funding questions should be directed to CDBG@hcd.ca.gov and 2019-2020 CDBG Allocation funding question should be directed to CDBGNOFA@hcd.ca.gov.

Economic Development – COVID Loan Parameters Flexible Financing

Flexible Financing Loan Requirements

a) CDBG eligible use of funds must meet a national objective and public benefit
b) COVID related – temporary parameters limited to CARES and 2019-2020 NOFA
c) Business Assistance - Up to $100k forgivable (if the business is qualified). Total loan amount determined by grantee based on underwriting
d) Microenterprise – Up to $100k forgivable (if the business is qualified). Total loan amount determined by grantee based on underwriting.
e) Procurement of qualified consultants for program operator, underwriter, and TA provider.
    i. Verifiable documentation of length and level of recent direct ED experience of all sub-recipients and consultants - 3 years minimum experience

ii. Signed agreement with sub-recipient or contractor

iii. Detailed outline and steps how the program will comply with CDBG program and underwriting guidelines.

iv. Verification/documentation of level of direct ED experience and capabilities of jurisdiction departmental support services (finance, building, health, etc.)

v. Verification/documentation of ED partners

Uses of Funds

1. Operating Expenses (OE) & Working Capital (W/C)

   W/C number will be net of OE. OE includes primary expenses including payroll, insurance, lease payment.

   a) # of days and amount of OE and WC supported by pre COVID financial information (e.g.; Year End 2019)

2. Furniture, Fixtures, and Equipment (FF&E)

   a) Support operational needs to address COVID requirements for opening and operating b) supported by list of FF&E and cost (vendor proposals)

3. Capital Improvements

   a) Limited to responding to modifications required to address COVID related impacts e.g.; drive thru, curbside pickup, no touch entries)

4. Criteria/limitations for loans:

   a) Length of time in business – since January 2019

   b) Less than 25 full-time equivalent (FTE) employees prior to March 1. Maximum 4 part-time employees = 1 FTE

   c) Company financial information prior to March 1 (income/expense, current sources and uses, account payables/account receivables)

   d) No tax liens

   e) Credit check. Not for scoring criteria. Management of credit prior to March 1 (charge offs, liens (may be eligibility factor), legal entity, extended credit)

   f) Pay off high interest cc debt for verified business expenses (no personal debt)

g) TA strongly encouraged for financial assistance including follow up due diligence after business commences operations.

h) Legal operating entity

i) Evidence of all required operating permits and licensing.

5. Terms for forgiveness (if qualified)

    a) Level of forgiveness up to 100% (if qualified)

    b) If all terms and conditions met, loan is forgiven at the end of the forgiveness period. Minimum 3 months.

    c) Advances may be allowed for no more than 30 days for operating expenses and working capital

    d) Retain jobs for period of forgiveness

    e) National objective is met at the end of the forgiveness period. Minimum 3 months.

6. Other Considerations

    a) No duplication of funds

        i. Other funding sources – Applications and/or approved financing

        ii. Insurance payments – Must be expended first.

    b) LMJ National Objective – Business Assistance and Microenterprise Financial Assistance

    c) LMA national objective – Rural clinics and small hospitals

    d) Microenterprise. Date established as micro – Part 5 per CDBG program requirements. LMCMC National Objective

    e) Income self-certifications per CDBG program requirements.

    f) HUD underwriting standards per CDBG program requirements

7. Program/General requirements*

    a) Duns

    b) Debarred

    c) NEPA

    d) Jurisdiction information, etc.

e) CDBG Federal overlays

8. Misc.

   a) Draft only of Program guidelines status. No monitoring finding for not adhering to draft guidelines.

   b) Loans will be self-certified by grantee and underwriter.

*GMS Application requirements –Required.

Cindy Tzafopoulos

From: Jenny Ocon <jocon@upvalleyfamilycenters.org>
Sent: Monday, August 10, 2020 12:51 PM
To: Public Comment
Subject: [External] public comment on item 9.1 re: CARES Act funds

Dear Mayor and City Council,

I would like to express support for use of St. Helena's CARES Act funds to help stabilize childcare in our community. Some local and regional providers have had to close their programs during COVID-19; others have had to make reductions in their levels of child enrollment. Sustaining access to affordable and high quality child care is important for local families and is a key part of economic stability. Please consider using CARES Act funds to provide economic relief to child care small businesses in our community, as well as to provide child care scholarships or stipends to low-income working families who have faced their own economic hardship due to COVID-19. Thank you for your consideration.

Sincerely,
Jenny Ocon

Jenny Ocón, MSW
Executive Director
UpValley Family Centers
(707) 965-5010 ext. 200
jocon@upvalleyfamilycenters.org

UpValley Family Centers is here with and for our community: though our offices are closed, **our phone lines are open.**
If you or anyone you know is in need of assistance during this difficult time, please call us at (707) 965-5010.

Get the latest UVFC News!

www.upvalleyfamilycenters.org

Cindy Tzafopoulos

From: Sun and Stars Montessori <sunandstarsmontessori@gmail.com>
Sent: Tuesday, August 11, 2020 12:39 PM
To: Public Comment
Subject: [External] Comment from Sun and Stars Montessori School - agenda item 9.1

Dear Council,

Thank you for the opportunity to share via public comment on potential CDGB funding.

I have worked with several directors of local childcare programs during the past several months and can confirm with certainty that there is a need for financial support.

While I cannot speak on behalf of all local families, their individual childcare needs, and financial situations, I believe that feasible enrollment options currently involve several factors. Enrollment may not be decided based on affordability alone. Some programs serving children ages 0-5 years are closing and those that are open have limited space.

Childcare centers are currently faced with many financially impactful guidelines:

- The implementation of social distancing equals less children and the need for more space
- The implementation of small group sizes means receipt of less income (children) and incurred expenses for additional staff
- In effort to reduce exposure, consistent adult to small groups eliminates the option to utilize parent volunteers or volunteers of any kind
- Centers have been required to purchase new materials in addition to overpriced disinfectants such as shade and furniture for outdoor space, single tables to replace shared tables, barriers, PPE equipment, touchless soap dispensers, trash cans, additional digital thermometers, etc.

While the PPP loan was a fabulous option at the time, many of the childcare directors that applied, received funding in April. It was used to retain teaching staff and benefits via payroll forgiveness and to stay “afloat” for what was anticipated to be until the next school year. The financial burdens of reopening were unforeseen at the time.

An analysis conducted in early April by the Center for American Progress predicts that approximately half of child care sites could vanish as a consequence of financial distress caused by the pandemic, ranging from initial closures to the absorption of an incremental cost burden to maintain safe operations and meet new requirements.

- *Community Resources for Children, Napa County*

Childcare centers are often referred to as the "backbone" of our community structures. Thank you for your support during our struggles to maintain strong foundations for local families ensuring that more parents can work, and more children can thrive.

Best regards,

Tammy Harbison
Executive Director
Sun and Stars Montessori School
(707) 967-1984
www.sunandstarsmontessori.org

Cindy Tzafopoulos

From: Julio Olguin <julio@shpreschoolforall.org>
Sent: Tuesday, August 11, 2020 3:25 PM
To: Public Comment
Subject: [External] Public Comment regarding item 9.1 on the Agenda

Dear City Council Members,

I wanted to reach out to you in regards to the grant that you will be discussing at the City Council meeting on August 11th, item 9.1. The City has an opportunity to apply for funding from CDBG for activities related to Covid-19, and I strongly recommend that the city explore the use of those funds to support the need of families who may require childcare and cannot afford it, and also the support of our preschool/childcare facilities in St. Helena, who also have been gravely impacted by Covid-19.

Our organization has worked closely with the preschools and know that they are doing their best to keep their preschools/childcare facilities open so that families can return to work. I know that the situation is complicated and challenging for both families and preschools and will remain this way as we move forward, but I believe that is why the City council should consider using these funds for this community need.

I know this will require collaboration with other organizations in the community and hope to be of assistance as we move forward.

Sincerely,

Julio Olguin
Executive Director

www.shpreschoolforall.org
Receive our Newsletter

"Success is where Preparation and Opportunity Meet."

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **OLD BUSINESS**

Subject: **City Manager Update on COVID-19 Emergency (Oral Report)**

CEQA Determination: **Not a CEQA project**

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: Mark T. Prestwich, City Manager

Approved By: Mark T. Prestwich, City Manager

RECOMMENDED ACTION

Discussion and direction to the City Manager.

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **OLD BUSINESS**

Subject: **Consideration of Ballot Argument for Advisory Measure Regarding Hotel/Motel Development on Public Land Located at the Corner of Library Lane and Adams Street**

CEQA Determination: **Not a CEQA project**

Prepared By: Kara Ueda, City Attorney

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

During the City Council's July 8, 2020 Special City Council meeting, the City Council decided to place an advisory measure on the November 3, 2020 election ballot to ask the City's voters whether they want the City to prohibit hotel or motel development on the 5.6 acre City-owned property located at the corner of Library Lane and Adams Street in the City of St. Helena. The City Council adopted a resolution during that meeting to place the measure on the ballot. The results of the advisory measure will not be binding on the City but will provide the City Council with the opinions of the City's voters who vote on the measure.

The advisory measure reads in full as follows:

"Shall the City of St. Helena prohibit hotel/motel (as defined in Section 17.04.160 of the Municipal Code, as it may be amended) development on the 5.6 acres of public land at the corner of Library Lane and Adams Street (Napa County Assessor's Parcel Number 009-150-006, adjacent to the library and commonly referred to as the Adams Street property) for at least 20 years?"

DISCUSSION

Elections Code section 9281 *et seq.* sets forth the process and procedures for ballot arguments. Pursuant to Section 9283, a ballot argument may be signed for or against a measure by up to five people. Individuals can be identified on a ballot argument by both their name and title. The ballot argument may not exceed 300 words, and a rebuttal argument may not exceed 250 words.

The deadline for the County Registrar of Voters to receive the ballot arguments is **August 14, 2020 at 5:00 p.m**. If multiple ballot arguments are submitted to the elections official, section 9287 provides the following priority order for the arguments:

1. The City Council, or a member(s) of the City Council authorized by the City Council to write and submit the ballot argument
2. An individual voter, or bona fide association of citizens, or a combination of voters and associations, who are the bona fide sponsors or proponents of the measure
3. A bona fide association of citizens
4. Individual voters who are eligible to vote on the measure

The City Council has three options for the ballot argument:

1. Submit a ballot argument, signed by three or more Council members. The argument will have to be drafted by one or two Council members on their personal time and brought back to the City Council for a formal vote to be in compliance with the Brown Act. That meeting must take place prior to August 14.
2. Designate one or two Council members to draft and submit the ballot argument. This action will not require subsequent action by the Council.
3. As this is an advisory measure asking for voter opinion rather than, for example, a tax measure proposed by the City, it may be more appropriate to instead have an individual voter(s) submit the ballot argument instead.

FISCAL IMPACT

There is no fiscal impact related to this item other than the time spent drafting this report and potentially the calling of a special City Council meeting later this week should the City Council desire to submit a ballot argument signed by the entire City Council.

RECOMMENDED ACTION

Consider the three options noted above and decide how to approach submission of the ballot argument.

ATTACHMENTS

COSH Advisory Measure G Impartial Analysis-c1

CITY OF ST. HELENA

CITY ATTORNEY'S IMPARTIAL ANALYSIS OF MEASURE G

Measure G is an advisory measure concerning hotel or motel development on City-owned property at the corner of Library Lane and Adams Street. Measure G was placed on the ballot by the St. Helena City Council.

Measure G allows voters within the City of St. Helena to voice their opinions on whether they want the City to prohibit hotel or motel development on the 5.6 acres of public land adjacent to the library and located at the corner of Library Lane and Adams Street, for a period of at least 20 years. The term "hotel" and "motel" would have the same definitions as provided for in the City's Zoning Code.

Section 9603(c) of the California Elections Code governs the purpose and effect of such an advisory vote and provides that an advisory vote is "an indication of general voter opinion regarding the ballot proposal" but is not controlling on the City Council. The opinion expressed through the vote on this advisory measure, while of interest to the City Council, will not be legally controlling on the City Council's use of the property at Library Lane and Adams Street.

To be adopted, Measure G must be approved by a simple majority of the voters in the City of St. Helena. If approved by a majority of the voters voting on the measure, Measure G would advise the City Council that the voters do not want a hotel or motel to be developed on the property for at least 20 years. A "yes" vote on Measure G favors its approval. A "no" vote on Measure G opposes approval.

The above statement is an impartial analysis of Measure G. If you desire a copy of the measure, please call the elections official's office at (707) 968-2742, and a copy will be mailed at no cost to you.

/s/ KARA K. UEDA
City Attorney

Cindy Tzafopoulos

From: Tom McBroom <tcmcbroom@sbcglobal.net>
Sent: Tuesday, August 11, 2020 12:48 PM
To: Cindy Tzafopoulos
Subject: [External] Argument Against Measure G

Cindy,
I heard that the council may be looking for a volunteer to write the argument against Measure G for the November ballot materials. That's the moratorium on Adams Street hotel development, right?

As a member of the Financing Civic Infrastructure Task Force, I understand the value of hotel development to the city's financial future and the need to keep all options open for future generations of citizens.

I would be willing to take a shot at writing up such an argument and I think I can get the required number of people to join me in signing it.

Tom McBroom
tcmcbroom@sbcglobal.net
510-913-5707
Sent from my iPhone

August 11, 2020

Dear City Council Members,

In consideration of Item 10.2 on the agenda today, Ballot Argument for Advisory Measure G, I ask you to choose the option on the staff report which states, "As this is an advisory measure asking for voter opinion rather than, for example, a tax measure proposed by the City, it may be more appropriate to instead have an individual voter(s) submit the ballot argument instead."

In collaboration with Beth Novak Miliken, President of Spottswoode Estate Vineyard & Winery, Rick Crebs, CEO of Saint Helena Housing Coalition, Anthony Micheli, General Contractor-Retired, and Tom Belt, California Fish and Wildlife Patrol Captain-Retired, a ballot argument in favor of Measure G has been crafted and delivered to the attention of city clerk Cindy Tzapofoulous at City Hall this afternoon.

As the original proponent regarding the question of hotel/motel development on Adams Street, and in collaboration with the four strong supporters mentioned, it is our earnest desire this be the argument put forward as the citizens of Saint Helena consider which way to vote on Measure G this November.

Sincerely,

Nancy Dervin, Ph.D.

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **OLD BUSINESS**

Subject: **Discussion and Direction Regarding Flavored Tobacco and E-Cigarette Products**

CEQA Determination: **Not a CEQA project**

Prepared By: Preya Nixon, Asst. to the City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

At the January 28, 2020 City Council meeting, the City Council received a presentation and staff report regarding flavored tobacco products. This presentation included information regarding prior legislative action the City Council has taken regarding tobacco use, the health impacts on flavored tobacco, research indicating different restrictions surrounding municipalities have taken, and stakeholder outreach that was conducted.

Consistency with the General Plan

The City of St. Helena's General Plan Update 2040 in the Public Health, Safety and Noise Section (Section 9) encourages mitigating the public health and safety risks caused by tobacco smoke as it poses a particular threat to sensitive populations such as children. Additionally, PS1.H under the implementation actions specifically states "continue to implement an ordinance to restrict exposure to environmental tobacco smoke in new and existing multi-dwelling units, public events, and outdoor areas suchas parks and playgrounds."

Consistency with the Council's Workplan

Council Workplan Goal 5 is to "Support Thriving Families and Enhance the Safety, Well-Being and Healthy Development of Our Youth". Addressing youth concerns around vaping is a way to enhance participation of youth and families in St. Helena.

DISCUSSION

The policy options presented to the City Council at the January 28, 2020 meeting included:

1. Prohibit the sale of flavored tobacco products.
2. Institute a tobacco retailer licensing program.
3. Prohibit the sale of tobacco products in pharmacies.
4. Institute proximity requirements for stores that sell tobacco products.
5. Prohibit the sale of cigarettes and e-cigarettes that include menthol.

Council direction included bringing back information on a model ordinance banning the sale of flavored tobacco and information regarding increasing education/outreach through a potential buy back program with the Police Department, as well as information on what other municipalities are doing in the County.

A model ordinance is included as an attachment to this agenda as well as another that was included in the January 28, 2020 Staff Report (also attached). The model ordinance (Corte Madera) does include a provision that prohibits pharmacies from engaging in tobacco retailing, which was not a directive from the St. Helena Council.

Staff spoke to Police Chief Chris Hartley and School Resource Officer Melissa Brown about the idea of a potential buy back program. They recommended not providing money as an incentive for handing in vaping devices as it may be used to purchase more flavored tobacco products. Alternatively, Chief Hartley suggested consideration of a "don't ask, don't tell" program which would allow anyone to bring in a vaping device/flavored tobacco product with no questions asked.

While the January staff report listed several northern California cities who have adopted an ordinance banning the sale of flavored tobacco, currently there are no other agencies within Napa County (including the County) who have adopted a similar ordinance. Statewide there are over 80 municipalities who have banned the sale of flavored tobacco products.

In 2016, California enacted the Stop Tobacco Access to Kids Enforcement Act, which regulates e-cigarettes in the same manner as other tobacco products and prohibits the sale of any tobacco products to a person under 21 years of age.

The State of California has not passed a ban on flavored tobacco and/or vaping products. However, Senate Bill 793 (Senator Durazo, Principal coauthor) was introduced in early 2020 that would prohibit the sale of flavored products including menthol flavored cigarettes and flavored tobacco products. This bill has been passed in the Senate and is currently in the Assembly.

Currently there are three St. Helena businesses that sell flavored tobacco products. These businesses also sell other products (e.g. food and beverages) and therefore have other means of revenue. Many cities that ban the sale of flavored tobacco have indicated that a successful program includes providing significant lead time until the ordinance is in effect, so business can plan for inventory changes.

Staff spoke with County Health Director Dr. Karen Relucio and City Attorney Kara Ueda, who both recommended that the best way to enforce the ban on flavored tobacco products is to include a tobacco retailer licensing (TRL) program. Counties who enact a ban on flavored tobacco typically conduct enforcement, and as there is no County ban, the TRL would be overseen by the City.

The following policy options are presented below:

1. Wait to see if Senate Bill 793 passes which would ban the sale of flavored tobacco statewide.
2. Bring forward an ordinance that prohibits the sale of flavored tobacco products, including a significant lead time for businesses to plan for inventory changes, and to develop a tobacco retailer licensing program (TRL).
3. Shift the focus to an education focus about the dangers of flavored tobacco products and educating businesses selling flavored tobacco products that it is illegal to sell those products to those under 21 years of age.

FISCAL IMPACT

None. However, based on direction provided, there may be a staffing impact.

RECOMMENDED ACTION

Provide direction to staff on additional outreach and/or policy direction regarding flavored tobacco and e-cigarette products.

ATTACHMENTS

January 28, 2020 Staff Report
Ordinance from Corte Madera

Report to the City Council
Regular City Council - 28 Jan 2020

Agenda Section: **NEW BUSINESS**

Subject: **Discussion and Direction Regarding Flavored Tobacco and E-Cigarette Products**

CEQA Determination: **Not a CEQA project**

Prepared By: Preya Nixon, Asst. to the City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

At the November 26, 2019 City Council Meeting, Mayor Geoff Ellsworth and Council Member Mary Koberstein reported they met with the UpValley Family Centers to learn more about the impacts vaping has on public health and on children's safety. During the City Council meeting, the Council directed staff to bring information and ideas to a future meeting to discuss possible policy options to address this issue.

The City Council has taken the following prior legislative action regarding tobacco use:

At the September 9, 2008 City Council meeting, the Council approved Ordinance Number 2008-03, adding Chapter 9.06 to Title 9 (attached), which prohibits

- Smoking Inside All Public Buildings,
- Smoking Within 20 Feet Of Public Buildings,
- Smoking At All Sports Facilities And Sports Spectator Areas,
- Smoking At Playground Structure Located Within City Parks.

At the April 24, 2012 City Council meeting, the City Council approved Ordinance Number 2012-4 which amended Chapter 9.06 "Smoking Regulations" to prohibit smoking in municipal parks.

At the July 24, 2018 City Council meeting, the City Council approved Ordinance Number 2018- 4, amending Chapter 9.06, Title 9; Public Peace And Welfare, of the St. Helena Municipal Code, to include the use of electronic smoking devices and electronic cigarettes to the City's smoking regulations.

Background and Health Impacts on Flavored Tobacco

Flavored tobacco is defined as any tobacco product that contains a constituent that imparts a characterizing flavor. There are over 1,500 tobacco flavors on the market, many of which have names that are attractive to youth including "bubblegum" and "unicorn pop". Flavored products are often referred to as 'starter' products for youth who begin using tobacco through vaping devices. This product manipulation has significant public health implications as it can lead to years of addiction. Flavored tobacco comes in the form of liquid that when heated, form an aerosol that emits toxic chemicals known to cause cancer, birth defects, and other reproductive harm (Source 1).

According to a recent study by the California Department of Public Health Tobacco Control Program, one in eight California high school students currently use any tobacco product, with the most used product among all students being electronic smoking devices (10.9 percent). Of those that currently use tobacco, an overwhelming majority use electronic smoking devices (84.3 percent). In addition, 86.4 percent of youth tobacco users reported using flavored tobacco products. (Source 1).

Currently in the U.S., cigarettes are prohibited from containing flavors other than menthol; however, other tobacco products such as e-cigarettes and hookah tobacco are exempt from this regulation. In 2016, the State of California raised the minimum legal sales age for tobacco products to 21. Tobacco and vape shops have the lowest compliance with this law, with one out of three tobacco and vape shops selling to underage minors. (Source 2).

Consistency with the General Plan

The City of St. Helena's General Plan Update 2040 in the Public Health, Safety and Noise Section (Section 9) encourages mitigating the public health and safety risks caused by tobacco smoke as it poses a particular threat to sensitive populations such as children. Additionally, PS1.H under the implementation actions specifically states "continue to implement an ordinance to restrict exposure to environmental tobacco smoke in new and existing multi-dwelling units, public events, and outdoor areas such as parks and playgrounds."

Consistency with the Council's Workplan

Council Workplan Goal 5 is to "Support Thriving Families and Enhance the Safety, Well-Being and Healthy Development of Our Youth". Addressing youth concerns around vaping is a way to enhance participation of youth and families in St. Helena.

DISCUSSION

The State of California has not passed a ban on flavored tobacco and/or vaping products. However, in early January 2020, Senate Bill 793 (Senator Durazo, Principal coauthor) was introduced that would prohibit flavored products including menthol flavored cigarettes and flavored tobacco products.

Many California cities have their own restrictions on banning the sale of flavored tobacco products, including menthol cigarettes, vaping products, establishing proximity requirements, and requiring a special license to sell tobacco products.

Staff researched cities with adopted policies on vaping and prepared a summary table below to document the various policy actions each have taken with respect to tobacco:

Type of Action/Legislation	Prohibits Sale of Flavored Tobacco Products	Prohibits the sale of e-Cigarettes	Prohibits the sale of Cigarettes with Menthol Flavor	Imposes Proximity requirements for new tobacco retailers near schools, playgrounds and libraries	Requires a tobacco retailer license	Prohibits sale of tobacco products in pharmacies	Prohibits smoking in public parks	Prohibits use of E-Cigarettes and Electronic Smoking Devices to smoking regulations
City								
Berkeley	X			X 600 feet of any school		X (no new license shall be issued to pharmacies)	X	X
Corte Madera	X				X	X	X	X
El Cerrito	X			X	X		X	X
Larkspur	X					X	X	X
Novato	X						X	X
Palo Alto	X			X	X		X	X
Sacramento	X			X	X		X	X
San Anselmo	X					X	X	X
San Carlos	X					X	X	X
San Rafael	X				X		X	X (doesn't specifically state e-cigarettes but references any tobacco product).
St. Helena							X (Adopted on 4/12/2012	X (Adopted on 7/24/2018)
Visalia	X	X	X	X (has not determined exact distance)				X

Tobacco Licensing Programs

Some cities have enacted a tobacco retailer licensing program that allows for the sale of tobacco products upon successfully enrolling in the program.

Components of a program like this may include the following:

- Requiring retailers to obtain a valid license to act as a tobacco retailer by filling out an application.
- Pay applicable license fee.
- Reapply on a yearly basis within one month of expiration.
- Program administrator has the ability to deny, revoke or suspend application.
- An appeal and hearing process.

The City currently does not have a tobacco retailer licensing program; however, tobacco stores (such as a cigar shop) are required to obtain a conditional use permit. As there are no tobacco stores presently in the City, there are no use permits on file. However, staff contacted St. Helena convenience stores and gas stations, and three businesses reported they sell flavored tobacco products within City limits.

In reviewing policies adopted by other agencies, it was noted extensive public outreach, including workshops, were often held to assist governing bodies in developing policies that best fit the needs of the local community. Additionally, in some cases, cities within the same county worked together to establish a singular policy for consistency, which was suggested by Councilmembers Koberstein and Chouteau.

Stakeholder Outreach

Staff reached out to numerous community stakeholder groups: UpValley Family Centers (UpValley Partnership for Youth), American Lung Association, Adventist Health, Catalyst Coalition and Tobacco Free Napa. These organizations have a vested interest in the public health and safety of the St. Helena community, specifically concerns regarding youth demographics and tobacco consumption. Feedback and concerns included the following:

- Vaping and tobacco products as public health threat for youth; specifically, flavored tobacco as a ‘starter’ product that can lead to years of addiction.
- The accessibility of vaping products for youth.
- Youth within the St. Helena community see this as a serious public health threat.
- Banning flavored tobacco is an effective prevention method, and prevention should be the main focus.
- In addition to the pulmonary concerns, the chemicals and nicotine in flavored tobacco impact brain development in youth. As brain development stops at age 25, enticing flavored tobacco products are highly addictive and can affect the brain development.

To provide a balanced view, staff also reached out to stakeholders representing the tobacco industry. The intent behind the conversation was to ask them what strategies they were implementing to reduce youth vaping. Staff reached out to JUUL, but did not receive a response. Staff spoke to the CEO of the American Petroleum & Convenience Store Association who stated that convenience stores see themselves as a first line of defense when it comes to prevention, and will work with local municipalities and law enforcement to comply with any new regulations.

It should be noted that since convenience stores are often viewed as a 'one stop shop', once flavored tobacco has been banned, some stores experience a drop in revenue. For single store operators, the impact was reported as significant. The CEO noted that it is critical for agencies to communicate and be cognizant of timing when implementing a new policy. For most agencies, a successful implementation allowed time for stores to re-strategize their inventory approach.

Policy Options

Staff is seeking direction from the City Council on potential ordinance revisions as identified below or other ideas:

1. Prohibit the sale of flavored tobacco products.

2. Institute a tobacco retailer licensing program.

3. Prohibit the sale of tobacco products in pharmacies.

4. Institute proximity requirements for stores that sell tobacco products.

5. Prohibit the sale of cigarettes and e-cigarettes that include menthol.

Should direction be provided to advance any policy option(s), staff will work with the City Attorney to prepare an ordinance for consideration by the City Council. Staff is also seeking feedback on any additional Council desired community or stakeholder outreach.

Sources:

1. (1) Vuong TD, Zhang X, Roeseler A. California Tobacco Facts and Figures 2019. Sacramento, CA: California Department of Public Health; May 2019.
2. (2) Young Adult Tobacco Purchase Survey, 2018. Sacramento, CA: California Department of Public Health; October 2018).

<u>FISCAL IMPACT</u>

Not applicable.

RECOMMENDED ACTION
Provide direction to staff on any additional outreach and/or policy direction regarding flavored tobacco and e-cigarette products.

ATTACHMENTS
CATobaccoFactsandFigures2019
Sample- City of San Carlos Staff Report on Flavored Tobacco
SHMC Chapter 9.06 - Smoking Regulations

CALIFORNIA TOBACCO FACTS AND FIGURES 2019

California Department of Public Health
California Tobacco Control Program

Inquiries may be directed to:

Xueying Zhang, MD, MPH, MS
Chief, Surveillance Unit
California Department of Public Health
CDIC/Tobacco Control Program
P.O. Box 997377, MS 7206
Sacramento, CA 95899-7377
CTCPEvaluation@cdph.ca.gov

Suggested citation: Vuong TD, Zhang X, Roeseler A. California Tobacco Facts and Figures 2019. Sacramento, CA: California Department of Public Health; May 2019.

Any analyses, interpretations, or conclusions reached from the data are credited to the authors and not the data provider. Several data sources are used in this document. Each data source is based on a different survey or surveillance tool, and therefore readers may see slightly different rates throughout this report. However, the rate differences are not statistically significant and represent the most accurate and complete picture of California to the best of our knowledge.

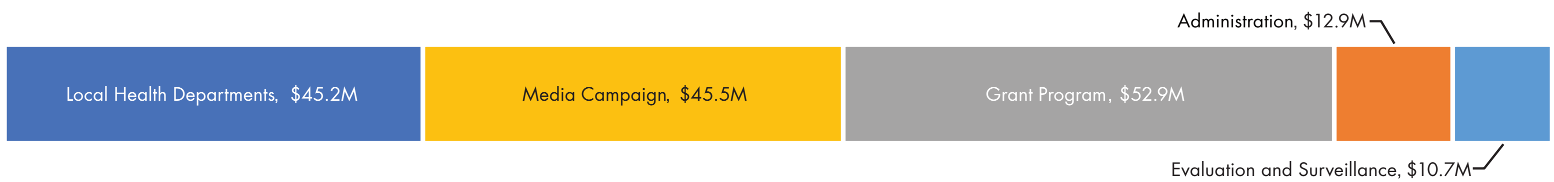
TABLE OF CONTENTS

INTRODUCTION

The California Department of Public Health (CDPH), California Tobacco Control Program (CTCP) was established in 1989 after California voters passed the *Tobacco Tax and Health Protection Act of 1988* (Proposition 99). Since then, California voters renewed their support in the fight against tobacco use by passing the *California Healthcare, Research and Prevention Tobacco Tax Act of 2016* (Proposition 56).

With a projected $2.1 billion in California tobacco tax revenue to be collected in fiscal year (FY) 2018-19,[1] CDPH/CTCP was appropriated $37.7 million from Proposition 99 and $129.5 million from Proposition 56 by the Legislature and the Governor for health education for fiscal year 2018-19 (Figure 1).

Figure 1. Allocation of health education funding to the California Department of Public Health, FY 2018-19



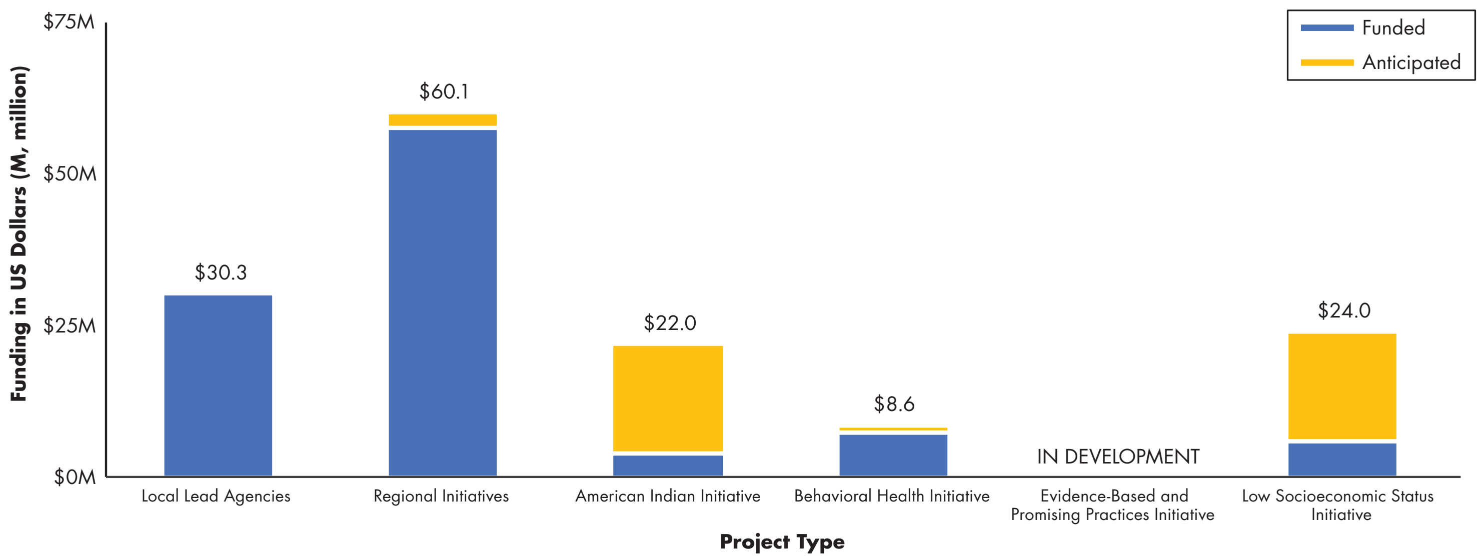
Source: California Department of Public Health, California Tobacco Control Branch; Sacramento, CA: California Department of Public Health; August 2018.

CDPH/CTCP receives guidance from the Tobacco Education and Research Oversight Committee (TEROC), a legislatively-mandated advisory committee charged with overseeing Proposition 99 and Proposition 56 revenues for tobacco control, tobacco use prevention, and tobacco-related research. TEROC established three goals for California's tobacco control efforts:

(1) Reduce all tobacco use to no more than 10 percent in adults and 8 percent in high-school age youth by December 2020;
(2) Accelerate the reduction in tobacco use rates and eliminate tobacco-related disparities among priority population; and
(3) Eliminate the structural, political, and social determinants that sustain the tobacco epidemic in California.[2]

To achieve these goals, CDPH/CTCP seeks to create a climate in which tobacco becomes less desirable, less acceptable, and less accessible. In 2017, CDPH/CTCP launched an initiative to accelerate declines in tobacco-related disparities through extensive engagement of priority population groups in tobacco control efforts. To date, CDPH/CTCP has funded over $100 million in grants and contracts towards this initiative, which includes a minimum 15 percent of the funds allocated to local health departments for comprehensive tobacco control efforts (Figure 2).[3]

Figure 2. Total project funding for the Initiative to Reduce Tobacco-Related Disparities, FY 2017-18 to FY 2020-21



Note: Project funding is as of April 12, 2019 and may change if the Budget Act of the current year and/or any subsequent years covered by each individual grants or contracts agreement does not appropriate sufficient funding for the program. Source: California Department of Public Health, California Tobacco Control Program; Sacramento, CA: California Department of Public Health; March 2019.

This publication serves as a quick reference and snapshot of the current state of tobacco control in California. With the changing landscape of tobacco use in California, a tremendous amount of work remains to be done in order to achieve TEROC's goals of reducing adult tobacco use to no more than 10 percent and teen use to 8 percent by 2020.

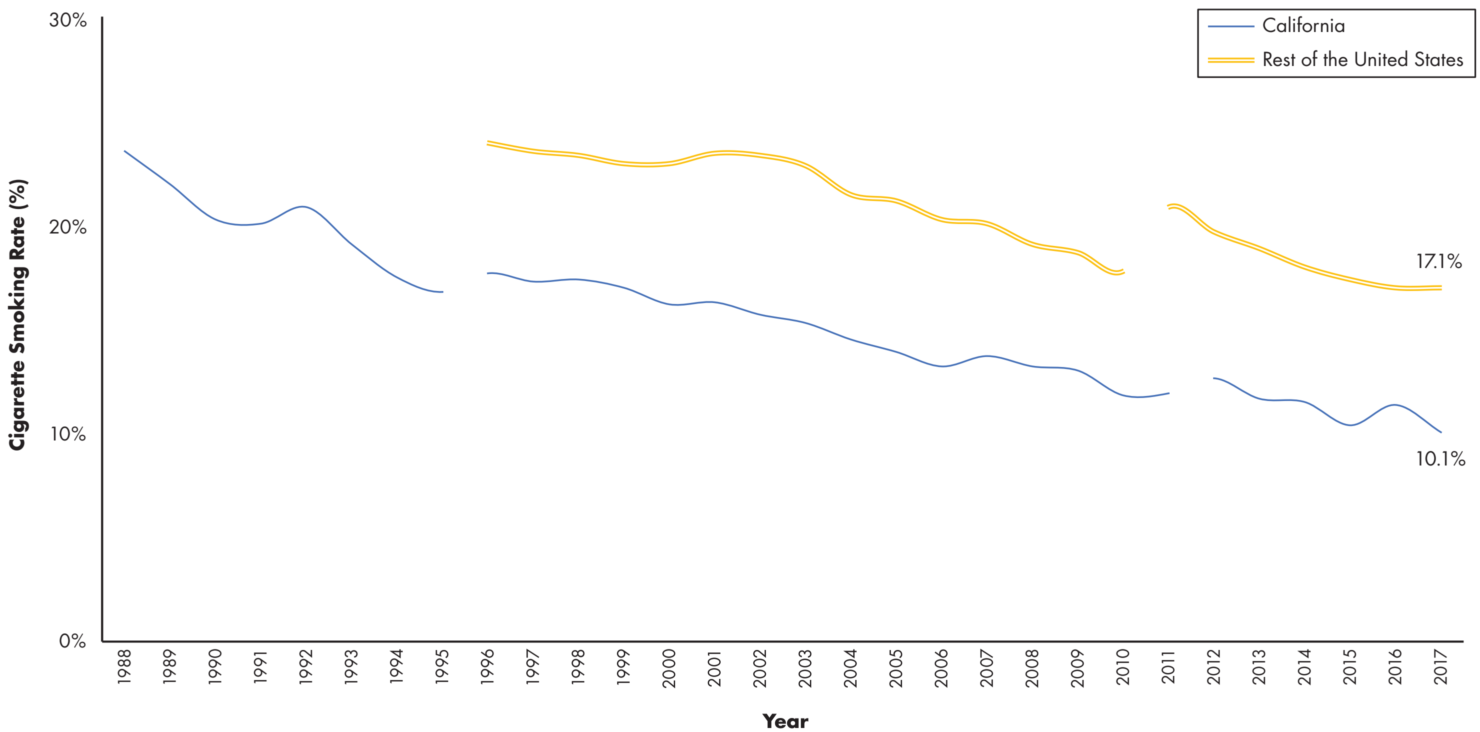
April Roeseler, Tobacco Control Branch Chief
California Department of Public Health

ADULT TOBACCO USE

ADULT CIGARETTE USE

Fewer adults are smoking cigarettes than ever before.[4,5] The adult cigarette smoking rate in California declined by 57.4 percent between 1988 and 2017 (Figure 3),[4] with a current rate of 10.1 percent or about 2.8 million adults.

Figure 3. Cigarette smoking rate among California adults, 1988 to 2017

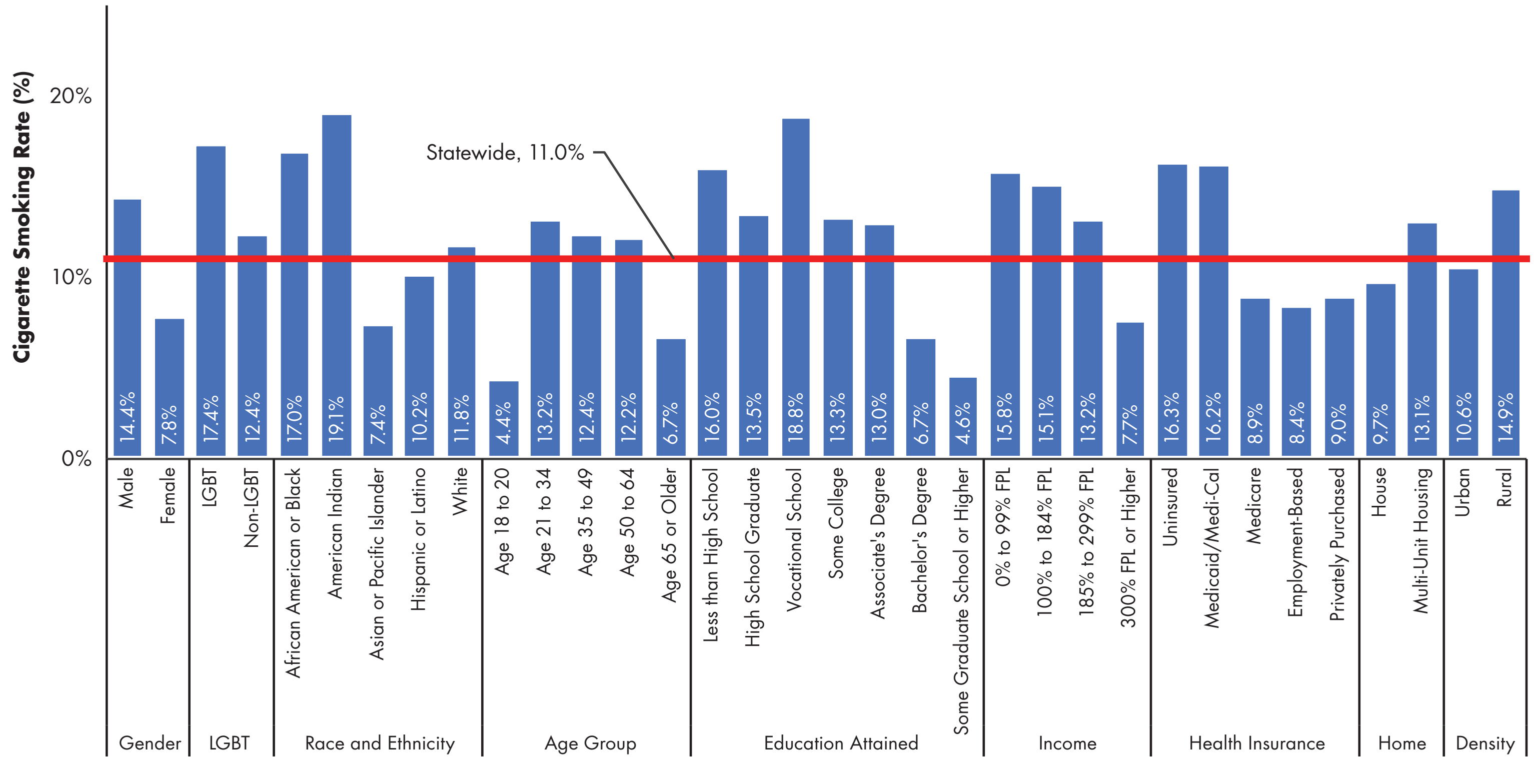


Note: Restricted to respondents aged 18 or older. Cigarette use is based on self-reported current use. A break in the trend line is shown for California data between 1995 and 1996 and between 2011 and 2012 due to methodological change. A break in the trend line is shown for the Rest of the United States data between 2010 and 2011 due to methodological change. Source: (1) Behavioral Risk Factor Surveillance System, 1988 to 2017. Sacramento, CA: California Department of Public Health; October 2018. (2) Behavioral Risk Factor Surveillance System, 1996 to 2017. Atlanta, GA: Centers for Disease Control and Prevention; October 2018.

ADULT CIGARETTE USE BY DEMOGRAPHICS

Disparities remain for cigarette use among groups defined by gender and sexual orientation, race and ethnicity, age, educational attainment, income, health insurance type, housing type, and community density as depicted in Figure 4.[6]

Figure 4. Cigarette smoking among California adults by demographics, 2016-17

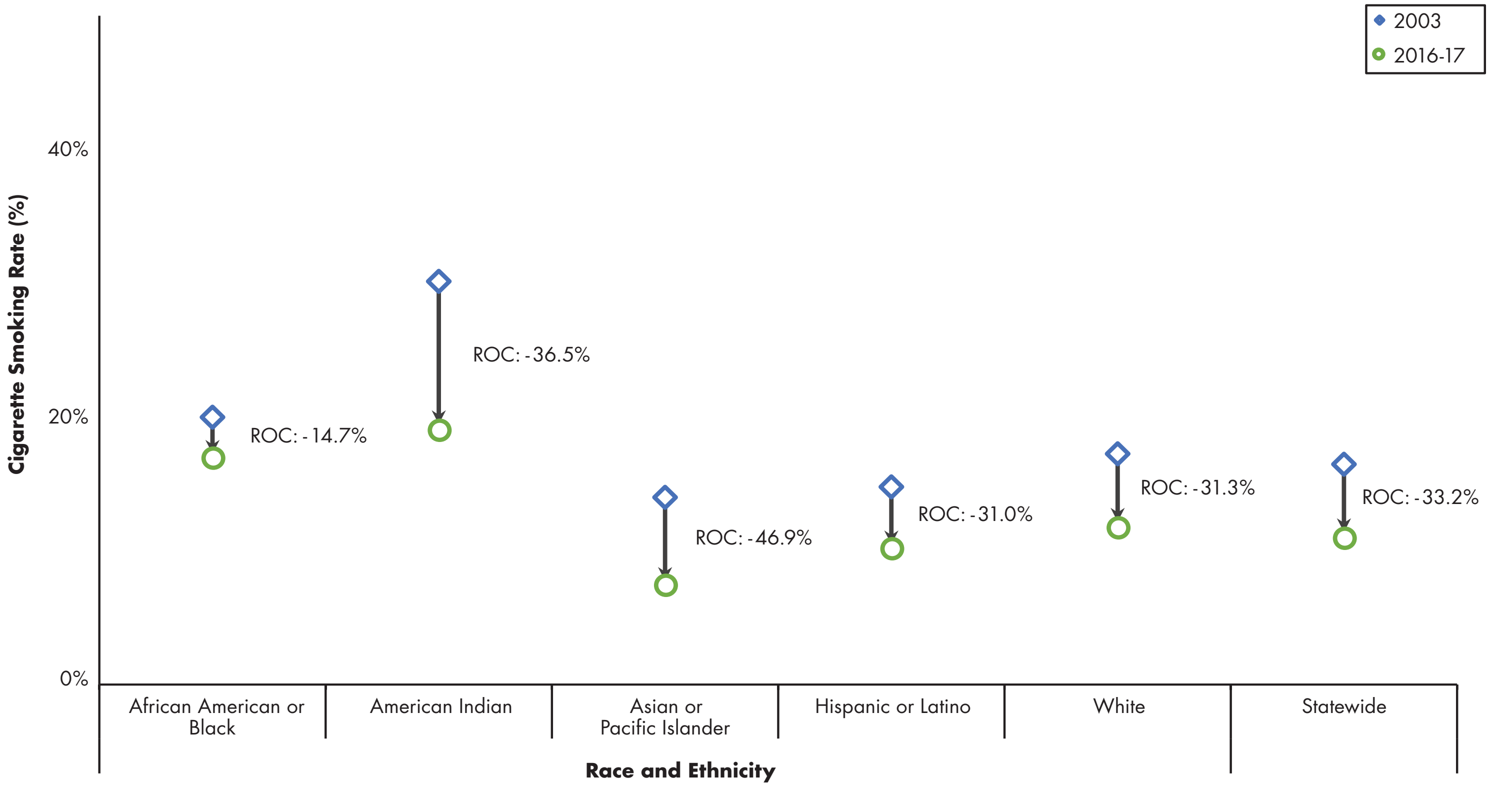


Note: Restricted to respondents aged 18 or older, except for LGBT status which is restricted to respondents aged 18 to 70 (the statewide rate for aged 18 to 70 is 11.8 percent). Cigarette use is based on self-reported current use. The race and ethnicity categories are non-Hispanic or Latino unless otherwise noted. American Indian includes Alaska Native. Asian or Pacific Islander includes Native Hawaiian. LGBT refers to lesbian, gay, bisexual, or transgender. FPL refers to the Federal Poverty Level. Rural is based on definition from the Nielsen Consumer Activation, where the population density is fewer than 1,000 persons per square mile. Source: California Health Interview Survey, 2016-17. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.

ADULT CIGARETTE USE RATE OF CHANGE BY RACE AND ETHNICITY

African American or Black adults saw a smaller decrease in the reduction of cigarette use over the past fifteen years compared to other groups, reducing their rate by only 14.6 percent from 2003 (Figure 5).[6,7] American Indian adults saw a greater rate of decrease at 20.6 percent, but overall use rate still remains high.

Figure 5. Rate of change (ROC) in cigarette smoking among California adults by race and ethnicity, 2003 to 2016-17

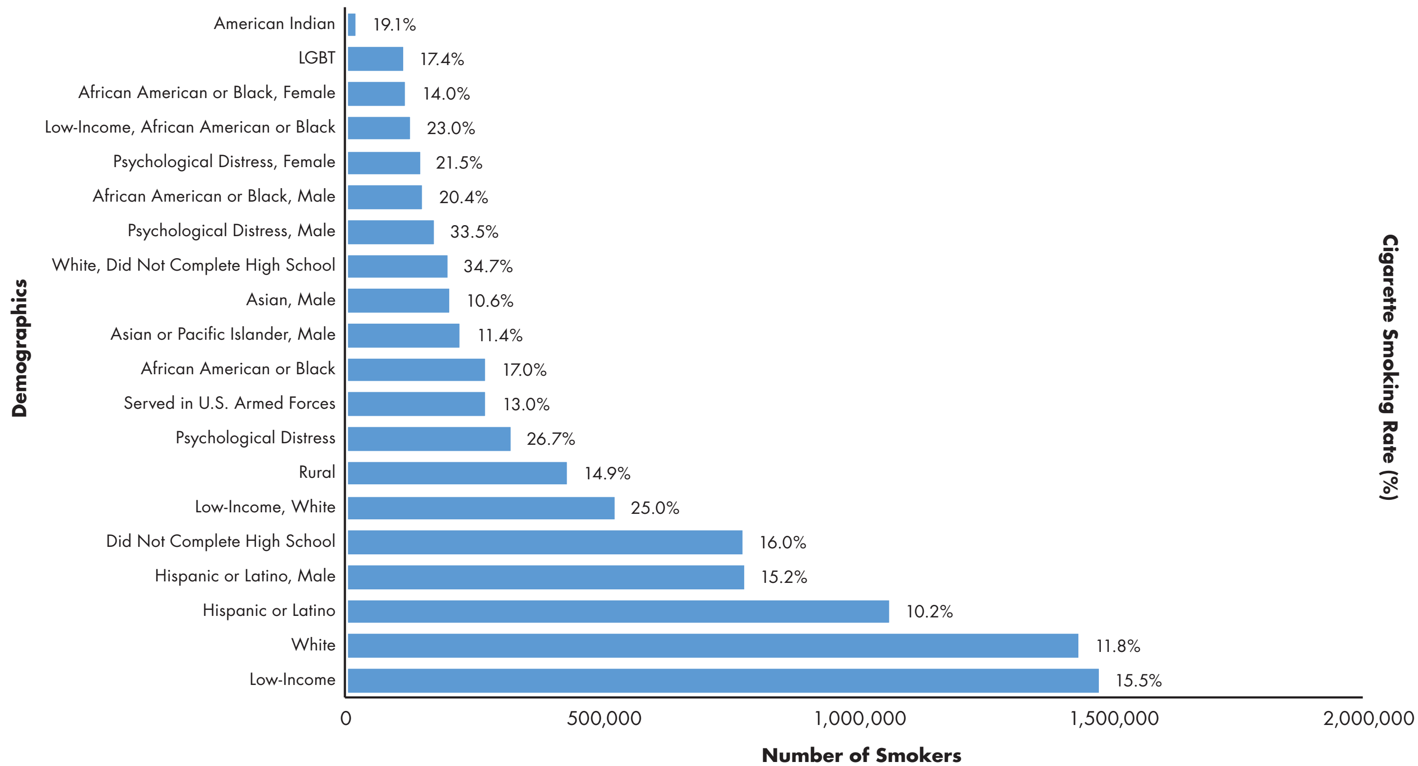


Note: Restricted to respondents aged 18 or older. Cigarette use is based on self-reported current use. The race and ethnicity categories are non-Hispanic or Latino unless otherwise noted. ROC refers to the rate of change between CHIS 2003 and CHIS 2016-17. Source: California Health Interview Survey, 2003 and 2016-17. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.

NUMBER OF ADULT CIGARETTE SMOKERS BY DEMOGRAPHICS

Cigarette smoking rates vary considerably; however, in considering the burden of smoking by demographic group, it is important to recognize that while the smoking rate may be lower in a group such as Hispanic or Latinos, this group makes up over 1 million of California's adult smoking population (Figure 6).[6]

Figure 6. Number of cigarette smokers among California adults by demographics, 2016-17



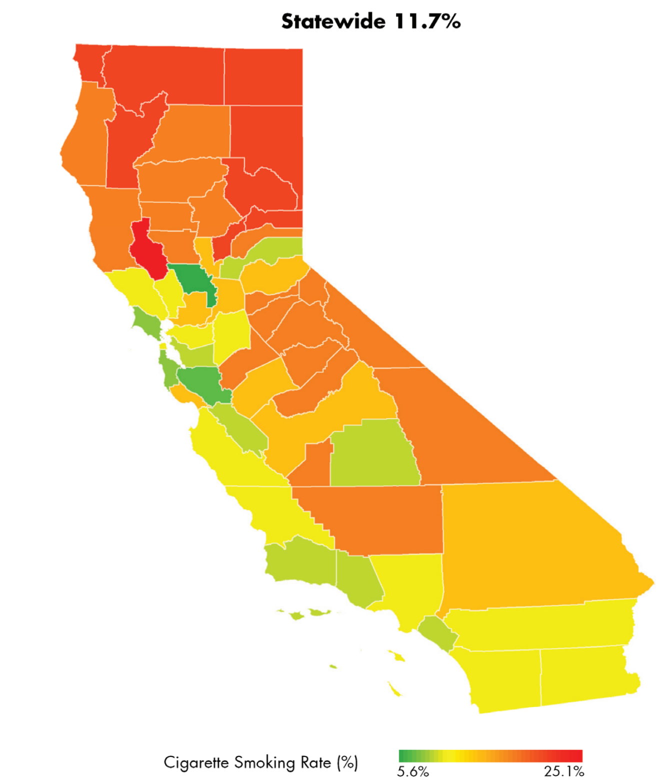
Note: Restricted to respondents aged 18 or older, except for LGBT status which is restricted to respondents aged 18 to 70. Cigarette use is based on self-reported current use. The race and ethnicity categories are non-Hispanic or Latino unless otherwise noted. American Indian includes Alaska Native. Asian or Pacific Islander includes Native Hawaiian. LGBT refers to lesbian, gay, bisexual, or transgender. Low-income is defined as below 185 percent of the Federal Poverty Level. Rural is based on definition from the Nielsen Consumer Activation, where the population density is fewer than 1,000 persons per square mile. Psychological distress is defined as experiencing psychological distress in the past month based on the Kessler 6 scale. Source: California Health Interview Survey, 2016-17. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.

ADULT CIGARETTE USE BY REGION

There are geographical differences in the cigarette smoking rate in California. Higher rates of smoking are mainly found in rural counties as illustrated in Figure 7.[8]

Figure 7. Cigarette smoking rate among California adults by geographic regions, 2015-17

County	Rate	County	Rate
Alameda	10.0%	Orange	10.5%
Alpine	15.3% (a)	Placer	10.2%
Amador	15.3% (a)	Plumas	20.3% (b)
Butte	17.3%	Riverside	11.8%
Calaveras	15.3% (a)	Sacramento	13.6%
Colusa	19.8% (c)	San Benito	10.6%
Contra Costa	11.8%	San Bernardino	14.4%
Del Norte	20.3% (b)	San Diego	11.1%
El Dorado	14.6%	San Francisco	11.0%
Fresno	14.9%	San Joaquin	11.6%
Glenn	19.8% (c)	San Luis Obispo	11.8%
Humboldt	16.9%	San Mateo	9.3%
Imperial	11.4%	Santa Barbara	9.6% (e)
Inyo	15.3% (a)	Santa Clara	7.8%
Kern	16.1%	Santa Cruz	13.4%
Kings	15.5%	Shasta	19.4%
Lake	25.1%	Sierra	20.3% (b)
Lassen	20.3% (b)	Siskiyou	20.3% (b)
Los Angeles	11.0%	Solano	14.5%
Madera	16.1%	Sonoma	12.3% (d)
Marin	8.7%	Stanislaus	17.1%
Mariposa	15.3% (a)	Sutter	13.9%
Mendocino	15.9%	Tehama	19.8% (c)
Merced	14.7%	Trinity	20.3% (b)
Modoc	20.3% (b)	Tulare	10.4%
Mono	15.3% (a)	Tuolumne	15.3% (a)
Monterey	11.7%	Ventura	9.6% (e)
Napa	12.3% (d)	Yolo	5.6%
Nevada	15.6%	Yuba	22.4%

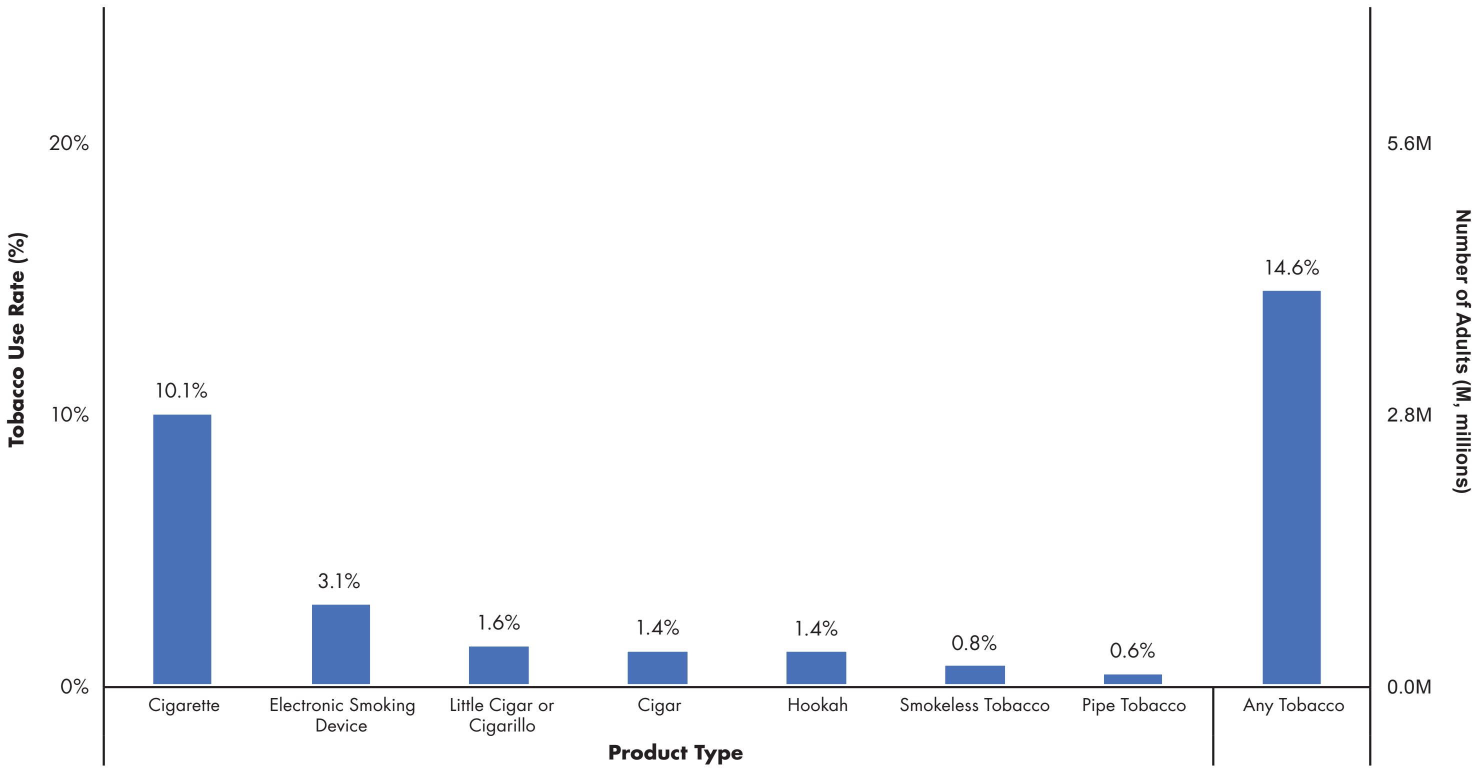


Note: Restricted to respondents aged 18 or older. Cigarette use is based on self-reported current use. Several counties were categorized together to produce stable estimates: (a) Alpine, Amador, Calaveras, Inyo, Mariposa, Mono, Tuolumne; (b) Del Norte, Lassen, Modoc, Plumas, Sierra, Siskiyou, Trinity; (c) Colusa, Glenn, Tehama; (d) Napa, Sonoma; and (e) Santa Barbara, Ventura. Source: California Health Interview Survey, 2015-17. Los Angeles, CA: UCLA Center for Health Policy Research; February 2019.

ADULT TOBACCO USE

Despite the decline in cigarette smoking rate, approximately four million adults in California currently use or had used a tobacco product in the past 30 days (Figure 8).[9] The number of adult tobacco users in California exceeds the population in 23 states.[10]

Figure 8. Tobacco use rate among California adults by product type, 2017

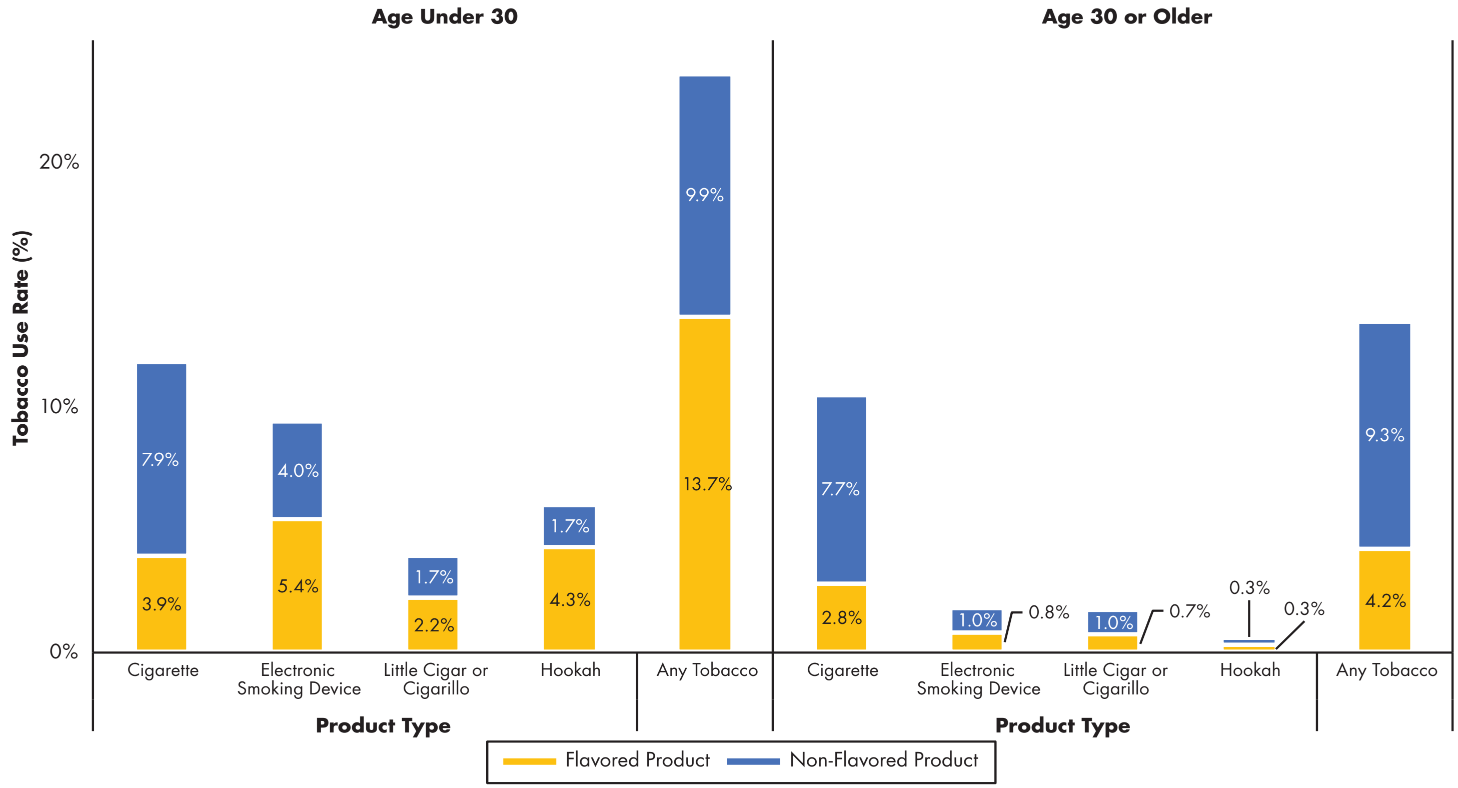


Note: Restricted to respondents aged 18 or older. Cigarette and electronic smoking device use are based on self-reported current use. Cigar, hookah, little cigar or cigarillo, pipe tobacco, or smokeless tobacco use are based on self-reported past 30-day use. Any tobacco use is based on current use of cigarette or electronic smoking device or past 30-day use of cigar, hookah, little cigar or cigarillo, hookah, pipe tobacco, or smokeless tobacco. Source: Behavioral Risk Factor Surveillance System, 2017. Sacramento, CA: California Department of Public Health; October 2018.

YOUNG ADULT TOBACCO USE

Young adults (under age 30) in California use electronic smoking devices (9.4 percent) and hookah (6.0 percent) at a higher rate compared to older adults (Figure 9).[11] Furthermore, of young adult tobacco users, 57.7 percent use a flavored tobacco product.

Figure 9. Tobacco use rate among California by age group and product type, 2016-17



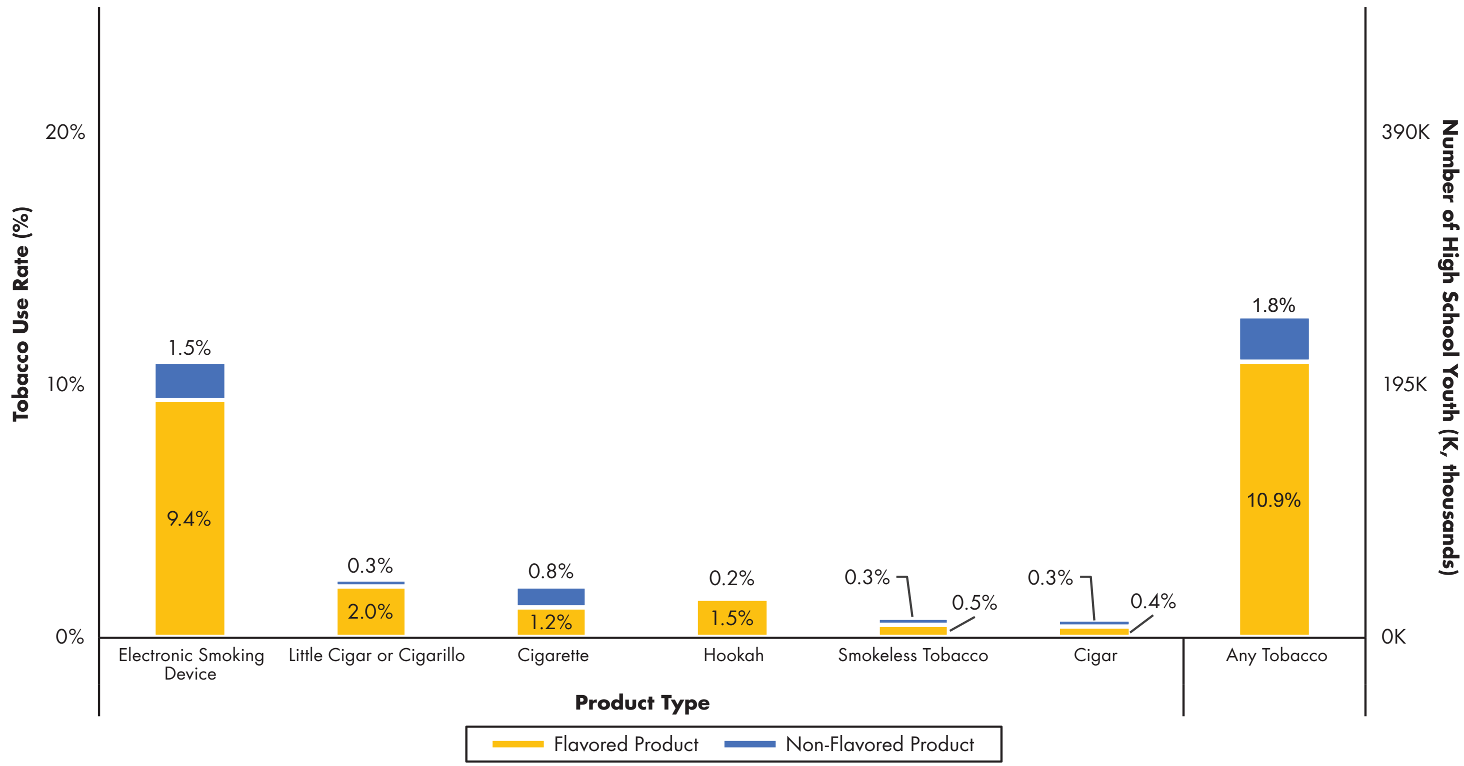
Note: Cigarette and electronic smoking device use are based on self-reported current use. Cigar (not shown), hookah, little cigar or cigarillo, and smokeless tobacco (not shown) use are based on self-reported past 30-day use. Any tobacco use is based on current use of cigarette or electronic smoking device or past 30-day use of cigar, hookah, little cigar or cigarillo, hookah, or smokeless tobacco. Source: Behavioral Risk Factor Surveillance System, 2016-17. Sacramento, CA: California Department of Public Health; October 2018.

YOUTH TOBACCO USE

YOUTH FLAVORED TOBACCO USE

One in eight California high school students currently use any tobacco product,[12] with the most used product among all students being electronic smoking devices (10.9 percent). Of those that currently use tobacco, an overwhelming majority use electronic smoking devices (84.3 percent). In addition, 86.4 percent of youth tobacco users reported using flavored tobacco products (Figure 10).

Figure 10. Tobacco use rate among California youth by product type, 2018

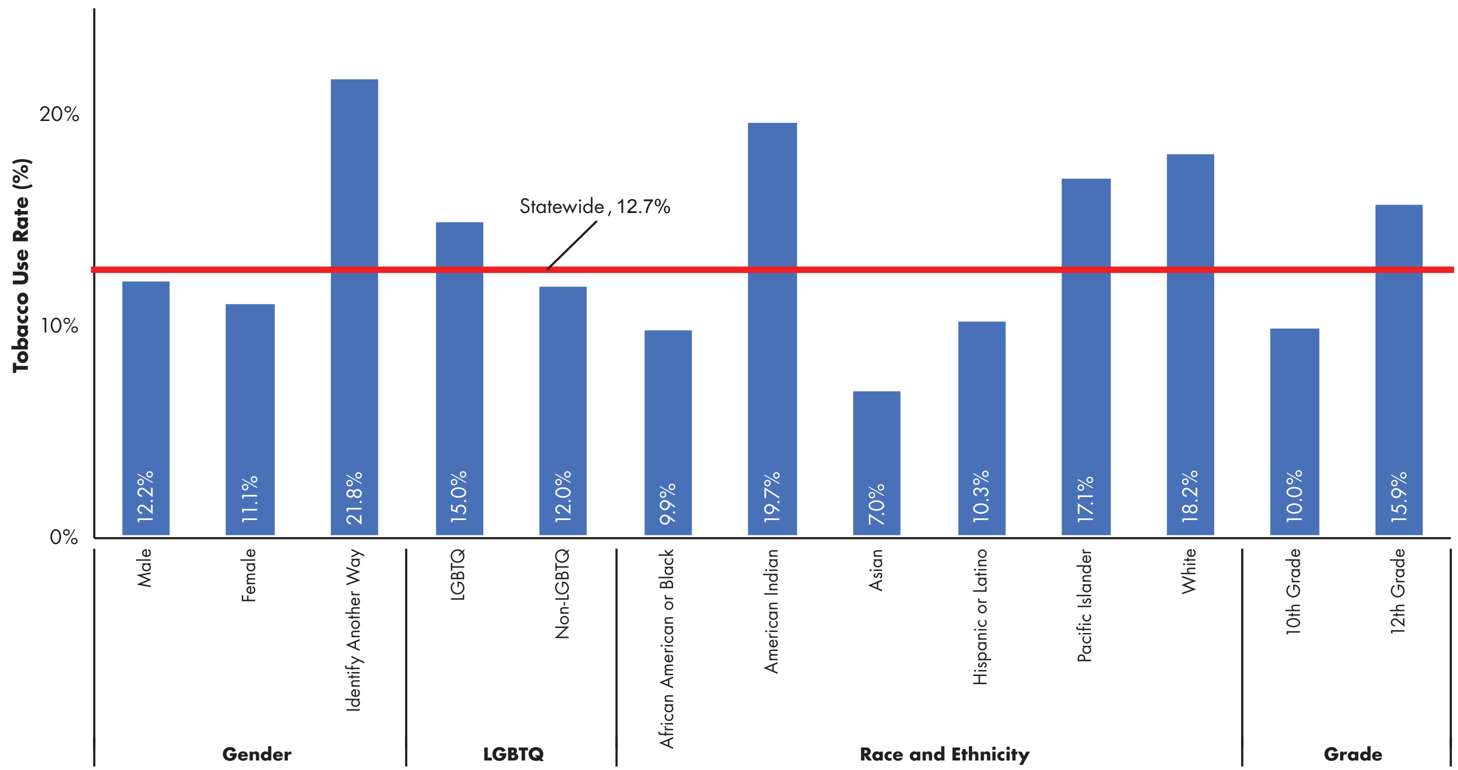


Note: Restricted to respondents in high school. Cigar, cigarette, electronic smoking device, hookah, little cigar or cigarillo, and smokeless tobacco use are based on self-reported past 30-day use. Any tobacco use is based on past 30-day use of cigar, cigarette, electronic smoking device, hookah, little cigar or cigarillo, or smokeless tobacco. Source: California Student Tobacco Survey, 2017-18. San Diego, CA: Center for Research and Intervention in Tobacco Control, University of California, San Diego; April 2019.

YOUTH TOBACCO USE BY DEMOGRAPHICS

Disparities in tobacco use exists among California high school students, with higher rates found in LGBTQ, American Indian, and Pacific Islander youth (Figure 11).[12]

Figure 11. Tobacco use rate among California youth by demographics, 2018

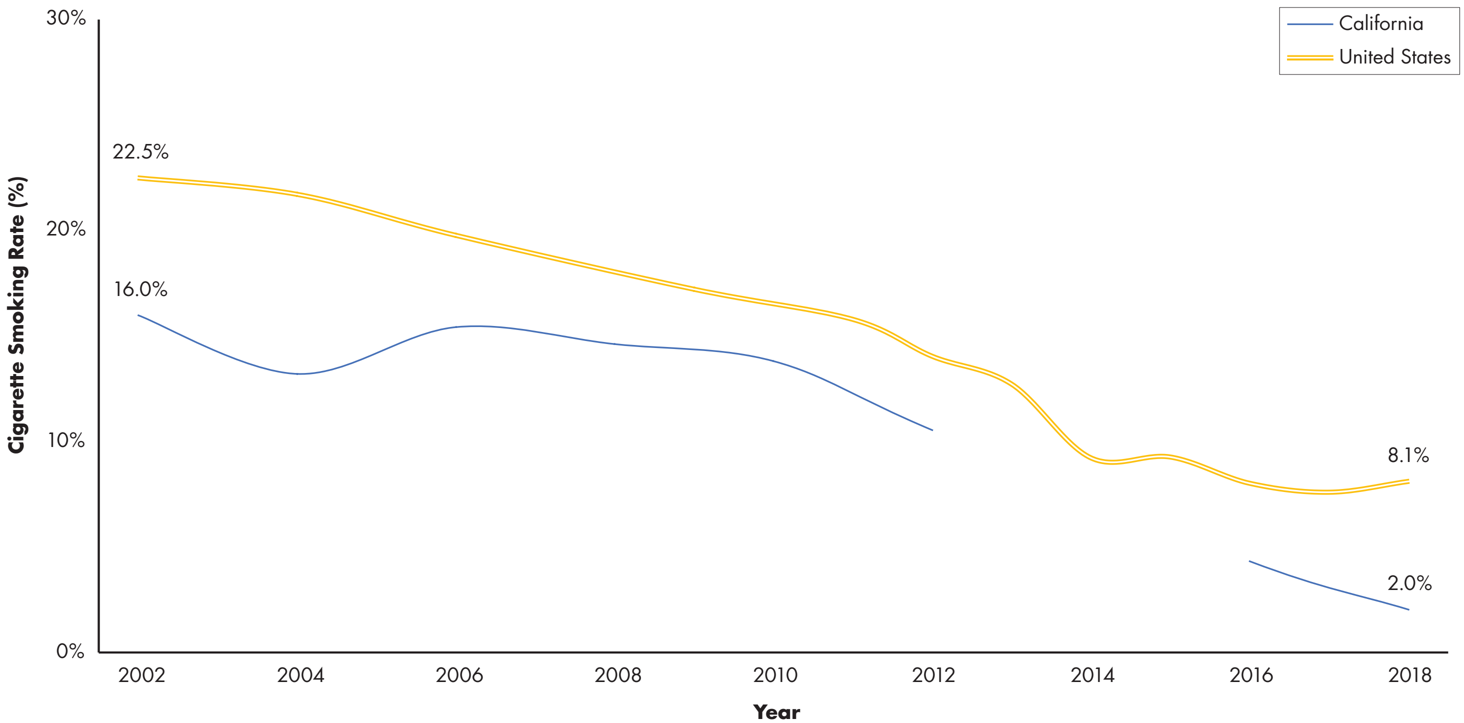


Note: Restricted to respondents in high school. Cigar, cigarette, electronic smoking device, hookah, little cigar or cigarillo, and smokeless tobacco use are based on self-reported past 30-day use. Any tobacco use is based on past 30-day use of cigar, cigarette, electronic smoking device, hookah, little cigar or cigarillo, or smokeless tobacco. The race and ethnicity categories are non-Hispanic or Latino unless otherwise noted. American Indian includes Alaska Native. Pacific Islander includes Native Hawaiian. LGBTQ refers to lesbian, gay, bisexual, transgender, or queer. Caution should be utilized when comparing previous years of the California Student Tobacco Survey due to changes to the race/ethnicity response option. Source: California Student Tobacco Survey, 2017-18. San Diego, CA: Center for Research and Intervention in Tobacco Control, University of California, San Diego; April 2019.

YOUTH CIGARETTE USE

Since 2000, youth cigarette smoking rate in both California and the United States decreased considerably (Figure 12).[13,14] California reported its lowest high school cigarette smoking rate in 2018 at 2.0 percent.[12]

Figure 12. Cigarette smoking rate among California youths, 2002 to 2018



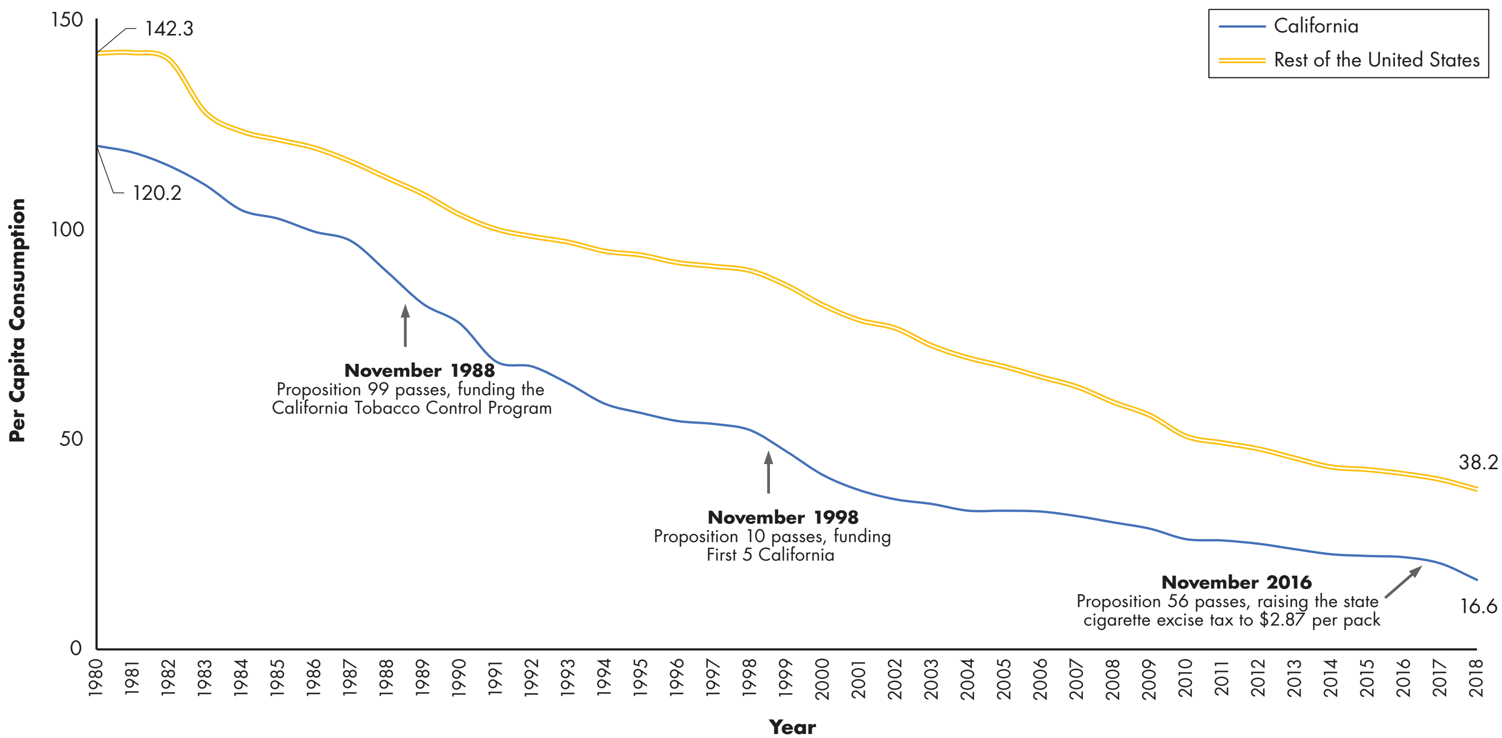
Note: Restricted to respondents in high school. Cigarette use is based on self-reported past 30-day use. A break in the trend line is shown for California data between 2012 and 2016 due to methodological change. Source: (1) California Student Tobacco Survey, 2001-02 to 2011-12. Sacramento, CA: California Department of Public Health; 2013. (2) California Student Tobacco Survey, 2015-16 to 2017-18. San Diego, CA: Center for Research and Intervention in Tobacco Control, University of California, San Diego; April 2019. (3) National Youth Tobacco Survey, 2002 to 2018. Atlanta, GA: U.S. Department of Health and Human Services; February 2019.

TOBACCO CONSUMPTION AND DISTRIBUTION

CIGARETTE CONSUMPTION PER CAPITA

Per capita consumption of cigarettes has declined steadily since the 1980s (Figure 13),[15] with the greatest rate of decline in California occurring in those years subsequent to increases in the cigarette excise tax. The current per capita consumption in California is 56.5 percent lower than the rest of the United States at 16.6 packs in 2018.[15]

Figure 13. Per capita cigarette consumption for California and Rest of the United States, 1980 to 2018

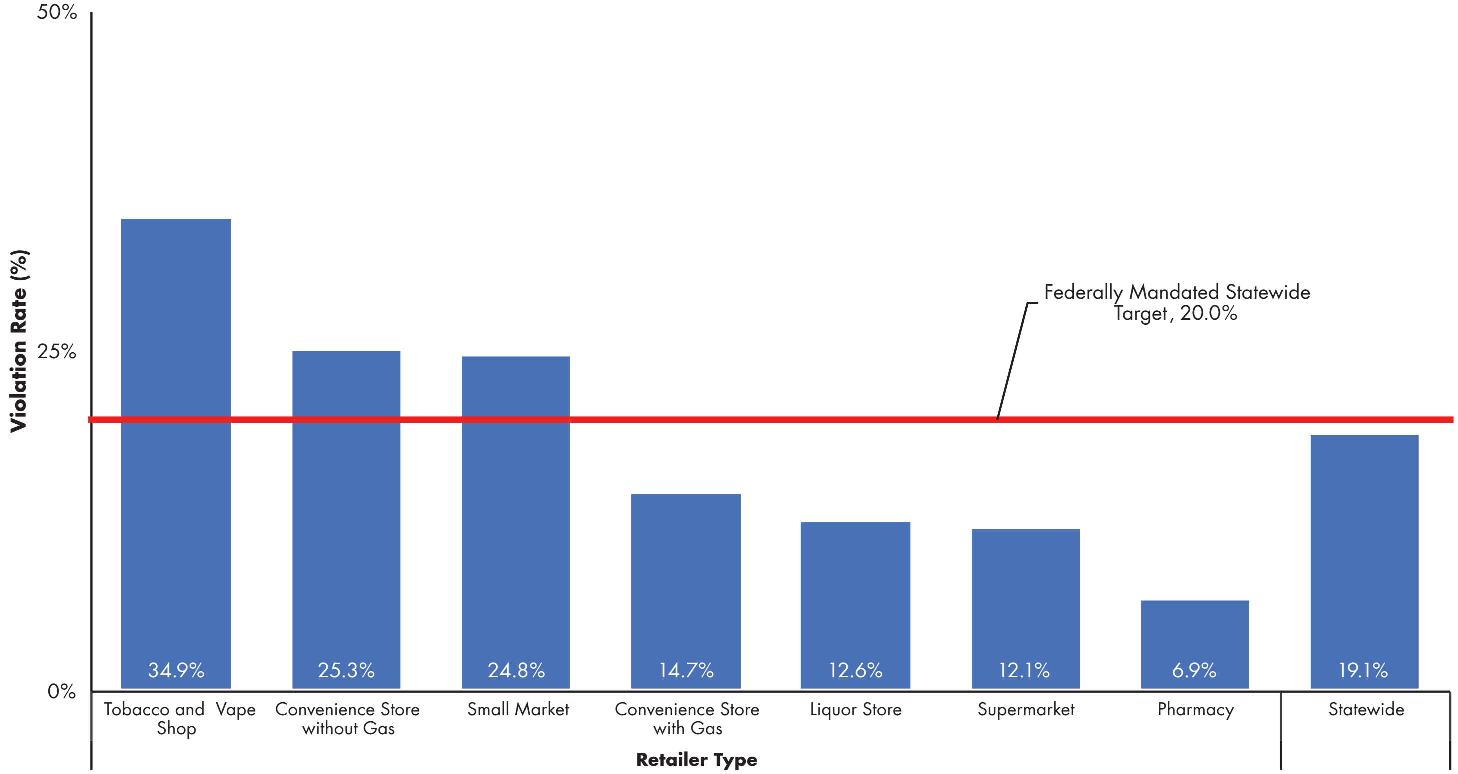


Note: Cigarette consumption is based on tax-paid cigarette sales. Source: Orzechowski and Walker. The Tax Burden on Tobacco: Historical Compilation, Volume 53, 2018. Arlington, VA: Orzechowski and Walker; 2019.

UNDERAGE TOBACCO SALES

In 2016, California raised the minimum legal sales age for tobacco products to 21. Tobacco and vape shops have the lowest compliance with this law,[16] with one out of three tobacco and vape shops selling to underage minors (Figure 14).

Figure 14. Underage sales rate to young adults among licensed tobacco retailers in California by retailer type, 2018



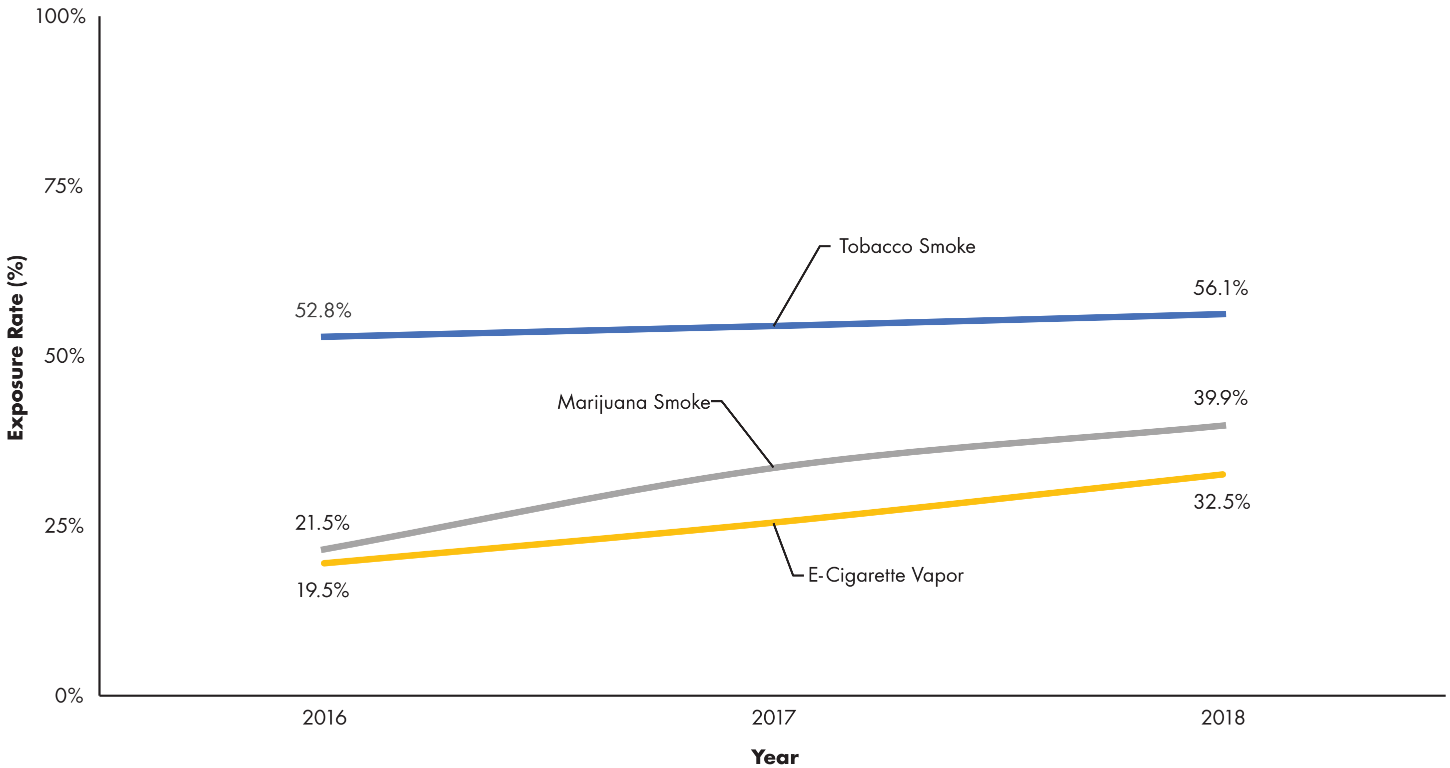
Note: Decoys age 18 and 19 attempted to purchase conventional tobacco (e.g. cigarette, little cigar or cigarillo) and electronic smoking devices or vaping products (e.g. e-liquid, e-cigarette). Source: Young Adult Tobacco Purchase Survey, 2018. Sacramento, CA: California Department of Public Health; October 2018.

SECONDHAND EXPOSURE

ADULT SECONDHAND EXPOSURE

California has a comprehensive smoke-free law;[17] nevertheless, over the past three years, the rate of Californians reporting exposure to tobacco smoke, e-cigarette vapor, and marijuana smoke increased (Figure 15).[18]

Figure 15. Secondhand exposure among California adults age 18 to 64, 2016 to 2018

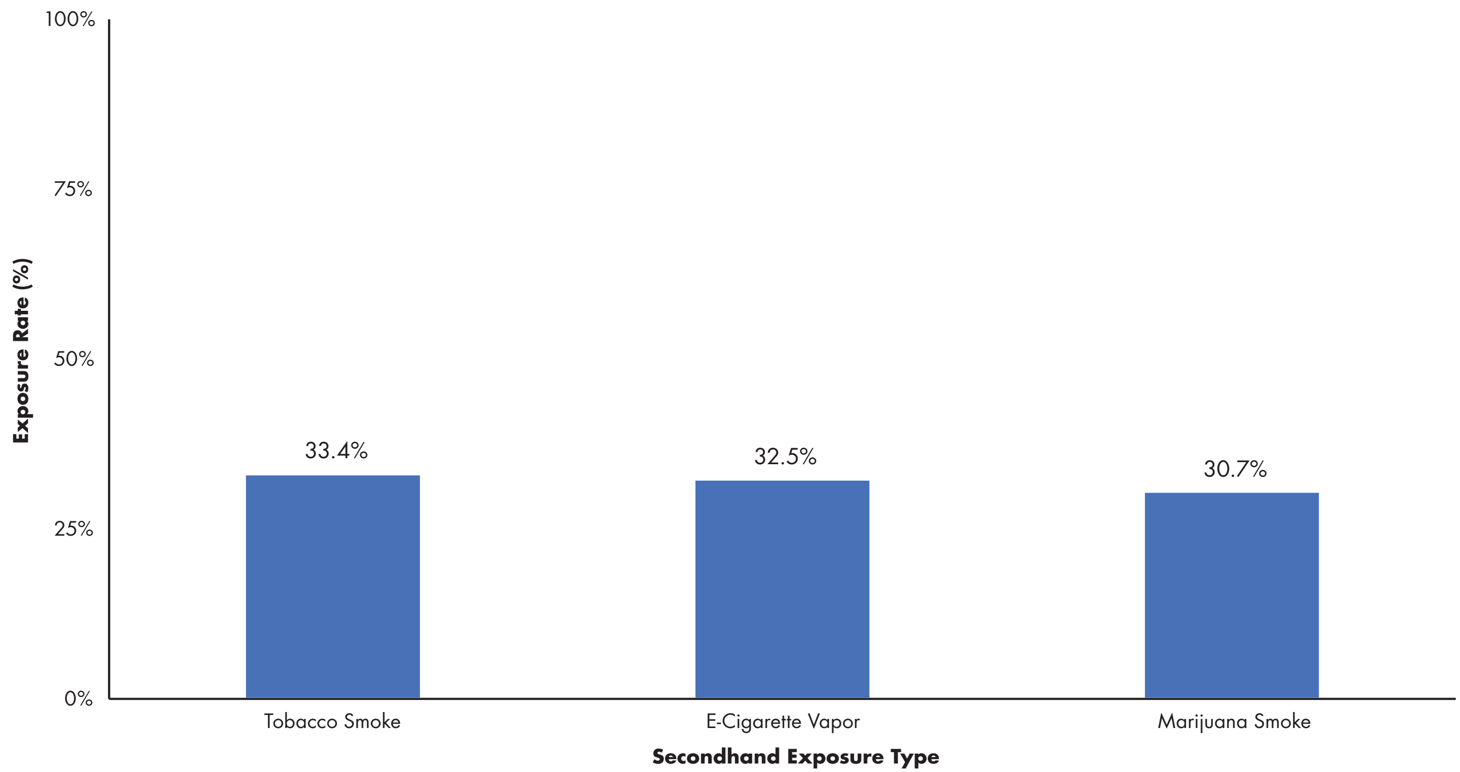


Note: Secondhand tobacco smoke, secondhand e-cigarette vapor, and secondhand marijuana smoke is based on self-reported past 2-weeks exposure in California. Source: Online California Adult Tobacco Survey, 2016 to 2018. Sacramento, CA: California Department of Public Health; November 2018.

YOUTH SECONDHAND EXPOSURE

Secondhand exposure remains a concern in youth, with roughly 30 percent of high school students reporting exposure to tobacco smoke, e-cigarette vapor, or marijuana smoke while in a room or in a car (Figure 16).[12]

Figure 16. Secondhand exposure among California youth, 2018



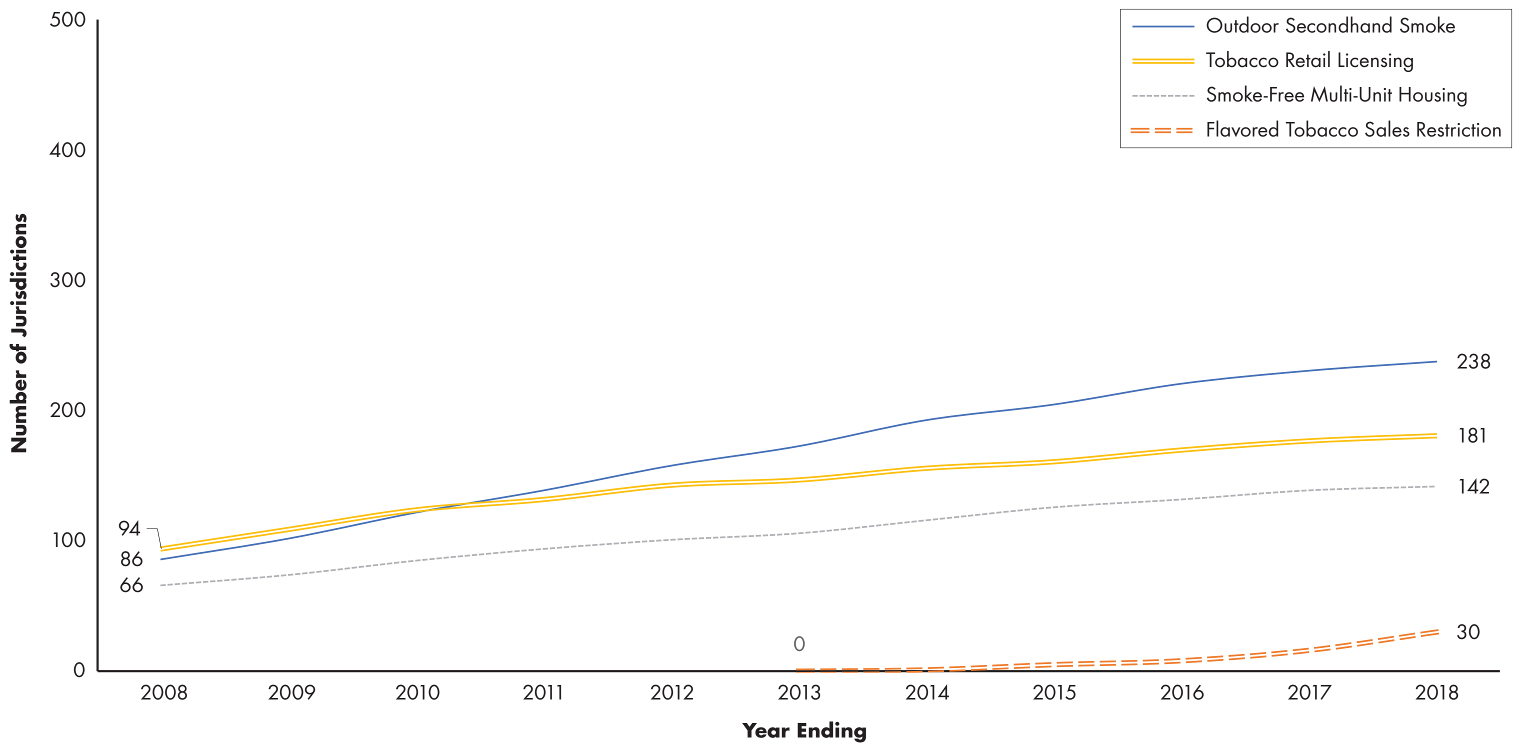
Note: Restricted to respondents in high school. Secondhand tobacco smoke, secondhand e-cigarette vapor, and secondhand marijuana smoke is based on self-reported past 30-day exposure in a room or in a car. Source: California Student Tobacco Survey, 2017-18. San Diego, CA: Center for Research and Intervention in Tobacco Control, University of California, San Diego; April 2019.

TOBACCO CONTROL POLICIES

LOCAL TOBACCO CONTROL POLICIES

Over the past decade, local jurisdictions made great strides in passing tobacco control ordinances, specifically policies related to outdoor secondhand smoke, tobacco retail licensing, smoke-free multi-unit housing, and restricting flavored tobacco sales (Figure 17).[19]

Figure 17. Number of California jurisdictions with local tobacco control policies by policy type, 2008 to 2018

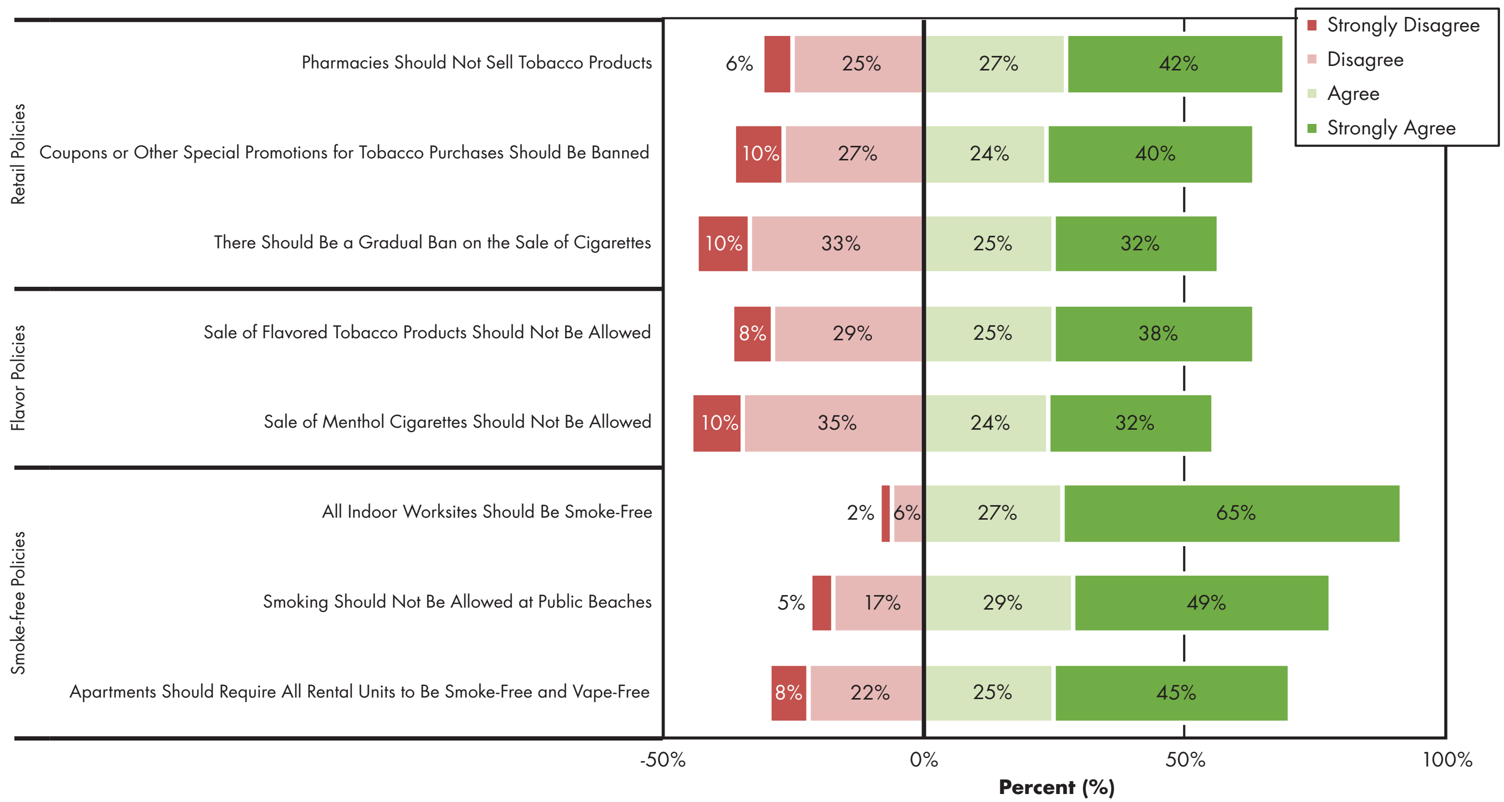


Note: The number of jurisdictions with local policy enacted as of December 31, 2018. Source: Policy Evaluation Tracking Database. Sacramento, CA: California Department of Public Health; January 2019.

PUBLIC SUPPORT FOR TOBACCO CONTROL POLICIES

A majority of California adults agreed with a variety of CDPH/CTCP-policy priorities as detailed in Figure 18,[20] with 57 percent agreeing that there should be a gradual ban on the sale of cigarettes.

Figure 18. Public agreement with tobacco control policies among California adults age 18 to 64, 2018



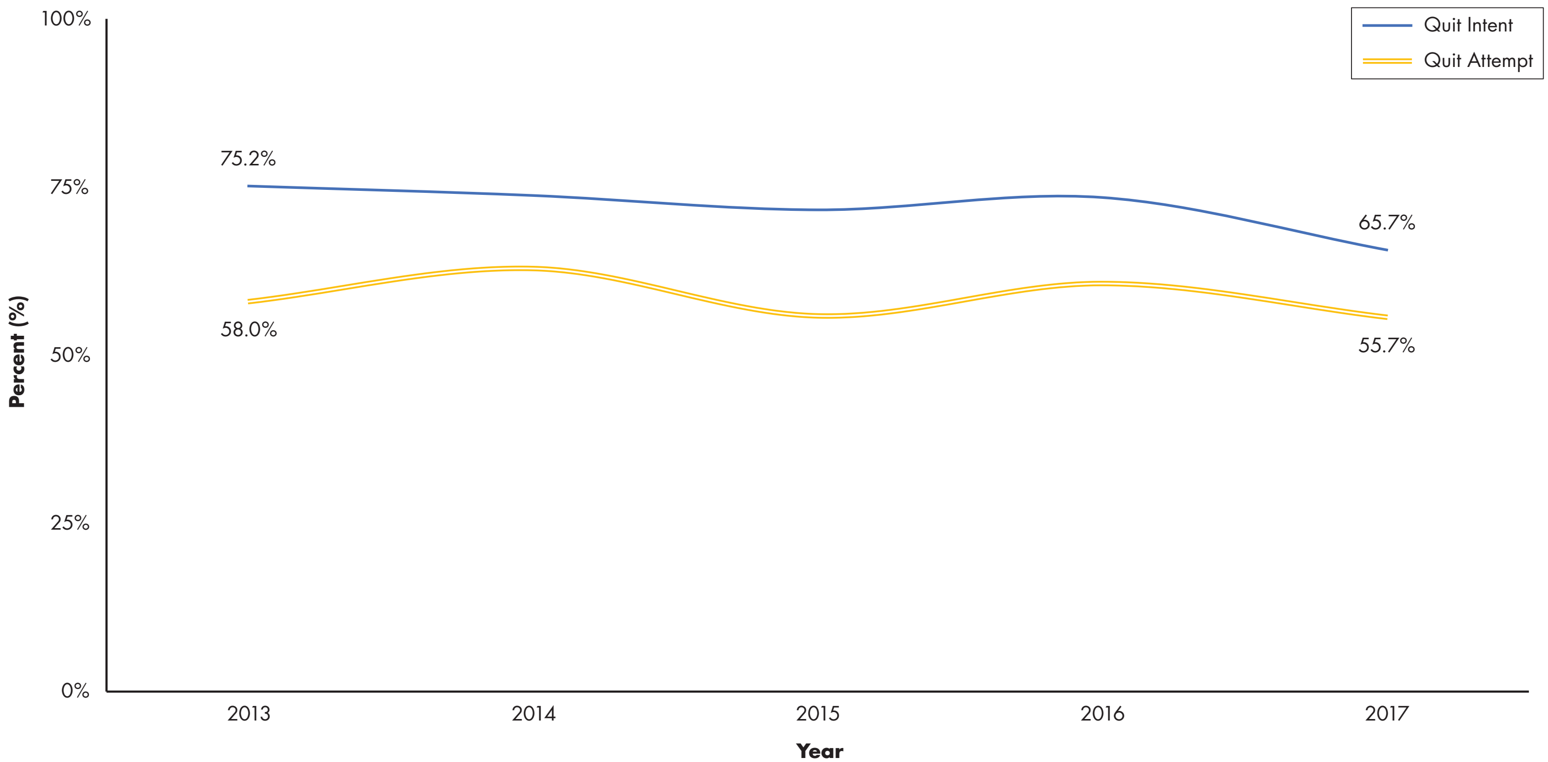
Note: Exact full wording for each survey question can be found on the CDPH/CTCP website. Source: Online California Adult Tobacco Survey, 2018. Sacramento, CA: California Department of Public Health; November 2018.

CESSATION

CESSATION INTENT AND ATTEMPT

The rate of adult cigarette smokers who thought about quitting or made a quit attempt decreased or remained stagnant over the past five years (Figure 19).[21]

Figure 19. Quit intention and attempt among current adult cigarette smokers in California, 2013 to 2017

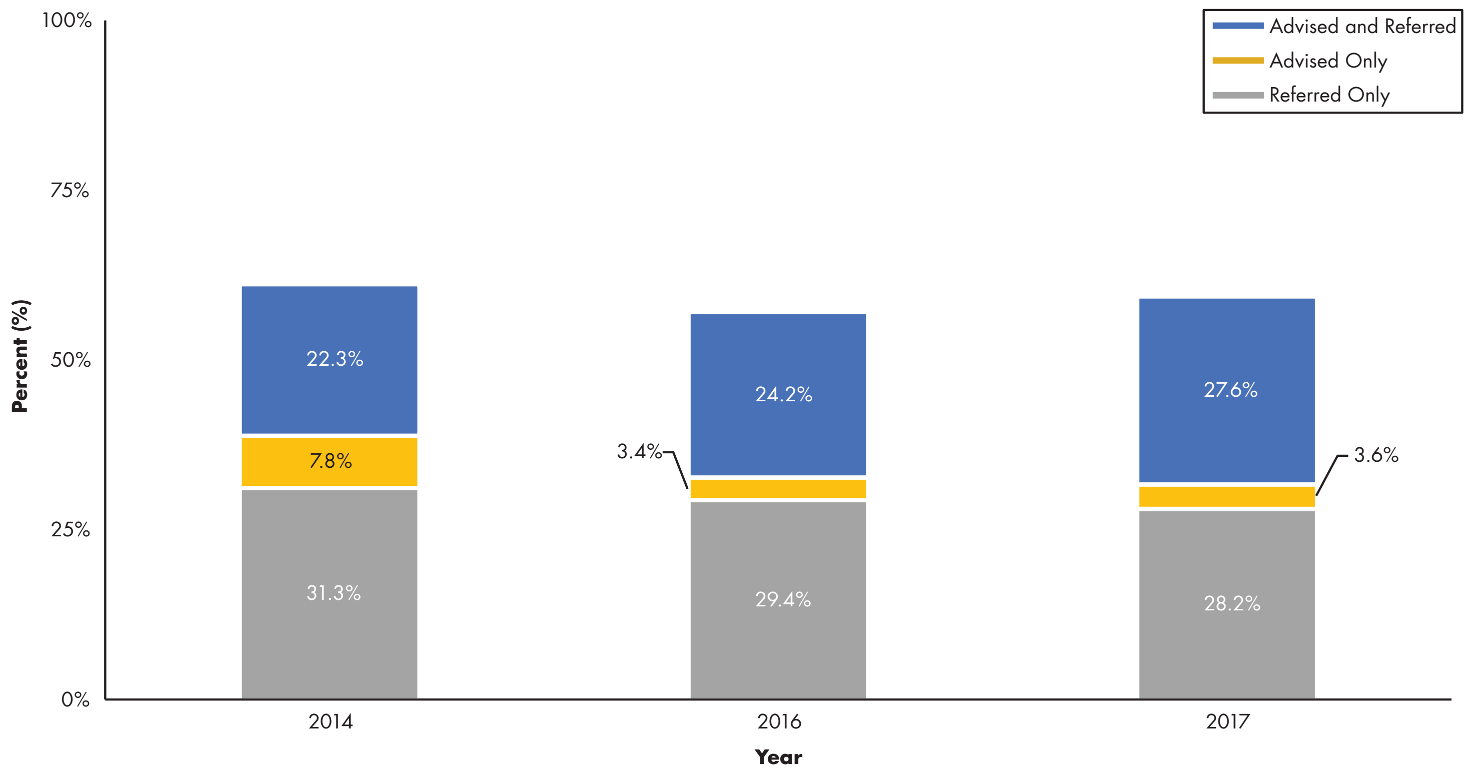


Note: Restricted to respondents aged 18 or older who are current smokers. Thinking about quitting in the next 6 months (quit intent) and quit attempt in the past 12 months are based on self-reported responses. Source: California Health Interview Survey Public Use File, 2013 to 2017. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.

DOCTOR REFERRALS TO CESSATION PROGRAMS

Doctors should follow evidence-based models to promote cessation among all patients, such as the 5A's (Ask, Advise, Assess, Assist, Arrange), Ask-Advise-Refer (AAR), or Ask-Advise-Connect (AAC).[22-24] About one in four adult smokers report that their doctor advised them to quit smoking and also referred them to a cessation program (Figure 20).[25]

Figure 20. Advised to quit and referred to cessation programs among adult cigarette smokers in California, 2014 to 2017

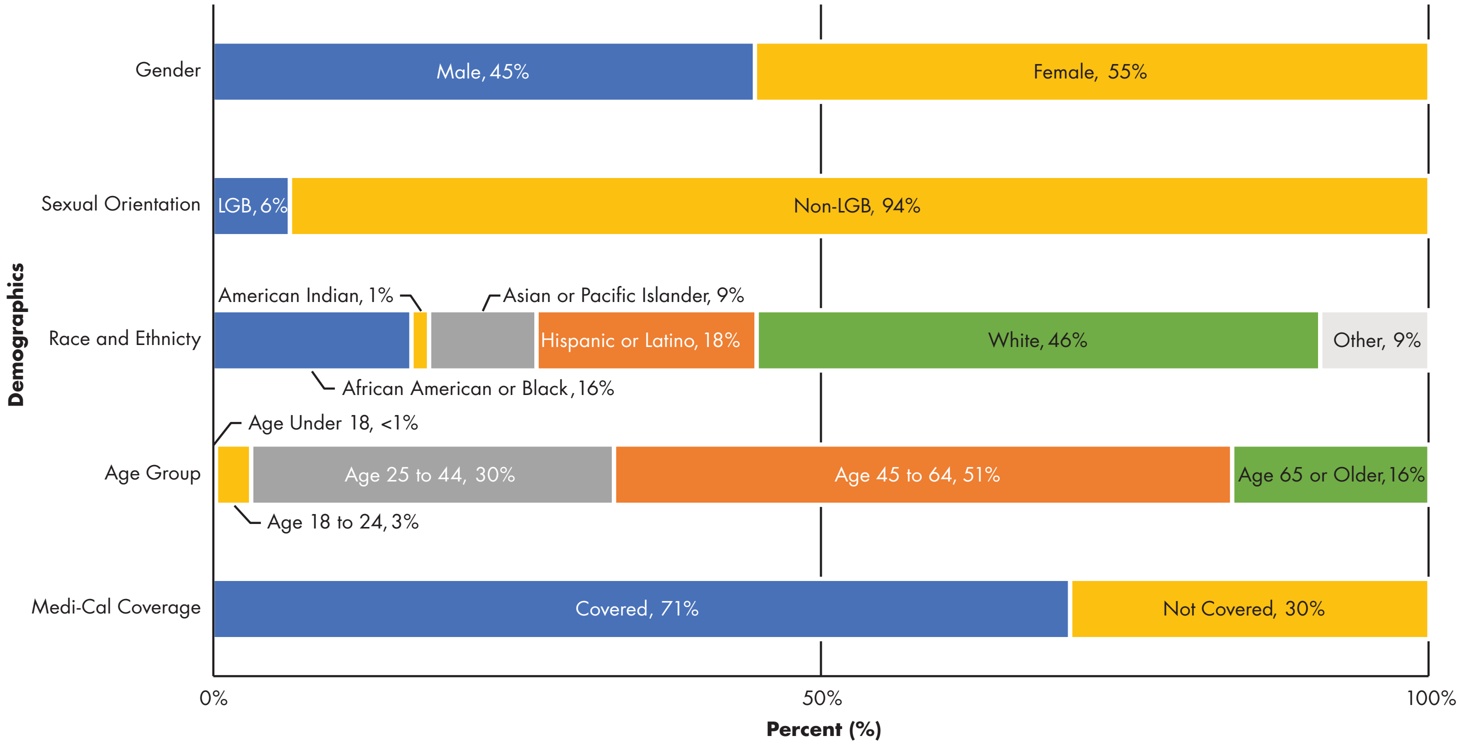


Note: Restricted to respondents aged 18 or older who are current smokers and self-reported seeing a medical doctor in the past 12 months. Survey question was not asked in 2015. Source: California Health Interview Survey Public Use File, 2014 to 2017. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.

CALIFORNIA SMOKERS' HELPLINE

The California Smokers' Helpline (Helpline) has provided free and confidential cessation services to over 800,000 Californians since its beginning in 1992.[26] Services are provided via telephone, chat, text messaging and mobile apps. A profile of the 20,000 individuals that utilized the Helpline in 2018 is illustrated in Figure 21.[27]

Figure 21. Profile of California Smokers' Helpline callers, 2018

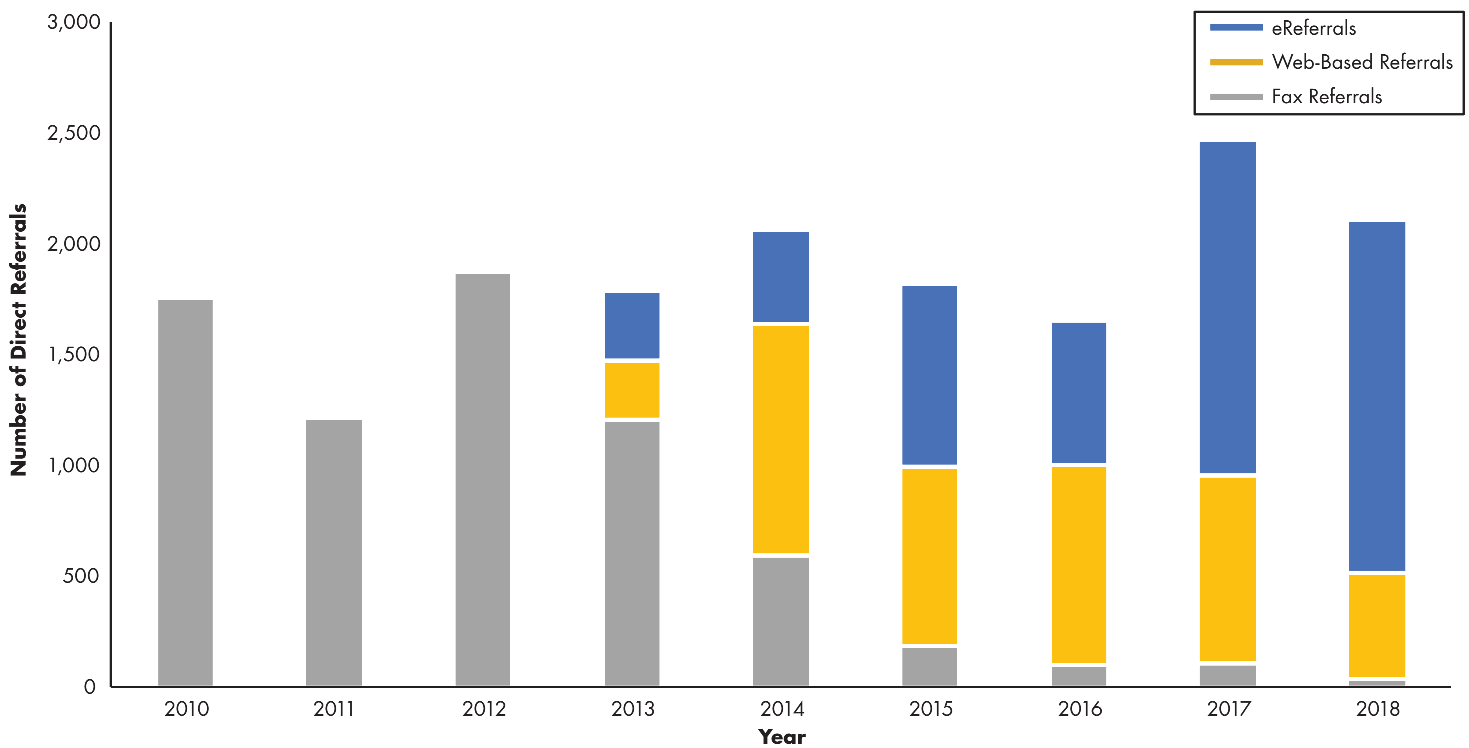


Note: Percentages may not total to 100 percent due to rounding. The race and ethnicity categories are non-Hispanic or Latino unless otherwise noted. American Indian includes Alaska Native. LGB refers to lesbian, gay, or bisexual. Source: Helpline Caller Intake Reports, 2018. San Diego, CA: California Smokers' Helpline, University of California, San Diego; March 2019.

DIRECT REFERRALS TO THE CALIFORNIA SMOKERS' HELPLINE

The Helpline began accepting two-way electronic health record (EHR) referrals (eReferral) in 2013,[28] allowing providers to order referrals and receive patient's progress towards quitting tobacco within the EHR system. As of December 2018, over 5,000 Californians utilized the Helpline after being directly referred through eReferrals (Figure 22).[28,29]

Figure 22. Health care provider direct referrals to the California Smokers' Helpline by referral type, 2010 to 2018



Source: California Smokers' Helpline began accepting electronic health record referrals, or eReferrals, and web-based referral services in 2013. Source: (1) Harms KR, Anderson CM, Cummins SE, Zhu S-H. California Smokers' Helpline: Final Evaluation Report, Objective 2: Promoting Helpline Services. San Diego, CA: California Smokers' Helpline, University of California, San Diego; 2015. (2) California Smokers' Helpline. CG 14-10611 Progress Report to CDPH/CTCP. Sacramento, CA: California Department of Public Health; 2019.

REFERENCES

1. Newsom G. Governor's Budget Summary 2019-20. Sacramento, CA: California Department of Finance; January 2019.
2. California Tobacco Education and Research Oversight Committee. New Challenges—New Promise for All. 2018-2020 *Master Plan of the California Tobacco Education and Research Oversight Committee*. Sacramento, CA: California Tobacco Education and Research Oversight Committee; 2018.
3. Tobacco Control Funding Opportunities and Resources. 2019; https://tcfor.catcp.org/. Accessed March 8, 2019.
4. Behavioral Risk Factor Surveillance System, 1988 to 2017. Sacramento, CA: California Department of Public Health; October 2018.
5. Behavioral Risk Factor Surveillance System, 1996 to 2017. Atlanta, GA: Centers for Disease Control and Prevention; October 2018.
6. California Health Interview Survey, 2016-17. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.
7. California Health Interview Survey, 2003. Los Angeles, CA: UCLA Center for Health Policy Research; June 2010.
8. California Health Interview Survey, 2015-17. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.
9. Behavioral Risk Factor Surveillance System, 2017. Sacramento, CA: California Department of Public Health; October 2018.
10. U.S. Census Bureau, Population Division. Annual Estimates of the Resident Population for the United States, Regions, States, and Puerto Rico: April 1, 2010 to July 1, 2018. Suitland, MD: U.S. Census Bureau; December 2018.
11. Behavioral Risk Factor Surveillance System, 2016-17. Sacramento, CA: California Department of Public Health; October 2018.
12. California Student Tobacco Survey, 2017-18. San Diego, CA: Center for Research and Intervention in Tobacco Control, University of California, San Diego; April 2019.
13. California Student Tobacco Survey, 2001-02 to 2011-12. Sacramento, CA: California Department of Public Health; April 2013.
14. National Youth Tobacco Survey, 2002 to 2018. Atlanta, GA: U.S. Department of Health and Human Services; February 2019.
15. Orzechowski and Walker. *The Tax Burden on Tobacco: Historical Compilation, Volume 53*, 2018. Wilmington, NC: Orzechowski and Walker; 2019.
16. Young Adult Tobacco Purchase Survey, 2018. Sacramento, CA: California Department of Public Health; October 2018.
17. Tynan MA, Holmes CB, Promoff G, Hallett C, Hopkins M, Frick B. State and local comprehensive smoke-free laws for worksites, restaurants, and bars - United States, 2015. *MMWR Morb Mortal Wkly Rep*. 2016; 65(24): 623-626. doi: 10.15585/mmwr.mm6524a4
18. Online California Adult Tobacco Survey, 2016 to 2018. Sacramento, CA: California Department of Public Health; November 2018.
19. Policy Evaluation Tracking System. Sacramento, CA: California Department of Public Health; January 2019.
20. Online California Adult Tobacco Survey, 2018. Sacramento, CA: California Department of Public Health; November 2018.
21. California Health Interview Survey Public Use File, 2013 to 2017. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.
22. Fiore MC, Jaén CR, Baker TB, et al. Treating Tobacco Use and Dependence: 2008 Update - Clinical Practice Guideline. Rockville, MD: U.S. Department of Health and Human Services; 2008.
23. Vidrine JI, Shete S, Cao Y, et al. Ask-Advise-Connect: a new approach to smoking treatment delivery in health care settings. *JAMA Intern Med*. 2013; 173(6): 458-464. doi: 10.1001/jamainternmed.2013.3751
24. Schroeder SA. What to do with a patient who smokes. *JAMA*. 2005; 294(4): 482-487. doi: 10.1001/jama.294.4.482
25. California Health Interview Survey Public Use File, 2014 to 2017. Los Angeles, CA: UCLA Center for Health Policy Research; October 2018.
26. Celebrating the Helpline's 25th Anniversary! [press release]. San Diego, CA: California Smokers' Helpline; November 16, 2017.
27. Helpline Caller Intake Reports, 2018. San Diego, CA: California Smokers' Helpline, University of California, San Diego; March 2019.
28. Harms KR, Anderson CM, Cummins SE, Zhu S-H. *California Smokers' Helpline: Final Evaluation Report, Objective 2: Promoting Helpline Services*. San Diego, CA: California Smokers' Helpline, University of California, San Diego; 2015.
29. California Smokers' Helpline. CG 14-10611 *Progress Report to CDPH/CTCP*. Sacramento, CA: California Department of Public Health; 2019.

CITY COUNCIL
STAFF REPORT

MEETING DATE: March 25, 2019

ITEM TITLE: Consideration of Introducing an Ordinance Amending San Carlos Municipal Code, Title 8 – Health and Safety; Consisting of Adding a New Chapter 8.02 to the San Carlos Municipal Code to Prohibit the Sale of Flavored Tobacco Products in the City Limits and Tobacco Products in Pharmacies, and Modifications to Chapter 8.06, to Add the Definition of "Tobacco Products".

RECOMMENDATION:

Staff recommends that the City Council introduce an Ordinance adding a new Section 8.02 prohibiting the sale of flavored tobacco products within City limits, prohibiting the sale of all tobacco products in pharmacies in conformance with the County of San Mateo Ordinance Chapter 4.99 and amending Chapter 8.06 of the San Carlos Municipal Code adding a definition for tobacco products.

FISCAL IMPLICATIONS:

There are no fiscal implications associated with this item as enforcement will be performed by the County. Following implementation of a flavored tobacco and tobacco sales ban, there could be a small reduction in sales tax revenue associated with a decrease in sales on tobacco products.

BACKGROUND:

Flavored Tobacco Ban
This item is coming before the City Council at Council's request. Based on community input, the City Council held a study session on this issue at its meeting on January 28, 2019. At the meeting, the Council directed staff to conduct community outreach and return with an Ordinance for its consideration. A copy of the staff report and attachments from that meeting are included as Attachment 2.

The County of San Mateo, Town of Portola Valley and City of Half Moon Bay each have recently adopted ordinances prohibiting the sale or offer for sale of flavored tobacco products. Thus far, no other San Mateo County agencies have proposed a flavored tobacco sales ban, however some agencies have started discussions.

Sale of Tobacco Product in Pharmacies Ban
This item is coming before the City Council as the County of San Mateo, City of Daly City, Town of Portola Valley and City of Half Moon Bay each have recently adopted ordinances prohibiting

pharmacies from selling or offering for sale all tobacco products. The City of San Carlos previously adopted Chapter 8.07 of the Municipal Code, which requires tobacco retailers to maintain a valid tobacco retailer permit through the County of San Mateo. If adopted, this proposed chapter 8.02 will prevent a pharmacy in San Carlos from obtaining a retailers permit to sell all tobacco products under Chapter 8.07, in accordance with the County of San Mateo County ordinance.

ANALYSIS:

Outreach Concerning a Flavored Tobacco Ban

City staff engaged with the community regarding this topic through a variety of platforms. A webpage was created on the City's website www.cityofsancarlos.org/smoking to: 1) provide information about the topic, including a link to the video and staff report from the Council study session; 2) offer local and countywide resources on the topic; 3) inform residents of upcoming meetings and opportunities for input; and 4) invite residents to participate in a community survey.

A stakeholder meeting was held on February 13, 2019. Invitations were sent to: San Carlos tobacco retailers; San Carlos and Sequoia School District officials and Parent Teacher Association groups; San Mateo County Health representatives, and the Tobacco Education Coalition. Experts from San Mateo County Health and the Tobacco Education Coalition joined City staff in discussing the issue and the proposed ordinance. Participants were asked to provide their input for the Council's consideration. In addition to this meeting, a number of one-on-one meetings were conducted with interested stakeholders. Staff then complied all of the input from the community, which is summarized in Attachment 3.

A Shape San Carlos online town hall forum was open for over five weeks and received 153 responses, 78 of which were registered residents. The survey was advertised on the City website, across the City social media channels and Nextdoor and forwarded to the Shape San Carlos subscriber list. Results show that: 0% of respondents use flavored tobacco products, and 82.1% support a ban on the sale of flavored tobacco. 84.6% support a ban on the sale of tobacco products near schools. Participants also shared their concerns about the sale of flavored tobacco products in San Carlos. All of this input provided in Attachment 4.

Proposed Ordinance and County Support

The City has previously relied on the County's tobacco regulations as a guide for its own regulations. The City incorporated the County's retailer permit requirement for tobacco sales. At the same time, the City adopted an ordinance authorizing the County to administer the permits. See Chapter 8.07 of the City's Municipal Code.

In June 2018, the County approved the addition of Chapter 4.99 in Title 4 of the San Mateo County Ordinance Code ("County Ordinance") to prohibit the sale or offer for sale of flavored tobacco products and to prohibit pharmacies from selling or offering for sale any tobacco products. County staff has offered to provide education and enforcement services to local agencies should they elect to adopt regulations similar to the County's.

It should be noted that the County's Ordinance includes banning sales in pharmacies, which was not discussed in detail at the Council study session in January. The County concluded that pharmacies serve as a trusted source for health information in addition to being a source of medicine and other health products. Thus, the sale of tobacco products by pharmacies is inconsistent with the role of a pharmacy in the health of a community. San Carlos currently has

12 retailers licensed to sell tobacco products, one of which is a pharmacy (Walgreen's). Walgreen's has indicated that it will cooperate with any decision made by the Council.

Staff is recommending adopting the County's Ordinance banning the sale of flavored tobacco as written, including banning sales of all tobacco products in pharmacies.

Additional Items Requested by Council at the Study Session
At the January study session, City Council also directed staff to research the following items for consideration in this Ordinance:

1. A ban on the sale of e-cigarette devices and cartridges, and;
2. A ban on the sale of tobacco products of any kind near a school.

1. The definition of a "tobacco or smoking product" in section 4.96.030 of the County Ordinance includes "any component, part, or accessory intended or reasonably expected to be used with a tobacco product, whether or not sold separately" which is inclusive of e-cigarette devices and cartridges sold independently from each other.

   Staff does not recommend additional language be incorporated into the proposed Ordinance, as we believe this definition meets the intent of Council.

2. Staff met with the two retailers in the city who are within 1,000 feet of a school and would potentially be affected by tobacco sale restrictions. Both retailers said the proposed restriction would negatively impact their business. One retailer said the ordinance would cause it to go out of business.

   If the Council wishes to proceed with this additional ban, staff recommends that it be reviewed by the Planning Commission as it would include a revision to the City's Zoning Ordinance.

ALTERNATIVES:

The options available to the City Council include:

1. Introduce an Ordinance amending San Carlos Municipal Code, Title 8 – adding a new Chapter 8.02 to the San Carlos Municipal Code to Prohibit the Sale of Flavored Tobacco Products in the City Limits, Prohibit the Sale of all Tobacco Products in Pharmacies, and Modifications to Chapter 8.06, definitions; or

2. Do not introduce the Ordinance; or

3. Provide staff with alternative direction.

Respectfully submitted by:

Tara Peterson,
Assistant City Manager

Approved for submission by:

Jeff Maltbie, City Manager

ATTACHMENT(S):

1. Ordinance - Flavored Tobacco New Chapter 8.02
2. January 28, 2019 Council Study Session Staff Report and Attachments
3. Flavored Tobacco Community Feedback
4. Shape San Carlos Survey

4

Chapter 9.06
SMOKING REGULATIONS

Sections:

9.06.010 Findings and purpose.

A. State law prohibits smoking in all public buildings and within twenty (20) feet of a public building, which includes city-owned or leased buildings that are occupied by the city of St. Helena.

B. State law prohibits smoking within twenty-five (25) feet of playgrounds and tot lots.

C. No state law mechanism exists under which local police can enforce these smoking prohibitions.

D. State law allows the city to adopt a more restrictive ordinance regarding smoking on or around government facilities and playgrounds.

E. Nonconsensual exposure to secondhand smoke at sports facilities, sports spectator areas, and municipal parks is a nuisance and a threat to the health of the general public and sports players and spectators.

F. As aerosol emissions from electronic smoking devices have been found to contain at least ten (10) chemicals that are on California's list of chemicals known to cause cancer, birth defects, or other reproductive harm, including acetaldehyde benzene, cadmium, formaldehyde, isoprene, lead, nickel, nicotine, N nitrosonornicotine, and toluene, secondhand exposure to e-cigarette aerosol is a health concern.

G. People exposed to aerosol emissions from electronic smoking devices and electronic cigarettes absorb nicotine, a substance that can cause cancer, birth defects, or reproductive harm, at levels comparable to secondhand smoke, and are also exposed to volatile organic compounds and other particulate matter that can lead to tissue inflammation.

H. Nonsmokers who suffer from allergies, respiratory disease, or the negative effects of breathing secondhand tobacco smoke or aersol emissions from electronic smoking devices or electronic cigarettes may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions.

I. Accordingly, the city council finds it is within its basic police power to implement and enforce the provisions of this chapter, and declares that the purposes of this chapter are:

1. To effectuate state law preventing smoking inside all public buildings and within twenty (20) feet of public buildings, all to the general health, safety, and welfare of the public;

2. To assist in the enforcement of laws prohibiting smoking in all public buildings and within twenty (20) feet of a public building; and

3. To protect the health of the general public, including sports players, spectators who utilize the sports facilities and sports spectator areas, and those who use playground structures and municipal parks. (Ord. 18-4 § 1 (Exh. A (part)): Ord. 12-4 § 1: Ord. 08-3 (part))

9.06.020 Definitions.
For the purposes of this chapter:

A. "Electronic smoking device or electronic cigarette" means an electronic and/or battery operated device, the use of which may resemble smoking, which can be used to deliver vapors for an inhaled dose of nicotine or other substance. This term shall include, without limitation, every variation and type of such devices whether they are manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a device that heats a flavored liquid, usually containing nicotine, until it produces a vapor, or any other similar product name or descriptor.

B. "Inside a public building" means all indoor areas of the building, except for covered parking lots and residential space. "Inside a public building" includes any indoor space leased to the state, county, or city, except for covered parking lots and residential space (a private living area, not including common areas such as lobbies, lounges, waiting areas, elevators, stairwells, and restrooms that are a structural part of a multi-complex building such as a dormitory).

C. "Public building" means a building, or any area within a building, owned and occupied, in whole or in part, or leased and occupied, in whole or in part, by the state, county, or the city of St. Helena.

D. "Public sports facilities" means property owned by the city that has as its main purpose the facilitation of the playing of a sport, including but not limited to baseball fields, soccer fields, tennis courts, basketball courts, skateparks, volleyball courts, swimming pools, and bocce courts.

E. "Public sports spectator areas" means the areas designated for the use of spectators of sports at public sports facilities, including but not limited to bleachers and seating areas, and any other area within such proximity to public sports facilities that its use by spectators is common.

F. "Playground structures" means areas constructed and/or intended as an outdoor area set aside for primarily children's recreation and play, containing equipment such as swings, slides, or other play structures.

G. "Smoking" means and includes (1) inhaling, exhaling, burning, carrying, or leaving any lighted cigar, cigarette, weed or plant or other combustible substance whose smoke is intended to be inhaled; (2) inhaling or exhaling upon burning or carrying any lighted smoking equipment for tobacco, nicotine or any other plant or product used for personal habit commonly known as smoking and/or (3) inhaling or exhaling upon, vaporizing or otherwise using any electronic smoking device or electronic cigarette. (Ord. 18-4 § 1 (Exh. A (part)): Ord. 08-3 (part))

9.06.040 Smoking prohibited in and around city buildings.
Smoking shall be prohibited, and no person shall smoke, inside a public building or within twenty (20) feet of any entrance(s), exit(s), operable window(s), ventilation intake systems and covered entryways of any public building in the city of St. Helena. All public buildings owned or leased by the city of St. Helena shall have posted "No Smoking Within 20 Feet" signs outside of all entrance(s), exit(s), operable window(s), and ventilation intake systems. This prohibition shall be enforced consistent with the provisions of the St. Helena Municipal Code. (Ord. 18-4 § 1 (Exh. A (part)): Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.060 Smoking prohibited at public sports facilities, public sports spectator areas, playground structures, and municipal parks.
Smoking shall be prohibited, and no person shall smoke, on the grounds of public sports facilities or public sports spectator areas, or on or around playground structures, or in municipal parks as that term is defined in Section 12.32.010. All public sports facilities, public sports spectator areas, playground structures, and municipal parks shall have posted "No Smoking" signs citing this code section outside, on, or near all entrance(s), exit(s), any

existing operable window(s), and/or ventilation intake systems, or such sign shall be placed openly and in public view in such areas where no entrance/exit is obvious. (Ord. 18-4 § 1 (Exh. A (part)): Ord. 12-4 § 2: Ord. 08-3 (part))

9.06.080 Violations an infraction.

Violations of any section herein shall be considered an infraction and the provision herein shall be enforced consistent with the St. Helena Municipal Code. (Ord. 18-4 § 1 (Exh. A (part)): Ord. 08-3 (part))

Mobile Version

ORDINANCE No. 983

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA (1) AMENDING CORTE MADERA MUNICIPAL CODE TITLE 5 (BUSINESS LICENSES AND REGULATIONS) TO ADD A TOBACCO RETAILER LICENSE REQUIREMENT, PROHIBIT THE SALE OF FLAVORED TOBACCO PRODUCTS AND PROHIBIT PHARMACIES FROM ENGAGING IN TOBACCO RETAILING, AND (2) DETERMINING THAT THE ADOPTION OF THE ORDINANCE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

WHEREAS, the Town Council has received information and a request to consider adopting an ordinance from Tobacco Free Marin to restrict the sale of flavored tobacco products through a tobacco retail licensing program; and

WHEREAS, the staff has researched the potential impact of imposing a tobacco licensing requirement on local retailers and on Town staff; and

WHEREAS, at its meeting of February 19, 2019, the Town Council conducted a duly noticed public hearing and finds the proposed change to the Municipal Code necessary and in the best interest of the community; and

WHEREAS, the Town Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the Town, to protect the health, safety, and welfare of our residents; and

WHEREAS, studies have shown that e-cigarettes contain high levels of toxic chemicals; and

WHEREAS, the Centers for Disease Control and Prevention has reported a more than 800% increase in e-cigarette use among middle school and high school students between 2011 and 2015; and

WHEREAS, the liquid nicotine solutions consumed in e-cigarettes are marketed in a variety of flavors that appeal to youth including cotton candy, bubble gum, and fruit; and

WHEREAS, the U.S. Food and Drug Administration and the U.S. Surgeon General have stated that flavored tobacco products in e-cigarettes help establish smoking habits in youth that can lead to long-term addiction; and

WHEREAS, traditional tobacco products including cigarettes, cigarillos, and chewing tobacco are also sold in flavors (such as menthol and wintergreen) that appeal to young people, with data from the National Youth Tobacco survey indicating that over two-fifths of U.S. middle school and high school smokers report using flavored cigarillos or flavored cigarettes; and

WHEREAS, flavored tobacco products, including liquid e-cigarette solutions and traditional flavored tobacco products, are commonly sold by California retailers. For example, 97.4% of stores that sell cigarettes sell menthol cigarettes; 94.5% of stores that sell cigarillos sell flavored varieties; 84.2% of stores that sell e-cigarette devices sell flavored varieties; and 83.8% of stores that sell chewing tobacco sell flavored chewing tobacco; and

WHEREAS, a local prohibition against the sale of flavored tobacco products is an effective means to reduce the availability of these products to youth, thereby protecting the public health by discouraging tobacco initiation and continued use; and

WHEREAS, State law contains various tobacco control laws including: the prohibition against the sale or furnishing of tobacco products and smoking paraphernalia to minors (Cal. Pen. Code, § 308); the sale or furnishing of e-cigarettes to minors (Cal. Health & Safety Code, § 119405); and the sale of loose or single cigarettes; and

WHEREAS, State law requires tobacco retailers check the identification of tobacco purchasers who appear to be under 21 years of age (Cal. Bus. & Prof. Code, § 22956); and

WHEREAS, according to the California Department of Public Health, on average, 12.3% of retailers throughout the State sell tobacco products to minors; and

WHEREAS, the failure of retailers to comply with tobacco control laws and other smoking laws, particularly laws prohibiting sale to minors, presents an imminent threat to the public health, safety, and welfare of the residents of Corte Madera; and

WHEREAS, the Town seeks to ensure compliance with State laws relating to tobacco retailing and discourage violations of tobacco-related laws, particularly those that prohibit the sale or distribution of smoking and tobacco products to minors; and

WHEREAS, a local licensing system for tobacco retailers is an effective means to ensure that retailers comply with existing tobacco and smoking control laws in order to protect the public health, safety, and welfare; and

WHEREAS, by selling tobacco products, pharmacies reinforce positive social perceptions of smoking, convey tacit approval of tobacco use, and send a message that it is not so dangerous to smoke; and

WHEREAS, tobacco-free pharmacy sales policies decrease the availability of tobacco products by reducing tobacco retailer density by up to three times compared with communities that do not have such policies, and immediately after the nationwide CVS policy change to not sell tobacco products, cigarette purchases declined; and

WHEREAS, state law explicitly permits cities and counties to enact local tobacco retail licensing ordinances, and allows for the suspension or revocation of a local license for a violation of any state tobacco control law (Cal. Bus. & Prof. Code § 22971.3); and

WHEREAS, over 130 cities and counties in California have passed tobacco retailer licensing ordinances in an effort to stop youth from using tobacco; and

WHEREAS, the Town has a substantial interest in protecting youth and underserved populations from the harms of tobacco use; and

WHEREAS, the Town Council finds that a local licensing system for tobacco retailers is appropriate to ensure that retailers comply with tobacco control laws and business standards of the Town of Corte Madera in order to protect the health, safety, and welfare of our residents;

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1:

It is the intent of the Town Council in enacting this ordinance, to ensure compliance with the business standards and practices of the Town and to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to youth, but not 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.

The Town Council finds and determines that the adoption of this ordinance, which is intended limit the availability of Tobacco Products to youth, is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061 because it can be seen with certainty that there is no possibility that adoption of the ordinance may have a significant effect on the environment. (14 Cal. Code Regs. § 15061(3)).

SECTION 2. Corte Madera Municipal Code Title 5 is hereby amended to read as follows:

Chapter 5.06 Tobacco Retailer License.

5.06.010 – Title

This chapter shall be known as the "Corte Madera Tobacco Retail License Ordinance"

5.06.020 - Purpose.

The Marin County Tobacco Control Program considers local Tobacco Retail License regulations an effective deterrent to the violation of existing tobacco laws. Tobacco Retail License ordinances restrict youth access to Tobacco and Tobacco Products by providing a mechanism for revoking a retailer's ability to sell tobacco. Additionally, communities are adopting local prohibitions against the sale of Flavored Tobacco Products as a way to further reduce smoking and promote public health.

5.06.030 - Definitions.

The following words and phrases, whenever used in this chapter, shall have the meanings defined in this section unless the context clearly requires otherwise:

1. "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value between two informed and willing parties, neither of which is 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.

2. "Cigar" means:
    a. Any roll of tobacco wrapped entirely or in part in tobacco or in any substance containing tobacco; or
    b. Any paper or wrapper that contains tobacco and is designed for smoking or ingestion of Tobacco Products.
    c. For the purposes of this subsection, "Cigar" includes, but is not limited to, tobacco products known or labeled as "Cigar," "cigarillo," "tiparillo," "little cigar," "blunt wrap," or "cigar wrap."

3. "Characterizing Flavor" means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a Tobacco Product or any byproduct produced by the Tobacco Product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice; provided, however, that a Tobacco Product shall not be determined to have a Characterizing Flavor solely because of the use of additives or flavorings or the provision of ingredient information.

4. "Constituent" means any ingredient, substance, chemical, or compound, other than tobacco, water, or reconstituted tobacco sheet that is added by the manufacturer to a Tobacco Product during the processing, manufacture, or packing of the Tobacco Product.

5. "Department" means the Town Manager or that person's delegee.

6. "Distinguishable" means perceivable by either the sense of smell or taste.

7. "Electronic smoking device" means an electronic device which can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such a device, whether or not sold separately. "Electronic smoking device" includes any such Electronic smoking device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.

8. "Flavored Tobacco Product" means any Tobacco Product that imparts a Characterizing Flavor.

9. "Pharmacy" means a retail establishment in which the profession of pharmacy by a pharmacist licensed by the State of California in accordance with the Business and Professions Code is practiced and where prescriptions are offered for sale. A Pharmacy may also offer other retail goods in addition to prescription pharmaceuticals.

10. "Proprietor" means a Person with an ownership interest in a business. An ownership interest shall be deemed to exist when a Person has a ten percent (10%) or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt.

11. "Self-Service Display" means the open display or storage of Tobacco Products or Tobacco Paraphernalia in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of Self-Service Display.

12. "Tobacco Paraphernalia" means any item designed or marketed for the consumption, use, or preparation of Tobacco Products.

13. "Tobacco Product" means:

    a. any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, or any other preparation of tobacco; and

    b. any electronic device that delivers nicotine or other substances to the Person inhaling from the device, including, but not limited to, an electronic cigarette, electronic cigar, electronic pipe, or electronic hookah.

14. Notwithstanding any provision of subsections (1) and (2) to the contrary, "Tobacco Product" includes any component, part, or accessory intended or reasonably expected to be used with a Tobacco Product, whether or not sold separately, and 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. "Tobacco Product" does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence. "Tobacco Retailer" means any Person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, 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 Products or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

5.06.040 - General Requirements and Prohibitions.

1. Tobacco Retailer's License Requirement. It shall be unlawful for any Person to act as a Tobacco Retailer in Town without first obtaining and maintaining a valid Tobacco Retailer's license pursuant to this chapter for each location at which Tobacco Retailing is to occur. Tobacco Retailing without a valid Tobacco Retailer's license is a nuisance as a matter of law.

2. Lawful Business Operation. In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a license is issued, it shall be a violation

of this chapter for a licensee, or any of the licensee's agents or employees, to violate any local, state, or federal law applicable to Tobacco Products, Tobacco Paraphernalia, or Tobacco Retailing.

3. Display of License. Each Tobacco Retailer license shall be prominently displayed in a publicly visible location at the licensed location.

4. Positive Identification Required. No Person engaged in Tobacco Retailing shall sell a Tobacco Product or Tobacco Paraphernalia to another Person who appears to be under the age of twenty-seven (27) years without first examining the identification of the recipient to confirm that the recipient is at least the minimum age for sale of Tobacco Products as established by state law.

5. Minimum Age for People Selling Tobacco. No Person who is younger than 21 years of age shall engage in tobacco retailing.

6. Self-Service Displays Prohibited. Tobacco Retailing by means of a Self-Service Display is prohibited.

7. False and Misleading Advertising Prohibited. A Tobacco Retailer without a valid Tobacco Retailer license or a Proprietor without a valid Tobacco Retailer license, including, for example, a Person whose license has been suspended or revoked:

    a. shall keep all Tobacco Products and Tobacco Paraphernalia out of public view. The public display of Tobacco Products or Tobacco Paraphernalia in violation of this provision shall constitute Tobacco Retailing without a license under Section 5.06.130 and

    b. 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.

8. Sale of Flavored Tobacco Products Prohibited.
   No Tobacco Retailer shall sell a Tobacco Product containing, as a constituent or additive, an artificial or natural flavor or an herb or spice, including without limitation strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, coffee, menthol, mint or wintergreen that is a Characterizing Flavor of the Tobacco Product or smoke produced by the Tobacco Product.

9. Minimum Package Size For Cigars.
   Notwithstanding any other provision of this section, it shall be a violation of this section for any licensee or any of the licensee's agents or employees to sell, offer for sale, or exchange for any form of consideration
    a. Any single Cigar, whether or not packaged for individual sale;
    b. Any number of Cigars fewer than the number contained in the manufacturer's original consumer packaging designed for retail sale to a consumer; or
    c. Any package of Cigars containing fewer than five cigars.

This subsection (9) does not apply to the sale or offer for sale of a single Cigar for which the retail price exceeds five dollars ($5.00).

10. 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.

5.06.050 - Application Process.

1. An application for a Tobacco Retailer's license shall be submitted in the name of each Proprietor proposing to conduct or conducting 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 Retailer's license. No Proprietor may rely on the issuance of a license as a determination by the Town that the Proprietor has complied with all laws applicable to Tobacco Retailing. A license 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 5.06.120(3) of this chapter. Nothing in this chapter shall be construed to vest in any Person obtaining and maintaining a Tobacco Retailer's license any status or right to act as a Tobacco Retailer in contravention of any provision of law.
    a. All applications shall be submitted on a form supplied by the Department and shall contain the following information:
        i. The name, address, and telephone number of each Proprietor of the business seeking a license.
        ii. The business name, address, and telephone number of the single fixed location for which a license is sought.
        iii. A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized person and Address") required by, authorized by, or convenient to the enforcement of this chapter. 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.
        iv. Proof that the location for which a Tobacco Retailer's license is sought has been issued a valid state tobacco retailer's license by the California Board of Equalization.
        v. Such other information as the Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this section.
2. A licensed Tobacco Retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer's license within ten (10) business days of a change.
3. All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 *et seq*.) or any other applicable law, subject to the law's exemptions.

5.06.060 - Issuance of License.

1. Bases for Denial of License. Upon the receipt of a complete application for a Tobacco Retailer's license and the license fee required by this chapter, the Department shall issue a license unless substantial evidence demonstrates that one or more of the following bases for denial exists:
   a. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter;
   b. The application seeks authorization for Tobacco Retailing at a location for which this chapter prohibits a licensed to be issued. However, this subparagraph shall not constitute a basis for denial of a license if the applicant provides the town with documentation demonstrating by clear and convincing evidence that the applicant has acquired or is acquiring the location or business in an arm's length transaction.
   c. The application seeks authorization for Tobacco Retailing for a Proprietor to whom this chapter prohibits a license to be issued;
2. The application seeks authorization for tobacco retailing at a location, that is unlawful pursuant to this Code, including without limitation, a provision of a zoning ordinance or building code, or that is unlawful pursuant to any other law.

3. Appeal of Denial of License. Subject to 5.06.120(3), a decision of the Department to deny a license is appealable to the Town Council under Title 5, Section 5.04.210 of the Corte Madera Municipal Code.

5.06.070 - License Renewal And Expiration.

1. Renewal of License. A Tobacco Retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a Tobacco Retailer's license is one calendar year. Each Tobacco Retailer shall apply for the renewal of their Tobacco Retailer's license and submit the license fee no later than January 1 of each year and annually thereafter.
2. Expiration of License. Expiration of License. A Tobacco Retailer's license that is not timely renewed shall expire on December 31 of each year. To renew a license not timely renewed pursuant to subparagraph a., above, the proprietor must:
   a. Submit the license fee and the renewal form; and
   b. Submit a signed affidavit affirming that the proprietor has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the license expiration date and before the license is renewed.

5.06.080 - Transfer Restrictions.

1. A Tobacco Retailer's license may not be transferred from one location to another.
2. A new Tobacco Retailer's license is required whenever a Tobacco Retailing location has a change in proprietor(s).
3. Notwithstanding any other provision of this section, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to a location unless the new proprietor(s) provide the Department with clear and convincing evidence that the new proprietor(s) have acquired or are acquiring the location in an arm's length transaction.

5.06.090 - License Conveys A Limited, Conditional Privilege.

Nothing in this chapter shall be construed to grant any person obtaining and maintaining a Tobacco Retailer's license any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location in the Town identified on the face of the license. For example, nothing in this section 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 including, without limitation, the zoning ordinance and building codes, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5. For example, obtaining a Tobacco Retailer license does not make the retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code Section 6404.5.

5.06.100 - Fee For License.

The fee to issue or to renew a Tobacco Retailer’s license shall be established from time to time by resolution of the Town Council. The fee shall be calculated so as to recover the cost of administration and enforcement of this chapter, including, for example, issuing a license, administering the license 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. Fees are nonrefundable except as may be required by law.

5.06.110 - Compliance Monitoring.

1. Compliance with this chapter shall be monitored by the Department. In addition, any peace officer may enforce the penal provisions of this chapter. The Department may designate any number of additional Persons to monitor compliance with this chapter.

2. The Department will work with Marin County Tobacco Program to inspect each tobacco retailer at least one time per 12-month period. Nothing in this paragraph shall create a right of action in any licensee or other Person against the Town or its agents.

5.06.120 - Suspension or Revocation of License.

1. 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 chapter or has pleaded guilty, “no contest” or its equivalent, or admitted to a violation of any law designated in Section 5.06.040 above.

    a. Upon finding by the Department of a first violation, the Tobacco Retailer will be issued a warning.

    b. Upon a finding by the Department of a second violation of this chapter at a location within any 60-month period, the license shall be suspended for thirty (30) days.

   c. Upon a finding by the Department of a third violation of this chapter at a location within any 60-month period, the license shall be suspended for ninety (90) days.
   d. Upon a finding by the Department of a fourth violation of this chapter at a location within any 60-month period, the license shall be suspended for one year. Upon a finding by the Department of five or more violations of this chapter at a location within any 60-month period, the license shall be revoked.

2. Appeal Of Suspension Or Revocation. A Department decision to suspend or revoke a license is appealable under Title 5, Section 5.04.210 of the Corte Madera Municipal Code. If such an appeal is timely made, it shall stay enforcement of the appealed action. An appeal to the Town Council is not available for a revocation made pursuant to subsection 3 below.

3. Revocation of License Wrongly Issued. A Tobacco Retailer's license shall be revoked if the Department finds, after the licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under Section 5.06.090 existed at the time the application was submitted or at any time before the license issued. The decision by the Department shall be the final decision of the Town. Such a revocation shall be without prejudice to the filing of a new license application.
4. Judicial Action. Any final administrative action to suspend or revoke a Tobacco Retailer's license under this section shall be subject to judicial review pursuant to California Government Code Section 53069.4, which, among other things, requires such a judicial challenge to be brought within 20 days of service of the final decision.

5.06.130 - Tobacco Retailing Without a Valid License.

1. In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Town Council finds based on a preponderance of evidence, after notice and an opportunity to be heard, that any Person has engaged in Tobacco Retailing at a location without a valid Tobacco Retailer's license, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailer's license as follows:
   a. After a first violation of this section at a location within any 60-month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until thirty (30) days have passed from the date of the violation.
   b. After a second violation of this section at a location within any 60-month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until ninety (90) days have passed from the date of the violation.
   c. After of a third or subsequent violation of this section at a location within any 60-month period, no new license may issue for the Person or the location (unless ownership of the business at the location has been transferred in an Arm's Length Transaction), until 60-months have passed from the date of the violation.

2. Tobacco Products and Tobacco Paraphernalia offered for sale or exchange in violation of this section are subject to seizure by the Department or any peace officer and shall be forfeited after the licensee and any other owner of the Tobacco Products and Tobacco Paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the Tobacco Products and Tobacco Paraphernalia were not offered for sale or exchange in violation of this section. The decision by the Department may be appealed pursuant to the procedures set forth in section 5.06.120(2). Forfeited Tobacco Products and Tobacco Paraphernalia shall be destroyed after all internal appeals have been exhausted and the time in which to seek judicial review pursuant to California Code of Civil Procedure Section 1094.6 or other applicable law has expired without the filing of a lawsuit or, if such a suit is filed, after judgment in that suit becomes final.

3. For the purposes of the civil remedies provided in this section, each of the following constitutes a separate violation of this section:
   a. Each day on which a Tobacco Product or Tobacco Paraphernalia is offered for sale in violation of this section; or
   b. Each individual retail Tobacco Product and each individual retail item of Tobacco Paraphernalia that is distributed, sold, or offered for sale in violation of this section. For the purposes of the civil remedies provided in this chapter each of the following constitutes a separate violation of this section:

5.06.140 - Additional Remedies.

1. The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.

2. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a Person under the age of twenty-one (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 chapter and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

3. Violations of this chapter are subject to a civil action brought by the Town Attorney, punishable by a civil fine not less than $250 and not exceeding $1,000 per violation.

4. Violations of this chapter may, in the discretion of the Town Attorney, be prosecuted as infractions or misdemeanors when the interests of justice so require.

5. Causing, permitting, aiding, abetting, or concealing a violation of any provision of this chapter shall also constitute a violation of this chapter.

6. Violations of this chapter are hereby declared to be public nuisances.

7. 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 Town Attorney including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

5.06.150 - Enforcement. This Chapter shall not be enforced until January 1, 2020.

SECTION 3: Severability. The Town Council hereby declares every section, paragraph, sentence, clause and phrase is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 4: Inclusion in the Corte Madera Municipal Code. It is the intention of the Corte Madera Town Council that the text in Section 2 be made a part of the Corte Madera Municipal Code and that the text may be renumbered or re-lettered and the word "Ordinance" may be changed to "Section", "Chapter", or such other appropriate word or phrase to accomplish this intention.

SECTION 5: **Effective date.** This Ordinance shall go into effect thirty (30) days from its adoption, with enforcement beginning as stated in Section 5.06.150, and shall be posted or published as required by State law.

SECTION 6: **Posting.** The Town Clerk shall cause a summary of this ordinance to be published in the Marin Independent Journal within 5 days prior to passage and within 15 days after passage.

****

This ordinance was introduced on the 5th day of March, 2019 and adopted on the __day of ___, 2019, by the following vote:

AYES: Town Council Members:
NOES: Town Council Members:
ABSENT: Town Council Members:
ABSTAIN: Town Council Members:

APPROVE: ____________________________
BOB RAVASIO, MAYOR

ATTEST: _________________________________
REBECCA VAUGHN, TOWN CLERK

Cindy Tzafopoulos

From: Mark Prestwich
Sent: Friday, August 7, 2020 4:42 PM
To: Cindy Tzafopoulos
Subject: Fwd: [External] Aug.11, 2020 Agenda Item 10.3
Attachments: 2020 AUG 2 Copy Napa Valley Register Vaping article.docx; ATT00001.htm

Public Comment

Begin forwarded message:

From: Carolyn Kelperis <ckelperis@hotmail.com>
Date: August 7, 2020 at 2:32:08 PM PDT
To: Mark Prestwich <MPrestwich@cityofsthelena.org>, Geoff Ellsworth <GEllsworth@cityofsthelena.org>, Mary Koberstein <MKoberstein@cityofsthelena.org>, Paul Dohring <PDohring@cityofsthelena.org>, David Knudsen <DKnudsen@cityofsthelena.org>, Anna Chouteau <AChouteau@cityofsthelena.org>
Subject: [External] Aug.11, 2020 Agenda Item 10.3

Dear City Manager Prestwich, Mayor Ellsworth and Council Members Koberstein, Dohring, Knudsen and Choteau,

The August 11, 2020 agenda contains Item 10.3 under Old Business, Discussion and Direction Regarding Flavored Tobacco and E-Cigarette Products.

Included in the Staff Report is the following statement:

"While the January staff report listed several northern California cities who have adopted an ordinance banning the sale of flavored tobacco, currently there are <u>no other agencies within Napa County</u> (including the County) who have adopted a similar ordinance. Statewide there are over 80 municipalities who have banned the sale of flavored tobacco products".

I am attaching a copy of an article from the Napa Valley Register dated June 27, 2020 (updated August 2, 2020) which indicates that the Napa City Council changed its Municipal code to address the staggering uptick in the popularity of tobacco use among young people, especially vaping devices.

I happened to be present at the January 28, 2020 City Council meeting at which several young students urged the Council to take action that would prohibit sales of these products in St. Helena.

While it may seem reasonable to wait and see if SB798 passes, I strongly recommend that the council does no less than items 2 and 3:

2. Bring forward an ordinance that prohibits the sale of flavored tobacco products, including a significant lead time for businesses to plan for inventory changes, and to develop a tobacco retailer licensing program (TRL).

3. Shift the focus to an education focus about the dangers of flavored tobacco products and educating businesses selling flavored tobacco products that it is illegal to sell those products to those under 21 years of age.

Any actions that will assist in removing these insidious vaping products from our community cannot happen too soon.

Thank you for your consideration.

Sincerely,
Carolyn Kelperis
1615 Main Street
St. Helena, CA 94574

Cindy Tzafopoulos

From: Clarice Dahline <rdahline6528@gmail.com>
Sent: Saturday, August 8, 2020 12:09 PM
To: Public Comment; rpenna@upvalleyfamilycenters.org
Subject: [External] Vaping Vote

Hello, My name is Reese Dahline. You may remember me from when I spoke to you about the issues of vaping. I am overjoyed that you are taking a vote to end this. I can not say enough how important it is that we get rid of flavored vapes. For those of you who are thinking, what about the adults who are trying to quit? Well, vapes are NOT FDA approved for helping you get off of smoking like nicotine patches and nicotine gum are. In fact, they have been leading kids into smoking rather than helping adults out. Vaping attracts kids because of the many flavors they have such as unicorn poop, pink bubble gum, and cotton candy. I can't imagine an adult who is trying to quit vaping walking around with those. Although St.Helena stores enforce the no underage buying laws Im sure, kids ask older kids to buy them the kind they want, and then pay them including interest. This leads to kids losing their money and their parents money and going through the gateway to more drugs. I think that the wisest and most safe for your local teens choice, is to ban all flavored vapes in St.Helena. As well as this, I recommend having a system where kids can trade in their vapes, for money so that they don't just sell to other kids when they are done. However, we wouldn't want the kids to be able to go out and use that money to buy more vapes or drugs, so, I propose an idea. I think that a great way for kids to be able to not lose money and be able to get rid of their vapes, is a tradeback system. What would happen is you would have designated kids, who are not going to say names, have people be able to anonymously give them their vape, (which they would turn in) in exchange for a gift card to Chokolatte.
Thank you for your time and consideration, Reese Dahline

Cindy Tzafopoulos

From: Preya Nixon
Sent: Tuesday, August 11, 2020 7:51 AM
To: Mark Prestwich; Cindy Tzafopoulos
Subject: FW: [External] Written Comment – August 11, 2020 City Council Meeting Item 10.3

FYI

Preya B. Nixon
Assistant to the City Manager
City of St. Helena | City Manager's Office
1572 Railroad Avenue | St. Helena, CA 94574 →*New address*
Direct: (707) 968-2635 | Mobile (707) 320-7904
pnixon@cityofsthelena.org

Remember, if you're not yet subscribed to City E-News, please do so:

1. Click this link: https://www.cityofsthelena.org/newsletter/subscriptions
2. Check the box for "St Helena News Alerts"
3. Enter your email address and click Subscribe
4. Once subscribed is clicked, you'll receive an email confirmation. Please go to that email address and confirm your email through the confirmation email sent.

Remember during COVID-19:
STAY home
STOP the spread
SAVE lives

Recuerde durante COVID-19:
QUEDESE en casa
DETENGA la propagación
SALVE vidas

From: Napa Youth Council <napayouthcouncil@gmail.com>
Sent: Monday, August 10, 2020 3:25 PM
To: Regina Penna <rpenna@upvalleyfamilycenters.org>; Preya Nixon <PNixon@cityofsthelena.org>
Cc: nancy.wynnederivera@countyofnapa.org
Subject: [External] Written Comment – August 11, 2020 City Council Meeting Item 10.3

Dear Mayor and Members of the St Helena City Council,

We are the Napa Youth Council, a youth council formed two years ago to work on public health issues. We are high school and college students focused on educating people on the effects of tobacco products and the prevention of their use in our community.

We are in full and enthusiastic support of the Discussion and Direction Regarding Flavored Tobacco and E-Cigarette to improve the health of the St Helena community.

This is important not just for the youth, but for the whole community. While flavors may often be advertised to kids, according to a recent study by the FDA, 81 percent of youth and 86 percent of young adults who ever used tobacco—even once or twice in their lifetimes—reported that the first tobacco product they used was flavored. By passing this, we will help prevent someone from a life of addiction.

The best way for local communities to reduce underage purchases of flavored and e-cigarette products is to specifically include these products in retail licensing ordinances

There are more than 85 jurisdictions in California and over 250 in the country with policies that restrict the sales of flavored tobacco products, including many Bay Area cities like Dublin, Benicia, Sonoma, and San Francisco and counties such as Marin, Alameda, and Contra Costa. All of these cities are doing their best to support their youth and vulnerable communities and we know St Helena is dedicated to doing the same. We are looking forward to seeing these changes.

Smoking and vaping harm the lungs and the immune system, which affects the body's ability to fight diseases. Increased risk for severe COVID-19, if infected.

Tobacco use remains a leading cause of preventable death and smoking and vaping are avoidable risk factors that contribute to poor health and a severe COVID-19 infection

Thank you,

Members of the Napa Youth Council

UpValley for Youth Partnership

A Collaborative Effort to Keep Our Youth Safe & Drug Free

August 11, 2020

Dear Mayor Ellsworth and members of the St. Helena City Council,

We are writing to you as members of the UpValley Partnership for Youth, an upvalley coalition focused on preventing and reducing youth substance use. While we acknowledge the right of adults to use electronic nicotine products, we want to prevent and reduce youth use of these products for their health and well being. We believe the city council shares in this goal. We need community leaders, decision makers, and citizens to keep the following facts in mind while making decisions about vaping in our community.

According to the 2019-19 California Healthy Kids Survey (CHKS), our local youth use rates of substances has been erratic, some up and some down. However, there is one substance where use has skyrocketed, and that is vaping/electronic product use. Locally, there has been a 20% increase in vaping among our 9th graders from 2013-2018 … When the UpValley Partnership for Youth Coalition started just a little over 5 years ago, vaping was not on anyone's agenda. Now, it is on everyone's, in cities and towns across the country.

First SGR on tobacco related illnesses was published 1964-56 years ago. Since then, we have discovered volumes about the harmful effects of tobacco use -the only product that when used as directed kills. As a country, we have made tremendous strides in moving towards finally having a tobacco free generation. We have studied the impact of traditional, combustible tobacco as well as spit tobacco use for over 60 years. These electronic products are not even 10 years old. We do not know a lot, but what we are starting to discover is alarming. The CDC is now tracking weekly the number of persons who die or are hospitalized from a new, vaping related illness called EVALI. Last week, we topped 60 who have passed, and almost 2700 who are hospitalized. With youth who use these electronic products being 4 times more likely to cross over to traditional combustible tobacco products, we are in some sense moving backwards.

Historically, we also know that policy is better and stronger when it comes from the community level, not waiting for the State or federal government to take action first. It means we are being responsive to what is best for our citizens, especially our youngest and most vulnerable citizens. California's cities have extensive authority to design and manage the vaping industry and use at the local level. Exercising this authority is important from a public health perspective. Today, a study was released from Stanford where studies of youth who vape show a 5-7 times higher likelihood of their developing COVID, a very serious implication for our local leaders to address. A copy of the release is attached for your review. http://med.stanford.edu/news/all-news/2020/08/vaping-linked-to-covid-19-risk-in-teens-and-young-adults.html

We hope you will consider these options going forward for the safety of our young people:

1. Consider the implementation of a tobacco retailer licensing program, as has been done in other areas. This would put the onus of legitimate sale on the business owner, not the underage minor.

2. Banning flavored products including menthol. Youth and persons of color are the most likely to use flavored e juice and are the marketing targets of these products, with names like Unicorn Poop, Fruity Pebz, etc. that mimic youth oriented themes. Mentholated tobacco products, including e juice, need to be included as young person's use these as well. (They report it smells like breath mints.)
3. Allowing police jurisdiction to confiscate these products in the hands of minors. Possession needs to be addressed, or else we are continuing to reward minors who obtain these products illegally.

Thank you for your time and attention. We are all working toward a healthier and safer community for all. The Coalition is at your disposal for whatever we can do to support your vision.

Sincerely,

Regina M. Penna, Coordinator
UpValley Partnership for Youth

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **OLD BUSINESS**

Subject: ****STAFF REPORT PROVIDED 8-7-2020**
Review and Adoption of City Council Three-Year Goals and 2020 Workplan (~~Staff report forthcoming~~)

CEQA Determination: **Not a CEQA project**

Prepared By: Mark T. Prestwich, City Manager

Reviewed By: April Mitts, Finance Director

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

Since 2017, the City Council has established three-year citywide organizational goals and priorities for the coming year. The planned review of the City Council's three-year goals and discussion of the 2020 workplan was postponed from early 2020 to June due to COVID-19 pandemic and state of emergency impacts.

On July 8, 2020, the City Council held a workshop to review and discuss three-year goals and organizational priorities for calendar year 2020. Feedback from the City Council included separating planned Capital Improvement Project (CIP) tasks from other elements of the workplace, adding a Climate/Environmental Goal, and reviewing goal dates/tasks to ensure a realistic timeframe.

DISCUSSION

The attached updated draft three-year goals and 2020 workplan prioritizes tasks, assigns responsibility to various initiatives, and provides a means of providing periodic status reports on progress.

FISCAL IMPACT

The fiscal impact associated with workplace tasks varies depending on the task.

RECOMMENDED ACTION
Adopt citywide three-year goals and 2020 workplan.

ATTACHMENTS
DRAFT 2020 Workplan 8420

GOAL DATE		WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 1		**Improve and Maintain Safe and Reliable City Infrastructure with a Commitment to Environmental Stewardship & Public Health**						
A	31-May-20	City Manager + Assistant to the City Manager + Consulting CPA	Support Financing Revenue Task Force Meetings to advance recommendations for replacement of City Hall, improving the Library, streetscape, and storm drain infrastructure.	X				
B	31-Oct-20	City Engineer + Mayor Ellsworth +Vice Mayor Dohring + Engineering Firm GHD	Prepare Pratt/Main intersection realignment design & study, including review with Caltrans to reevaluate intersection safety improvements. Sequencing of review will include ATSC followed by City Council.				X	Adjusted due to COVID-19
C	30-Jun-20	City Engineer + Council Member Knudsen	Secure necessary permits and initiate construction of the Upper York Creek Dam removal project.	X				
D	31-Jul-20	Public Works Operations Manager + Council Member Knudsen	Council Presentation of Integrated Utility Master Plan Findings/Recommendations.	X				Special Council Workshop held July 30, 2020.
E	15-Nov-20	City Engineer + Vice Mayor Dohring + Council Member Koberstein	Complete Caltrans permitting for Phase 1 Downtown Streetscape Project and complete RFP to advance project to construction in January 2020.		X			
F	15-Oct-20	Assistant to the City Manager + Planning Director + City Manager + Chamber/business reps	Prepare and implement Business Continuity Plan for 2021 Sidewalk Project including parking/signage, business license fee waiver consideration, possible façade improvement program.		X			
G	15-Mar-20	Police Chief	Complete PG&E Public Safety Power Shutoff After Action Report.	X				
H	31-Oct-20	City Engineer	Complete installation of emergency fuel tank at Public Works Corporation Yard.				X	Adjusted due to COVID-19
I	30-Sep-20	City Engineer	Complete analysis of St. Helena Vine Trail route options and facilitate Council decision making on preferred route.				X	Adjusted due to COVID-19
J	30-Sep-20	City Engineer + City Attorney - Councilmember Koberstein	Complete conservation easement for Flood Control Project		X			
K	31-Oct-20	City Engineer	Complete design of W-101 Tank 2 Rehabilitation.				X	Adjusted due to COVID-19
L	30-Sep-20	City Engineer + DSOD review	Submit design of W-109 Bell Canyon Intake Tower to State.		X			
M	30-Sep-20	City Engineer + DSOD review	Submit design of W-85 Bell House Valve Replacement to State.		X			
N	31-Oct-20	City Engineer + Operations	Complete Public Works Standards Update.				X	Adjusted due to COVID-19

GOAL DATE		WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
O	31-Oct-20	City Attorney + City Engineer	Complete Water Will Serve Policy Draft for City Council Review.				X	Adjusted due to COVID-19
P	30-Oct-20	City Engineer	Complete design and implement Spring Street Bike Lanes.				X	Adjusted due to COVID-19
Q	15-Dec-20	City Engineer	Conduct and receive community input on York/Sulphur Bridges		X			
R	TBD	City Attorney + City Engineer + Mayor Ellsworth + Vice Mayor Dohring	Evaluate feasibility of modifications to existing agreements with large water users to establish firm caps in order to safeguard water supply.			X		
S	TBD	City Engineer + Operations	Complete W18-115 Remove Rutherford Pipe Restrictions				X	Adjusted due to COVID-19
T	TBD	City Engineer + Fire Chief	Repaint C20-02 Fire Station No.1 (budget permitting).			X		Paused due to budget evaluation
U	TBD	City Engineer	Complete design of next two years of citywide paving projects			X		
V	TBD	City Engineer	Complete Dam Inundation Mapping & Emergency Action Plan			X		
W	TBD	Planning Director (Lead) + City Engineer + Mayor & Vice Mayor + 2 Recreation Commissions + Landscape architect	Develop a community supported plan and funding strategy to renovate Lyman Park.					
X	TBD	City Engineer (Lead)	Install wastewater meters for wineries and other users with unique characteristics to improve cost of service/fee nexus (Ad hoc Utility Rate Committee recommendation).					
Y	TBD	City Manager + Assistant to the City Manager + Consulting CPA	Assess baseline condition of sidewalks and develop approved program for long term maintenance and repair of City sidewalks.					

GOAL DATE		WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 2		**Stabilize, Maintain and Improve Access to Housing**						
A	Mid-2021	Planning Director (Lead)	Facilitate update to Zoning Code		X			Under development; Project will continue into mid-2021
B	30-Sep-20	Planning Director (Lead) + Assistant to the City Manager + Council Members Knudsen & Koberstein + Planning Commission Chair	Prioritize Housing White Paper and Housing Element recommendations into short (1-2 years) and long term (3-5 year) actionable implementation actions, and advance short-term actions.				X	Adjusted due to COVID-19
C	31-Dec-20	Planning Director (Lead) + Finance Director + Council Members Knudsen + Koberstein	Update Housing Impact Fees for workforce housing and consider updates to inclusionary housing ordinance.				X	Adjusted due to COVID-19
D	31-Oct-20	Planning Director (Lead) + Council Members Knudsen + Koberstein	Advance to Planning Commission short-term housing regulatory options for consideration.				X	Adjusted due to COVID-19
E	31-Aug-20	Planning Director	Prepare RFP for Housing Element Update				X	Adjusted due to COVID-19
F	1-Jul-20	Planning Director + Finance Manager	Facilitate submittal of CDBG grant				X	
G	1-Jul-20	Planning Director + Finance Manager	Facilitate submittal of Early Action Planning Grant	X				
H	31-Jul-20	Planning Director + City Attorney	Align City Accessory Dwelling Unit (ADU) ordinance with new State law.				X	

	GOAL DATE	WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 3		**Enhance Organizational Performance and Commit to Full Public Participation, Ongoing Communication and Regional Collaboration**						
A	Mid 2021	Planning Director (Lead) + Vice Mayor Dohring + Council Member Knudsen	Draft and present citywide design guidelines to the Planning Commission for adoption.		X			
B	30-Nov-20	HR/IT Director + City Attorney	Complete comprehensive update to Employee Handbook in partnership with City bargaining units and present to the City Council for adoption.				X	Adjusted due to COVID-19
C	30-Sep-20	HR/IT Director + Assistant to the City Manager	Prepare/present to the City Council an employee succession plan and/or strategy to help retain employees and minimize turnover costs.		X			
D	31-Aug-20	Planning Director + Planning Commission + City Manager	Conduct annual Governance Meeting with Planning Commission.				X	Adjusted due to COVID-19
E	31-Aug-20	City Manager	Coordinate Council Workshop on review of Parks & Recreation Commission and ATSC responsibilities.		X			Parks & Recreation meeting held July 20, 2020; ATSC meeting planned for August 5, 2020.
F	31-Aug-20	Police Chief (Lead) + City Manager	Evaluate potential for shared Police Department services with City of Calistoga.		X			
G	30-Nov-20	City Attorney	Complete review of City Legal Services Policy		X			
H	30-Nov-20	City Attorney	Review and recommend to the City Council updates to the Council Rules of Procedure.		X			
I	15-Dec-20	Chief of Police + City Manager + Assistant to the City Manager	Police Policy discussion calendar (3-6 meeting dates for policy discussion) and augmentation of citywide diversity and inclusion training		X			
J	TBD	Planning Director (Lead) + Mayor Ellsworth + Council Member Koberstein	Coordinate Council Study Session to analyze options related to developing a robust Code Enforcement Program that is efficient, readily understandable, and predictable.			X		May require postponing
K	TBD	Planning Director + City Attorney	Review and document status and scale of two large existing non-conforming businesses.			X		May require postponing
L	TBD	Planning Director (Lead) + City Manager	Complete Management Study of City development process to identify recommended improvements for consideration.			X		Suspended due to budget; recommend peer review alternative
M	TBD	City Engineer + Police Chief	Conduct public workshop to solicit community feedback on comprehensive approaches to traffic and pedestrian safety.		X			

	GOAL DATE	WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 4		**Ensure Long-Term Economic Sustainability while Safeguarding St. Helena's Unique Culture & Quality of Life**						
A	30-Sep-20	Finance Director	Complete Impact Fee Study and Cost Allocation Plan (including inclusionary fees and housing fees) for City Council adoption.				X	Adjusted due to COVID-19
B	30-Nov-20	Finance Director (Lead) + City Attorney + Council Member Knudsen	Present for City Council consideration a policy and procedure to receive charitable gifts and endowments on behalf of the City.				X	Adjusted due to COVID-19
C	30-Sep-20	Assistant to the City Manager (Lead) + Mayor Ellsworth + Council Member Chouteau + Chamber of Commerce	Intervene to assist in securing tenants for vacant buildings.		X			May require additional time
D	TBD	Planning Director (Lead) + City Engineer	Develop and recommend Parklet's Program and Policy.					
E	31-Oct-20	Recreation Director (Lead) + Parks & Recreation Commission	Prioritize General Plan "Parks & Recreation" Chapter action items with appropriate staff and Parks & Recreation Commission feedback into short (1-2 years) and long-term (3-5 year) actionable tasks; advance short-term tasks.		X			
F	TBD	Assistant to the City Manager (Lead) + Mayor Ellsworth + Council Member Chouteau	Survey downtown businesses regarding their interest in Façade and Tenant Improvement Program				X	Adjusted due to COVID-19
G	TBD	Finance Director (Lead) + City Manager + Council Member Knudsen	Evaluate and present options to increase City revenue for City Council consideration.				X	
H	TBD	City Manager + Planning Director + Council Member Knudsen	Initiate conversation with existing hotels to discuss opportunities to grow/improve their businesses (e.g. hotel incentive program).		X			

GOAL DATE		WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 5		**Support Thriving Families and Enhance the Safety, Well-Being, and Healthy Development of our Youth**						
A	31-Aug-20	Assistant to the City Manager + Vice Mayor Dohring and Council Member Chouteau	Inventory current community-wide youth and family initiatives.		X			Adjusted due to COVID-19
B	30-Sep-20	Assistant to the City Manager + Vice Mayor Dohring and Council Member Chouteau	Convene stakeholders group to prioritize short-term actions that compliment existing youth and family initiatives.				X	Adjusted due to COVID-19
C	1-Oct-20	Assistant to the Manager City + Vice Mayor Dohring and Council Member Chouteau	Based on stakeholder group, determine and prioritize long term actions that compliment existing youth and family initiatives.				X	Adjusted due to COVID-19

GOAL DATE		WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
GOAL 6		**SUPPORT INITIATVES THAT RESPOND TO AND PLAN FOR CLIMATE CHANGE**						
A	30-Nov-20	Planning Director (Lead) + ATSC + Planning Commission	Prioritize General Plan "Climate Action" Chapter action items with appropriate staff and Planning Commission/ATSC Committee feedback into short (1-2 years) and long-term (3-5 year) actionable tasks.				X	Adjusted due to COVID-19

	GOAL DATE	WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
CIP		Capital Improvement Projects						
A	30-Sep-20	City Engineer	Complete C-82 Downtown Bathroom project on Money Way.		X			Construction has commenced
B	31-Jul-20	City Engineer	Complete C20-03 St. Helena Skate Park Fence Replacement, landscaping improvements and year 2020 Skate Park crack sealing.		X			Fence and landscaping complete; crack sealing to follow in summer
C	31-Jan-21	City Engineer	Complete S-52 WWTP Design and advance project to bid and Design CEQA/NEPA		X			CEQA will go through December 2020
D	31-Mar-20	City Engineer	Complete C20-01 Library flat roof replacement project.	X				
E	31-Dec-20	City Engineer	Complete R19-07 guardrail design for Silverado Trail improvements.		X			Adjusted due to COVID-19
F	31-Jul-20	City Engineer	Complete C19-02 tennis court resurfacing project.	X				
G	30-Sep-20	City Engineer	Advance W-27 replacement of Meadowood water tanks to design.		X			
H	30-Sep-20	City Engineer	Complete design of S18-71 Crinella Pump Station.				X	Adjusted due to COVID-19
I	31-Dec-20	City Engineer	Secure Mills Lane right-of-way for R20-02 storm drain project.				X	Adjusted due to COVID-19
J	31-Dec-20	City Engineer	Advance C20-06 generator purchase/installation, replacement and acquisition for HMGP and PSPS Resiliency funded grants.		X			
K	31-Aug-20	City Engineer	Complete design of R19-03 Sulphur Creek Erosion Repair and permitting.		X			Adjusted due to COVID-19
L	31-Dec-20	City Engineer	Complete design of R19-04 Sulphur Creek Sediment Removal and permitting.				X	Adjusted due to COVID-19
M	30-Nov-20	City Engineer	Complete design of W-106 Crystal Springs Booster Station Upgrades (generator power).				X	
N	30-Nov-20	City Engineer	Complete design of W-110 Rutherford Pump Station Upgrades.				X	Adjusted due to COVID-19
O	15-Oct-20	City Engineer + Operations	Complete assessment and implement W20-01 Bell Canyon Spillway Repairs.				X	Adjusted due to COVID-19
P	30-Apr-21	City Engineer	Complete design of R19-05 Grayson and South Crane Avenues Reconstruction Project		X			

	GOAL DATE	WHO	WHAT	STATUS				NOTES
				Complete	On Schedule	On Hold	Revised Date	
OTHER								
A	31-Aug-20	Planning	Follow-up to October 22, 2019 Generator Noise Ordinance discussion					
B	15-Dec-20	Planning	5G Ordinance					Recommended best practice
C	15-Dec-20	Public Works	Develop options for Money Way garbage/recycling consolidation					
D	TBD	NVTA/Planning	VMT thresholds					
E	11-Aug-20	Assistant to the City Manager + City Attorney	Flavored Tobacco Ordinance		X			
F	31-Dec-20	City Engineer	LAFCO - Water and Wastewater MSR: participate in the review and comments associated with the MSR		X			
G	31-Dec-20	Assistant to the City Manager + Area Operations Manager	Development of an Integrated Pest Management Policy					
H	31-Dec-20	City Manager + Assistant to the City Manager	Next steps discussion on city hall replacement					
I		Parks & Recreation Commission + Public Works & Planning Directors	Advance progress on development of walking trails					

Cindy Tzafopoulos

From: Patrick Band <pband@napabike.org>
Sent: Monday, August 10, 2020 6:34 PM
To: Public Comment; Paul Dohring; Anna Chouteau; Geoff Ellsworth; David Knudsen; Mary Koberstein
Cc: Mark Prestwich; Erica Ahmann Smithies; Carlotta Sainato
Subject: [External] COMMENT TO COUNCIL - Agenda Item 10.4 - Three-Year Goals & 2020 Workplan

Mayor & Councilmembers -

The Napa County Bicycle Coalition would like to request that a new item be added to the City's Three-Year Goals & 2020 Work Plan.

Recognizing the City's efforts to promote walking and bicycling as an alternative to driving a car, and encouraged by the tremendous increase in active transportation over recent months, we feel that the City would be well served by including a Work Plan goal to accelerate implementation of existing, adopted Bicycle & Pedestrian Plans.

This work can be accomplished while limiting additional cost to the City by focusing efforts on those streets and roadways where repaving (Goal 1-U) is already being planned.

The draft Work Plan already includes Goal Other-I, "Advance progress on development of walking trails." Unfortunately, this Goal fails to include bicycling infrastructure, and is somewhat amorphous in that there is no specific date or reference to existing Plans.

Our suggestion is to create a new goal, replacing the above language, which would appear as Goal 1-Z, as follows:

> "Implement projects in adopted Bicycle & Pedestrian Plans to improve safety and increase active transportation, and in alignment with citywide repaving projects."

Thank you for your consideration, and support of safe access to walking and bicycling in our community.

--
Patrick Band
Executive Director, Napa County Bicycle Coalition
O: (707) 258-6318. C: (707) 319-1538
www.NapaBike.org

Report to the City Council
Regular City Council - 11 Aug 2020

Agenda Section: **NEW BUSINESS**

Subject: **Discussion and Direction for the Agreement for Payment of Installments to Finance Private Sewer Laterals and Consideration and Approval of a Resolution Approving the Agreement for Payment of Installments to Finance Private Sewer Laterals for the Downtown Sidewalk Improvements Project No. R18-81**

CEQA Determination: **Not a CEQA project**

Prepared By: Martin Beltran, Management Analyst

Reviewed By: Erica Ahmann Smithies, Public Works Director and City Engineer

Approved By: Mark T. Prestwich, City Manager

BACKGROUND

In April 2020, the City Council expressed interest in evaluating the potential of expediting the Downtown Sidewalk Improvement Project. The focus was to evaluate opportunities to lessen the project impact on everyone by getting the work done while most businesses were closed due to COVID-19. The project, supported by grant funding, was originally programmed to start in early 2021. However, City staff began researching the possibilities of moving the timeframe up to the 2020 construction season as businesses were expected to return incrementally once the order is lifted.

On April 14, 2020, the City Council directed City staff to meet with the Downtown Streetscape ad hoc subcommittee, comprised of Vice Mayor Dohring and Councilmember Koberstein, to discuss timing on the downtown pedestrian improvements project and how a portion or all of the project may be expedited in the 2020 construction season. The subcommittee convened with City staff on Thursday, April 17 and discussed impacts to businesses, what portions of the project could take place as early as May, and how the rest of the project could be scheduled later this year or early next year as originally planned.

City staff subsequently evaluated the logistics of how the City could fund or assist with the following topics of discussion:

- Expediting overall sidewalk construction schedule with Caltrans approvals
- Tree removal
- Sewer lateral replacements
- Replacement of private property alcoves/entrances contiguous to the City maintained sidewalk

The subcommittee held a follow-up meeting with City staff on Thursday, April 23 to discuss the outcome of the prior discussion and the advantages and disadvantages of expediting the project. Caltrans informed City staff that it is working to turn around project approvals in two weeks when requested. Tree removal could happen almost immediately with the use of City staff work forces, which would minimize noise and disruption to businesses in early January 2021. The committee also reviewed a conceptual project schedule premised on accelerated permitting review that would have accelerated project completion approximately five weeks faster (by September 28) than the earlier expedited schedule presented to the City Council on April 14.

While there were potentially some advantages of expediting the project under an accelerated schedule, the City Council maintained the originally planned schedule of January 2021. The subcommittee's primary concern with the expedited timing related to repair or replacement of sewer laterals.

DISCUSSION

The City is currently finalizing the design of the R18-81 Downtown Sidewalk Improvements Project with construction programmed for January 2021. A large portion of this project will include the replacement of sidewalks, trees, and implementation of traffic calming devices on Main Street between Mitchell Drive and Pine Street. Approximately 3,609 linear feet of sidewalk and 17 ADA curb ramps will be replaced.

The City conducted closed circuit television video (CCTV) inspections of the downtown properties' sewer laterals. The sewer laterals are evaluated based on a 5-point grading system (5 being the best and 1 being the worst). There is a total of 27 properties affected by this project. The following table shows the overall assessment for these properties:

Sewer Lateral Grade	Number of Properties
5	1
4	1
3	14
2	5
1	6

In order to receive wastewater collection and treatment services from the City, property owners within the City must construct new, or repair or replace existing, private sewer laterals, which remain the property and responsibility of the property owner. The property owner owns the private lateral, up to and including, the connection to the public sewer main. Based on the above noted CCTV inspections, a majority of the downtown properties affected by the R18-81 Downtown Sidewalk Improvements Project are also in need of sewer lateral repairs and improvements. Accordingly, replacing or repairing the degraded sewer laterals after project construction will increase costs considerably, as it will likely involve removing/replacing the new sidewalk. The City is encouraging all property owners affected by the downtown project to replace their sewer lateral before construction begins. Additionally, because the costs for the Improvements may be significant, the City has determined that providing financial assistance to property owners, upon mutual agreement, may help further incentivize the timely construction of the improvements.

City staff proposes that the City finance the cost of the private sewer lateral improvements through voluntary agreements that would provide City payment of the costs upfront, up to a maximum amount of $7,500 per property, to be paid back in installments recorded against the property and, if desired, collected on the property tax roll. The City is expressly authorized to finance and construct repairs and replacement of existing sewer laterals in this manner pursuant to Health & Safety Code sections 5464, 5465, and 5474. Those sections collectively allow public entities, including cities, to fix fees or charges for the privilege of connecting to sanitation or sewerage facilities, as well as to construct improvements such as repairing or replacing existing sewer laterals. The amounts due shall become a lien on the property, and thus secures the City's loans and provides additional collection and enforcement mechanisms. The proposed agreement contains the following basic terms, which are similar to the terms of the business loans recently authorized for COVID-19 relief:

- City's payment of actual costs of repairs/replacement, up to a maximum amount of $7,500 (actual costs expected to vary for each property)
- Payment provided in the form of a 0% interest loan, paid in installments over a 5-year period, which shall be recorded against the property
- Loan must be paid back in full upon transfer of property ownership, or at the end of the term
- Property owner is responsible for conducting a CCTV inspection of the sewer lateral, obtaining an estimate of the needed repairs/replacement from a licensed contractor, and directly contracting for the work (i.e., the City is not performing the work)
- Acknowledgement of voluntary nature of agreement and waiver of Prop. 218 with respect to installment payments
- Indemnification provisions

While it is the responsibility of the property owner to maintain, repair, and/or replace private sewer laterals connecting to the City's wastewater system, there can be significant negative impacts to the City's sewer system if maintenance and repair does not occur. Thus, it is in the City's interest to encourage and facilitate the private sewer lateral repairs. Preventing the discharge of untreated wastewater into the environment through leaky or unsound sewer lines protects the public health, safety, and welfare of the City and the environment. Upgraded private sewer laterals help ensure the efficiency and safety of the City's wastewater system by preventing leaks, breaks, ruptures, or blockages. This provides long-term benefits to the City as well by preserves the integrity of the City's underground infrastructure and provision of public services. In the context of the anticipated R18-81 Downtown Sidewalk Improvements Project, new repairs and replacements of downtown businesses' sewer laterals will also help extend the life of the Project by reducing the likelihood of sewer lateral leaks and breaks that may degrade the new street and sidewalk repairs and/or result in emergency construction. In light of these public benefits to the City, including the preservation of the public health, safety and welfare served by improving existing sewer laterals, staff recommends making specific findings of public purpose to justify the proposed expenditures with offering a zero percent interest loan. Alternatively, the City is authorized to charge interest on the loans in the amount of up to 12% per annum.

City staff have prepared the attached (Attachment 1) Resolution, approving a form agreement for financing private sewer lateral improvements and making findings of public benefit in support thereof, and (Attachment 2) Agreement for Payment of Installments to Finance Private Sewer Lateral Improvements, for City Council discussion and direction.

FISCAL IMPACT

If all 27 property owners partake in this program for the maximum amount allowed ($7,500 each), the total fiscal impact for the City would be $202,500 from the General Fund. As stated above the funds would be paid back to the City upon transfer of property or over a five-year period and the funds would be recorded against the property. Utilizing the adopted FY 2020-21 estimated fund balance for the General Fund, if the full amount is utilized, it would decrease the estimated 6/30/21 fund balance from $4,209,272 to $4,006,772 and the percentage of fund balance would decrease from 32% to 30%.

RECOMMENDED ACTION

Discussion and Direction for the Agreement for Payment of Installments to Finance Private Sewer Laterals and Consideration and Approval of a Resolution Approving the Agreement for Payment of Installments to Finance Private Sewer Laterals for the Downtown Sidewalk Improvements Project No. R18-81

ATTACHMENTS

COSH_PSL Financing_Attachment 1_ Resolution_(BBK)-c1 am edits
COSH_PSL Improvement Financing Agreement-c1

RESOLUTION NO. ______

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ST. HELENA APPROVING AGREEMENT FOR PAYMENT OF INSTALLMENTS TO FINANCE PRIVATE SEWER LATERAL IMPROVEMENTS, AUTHORIZING AN INCREASE IN FY 2020-21 GENERAL FUND EXPENSES, AND AUTHORIZING USE OF GENERAL FUND RESERVES IN AN AMOUNT NOT-TO-EXCEED $202,500,

WHEREAS, the City is authorized to provide wastewater collection and treatment services to properties located within the jurisdictional boundaries of the City; and

WHEREAS, in order to receive wastewater collection and treatment services from the City, property owners within the City must construct new, or repair or replace existing, private sewer laterals, which remain the property and responsibility of the property owner; and

WHEREAS, a total of 27 properties are affected by the City's R18-81 Downtown Sidewalk Improvements Project, and based on CCTV inspections of the sewer laterals each impacted commercial property contains a private sewer lateral in varying conditions of degradation; and

WHEREAS, replacing or repairing the degraded sewer laterals after project construction will increase costs considerably, as it will likely involve removing/replacing the new sidewalk; and

WHEREAS, the City is encouraging all property owners affected by the downtown project to replace their sewer lateral before construction begins, and the City desires to provide financial assistance to property owners, upon mutual agreement, to further incentivize the timely construction of the sewer lateral improvements; and

WHEREAS, Health & Safety Code sections 5464, 5465, and 5474 authorize public entities, including cities, to fix fees or charges for the privilege of connecting to sanitation or sewerage facilities, as well as to construct improvements such as repairing or replacing existing sewer laterals, with the costs of those improvements to constitute a lien on property paid in installments and, if desired, collected on the property tax roll; and

WHEREAS, the City Council therefore desires to finance the sewer lateral improvements through the use of voluntary contractual agreements, with the costs of the improvements to be paid in installments that may constitute a lien on the property, and which are further authorized to be collected on the property tax roll pursuant to Health and Safety Code section 5470 et seq.; and

83578.00011\33169837.1

WHEREAS, there are significant negative impacts to the City's sewer system if private sewer lateral maintenance and repair does not occur, and thus the City Council further finds that financing the private sewer lateral improvements is in the City's interest; and

WHEREAS, preventing the discharge of untreated wastewater into the environment through leaky or unsound sewer lines protects the public health, safety, and welfare of the City and the environment; and

WHEREAS, upgraded private sewer laterals help ensure the efficiency and safety of the City's wastewater system by preventing leaks, breaks, ruptures, or blockages and thus preserving the integrity of the City's underground infrastructure and provision of public services; and

WHEREAS, the City Council finds that these are significant public benefits, and that financing private sewer lateral repairs as described in this resolution is for a primary public purpose, notwithstanding the benefit to private property owners.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of St. Helena as follows:

Section 1. **Recitals; Findings.** The City Council hereby adopts the above recitals as true and correct findings of the City Council and incorporates them herein. The City Council additionally finds that the City's offer to finance private sewer lateral improvements for the properties affected by the City's R18-81 Downtown Sidewalk Improvements Project is in the best interest of the City and serves an important public purpose and confers significant public benefits. Financing the sewer lateral improvements as specified in this Resolution will promote the timely and efficient repair and replacement of degraded sewer laterals, thereby preventing the discharge of untreated wastewater into the environment through leaky or unsound sewer lines and ensuring the efficiency and safety of the City's wastewater system. This will further preserve the integrity of the City's underground infrastructure and provision of public services and will extend the life of the Downtown Project through the prevention of emergency repairs and construction on newly paved streets and sidewalks. The City Council further finds that facilitating timely improvements to downtown businesses in this time of severe economic hardship imposed by the COVID-19 pandemic is necessary to further promote a safe and vibrant downtown in the long-term, as it provides assistance for needed repairs without further jeopardizing the downtown businesses' financial stability.

Section 2. **Approval.** The City Council hereby approves the Agreement for Payment of Installments to Finance Private Sewer Laterals, in substantially the form attached hereto. The City Manager, in consultation with the City Attorney, is authorized to modify the form of the Agreement as may be necessary to facilitate the sewer lateral improvements, so long as the material terms of the agreement remain consistent with the form agreement approved herein.

Section 3. **Expenditure.** The City Council, in approving the Agreement for Payment of Installments to Finance Private Sewer Laterals, authorizes an increase in FY 2020-21 General Fund expenses and authorizes the City's payment of sewer lateral improvement costs to be made from the General Fund reserves in a total amount not to exceed $202,500.

Section 4. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

APPROVED at a regular meeting of the St. Helena City Council on August 11, 2020, by the following votes:

Mayor Ellsworth: __________

Vice Mayor Dohring: __________

Council Member Chouteau: __________

Council Member Knudsen: __________

Council Member Koberstein: __________

APPROVED:	ATTEST:
________________________	________________________
Geoff Ellsworth, Mayor	Cindy Tzafopoulos, City Clerk

83578.00011\33169837.1

RECORDING REQUESTED BY and
AFTER RECORDING MAIL TO:

CITY OF ST. HELENA
1572 Railroad Avenue
St. Helena, CA 94574
ATTN: City Manager

Recording without fee requested pursuant to Gov. Code § 6103 (Space above this line for County Recorders Use Only)

AGREEMENT FOR PAYMENT OF INSTALLMENTS
TO FINANCE PRIVATE SEWER LATERALS

THIS AGREEMENT FOR PAYMENT OF INSTALLMENTS TO FINANCE PRIVATE SEWER LATERAL IMPROVEMENTS ("Agreement") is entered into as of ____________________, 20___, between __________________, ("Participant") and the **City of St. Helena**, a municipal corporation ("City"). The parties may hereafter be referred to individually as "Party" and collectively as "Parties."

RECITALS

A. The City is authorized to provide wastewater collection and treatment services to properties located within the jurisdictional boundaries of the City.

B. In order to receive wastewater collection and treatment services from the City, property owners within the City must construct new, or repair or replace existing, private sewer laterals which remain the property and responsibility of the property owner (the "Improvements"). The cost of Improvements are the responsibility of each property owner requesting service from the City.

C. The costs for the Improvements may be significant, and the City has determined to provide financial assistance to property owners, upon mutual agreement, in the form of amortizing the cost of the Improvements over a period of five (5) years (the "Installments").

D. The City is authorized to enter into voluntary agreements for contractual assessments with property owners for the Improvements pursuant to California Health and Safety Code section 5464 *et seq.* (the "Law"), pursuant to which authority the City may perform the necessary work to complete the Improvements, and collect such costs from the property owner in Installments. The Law further authorizes the City to impose a lien on the property for which the Improvements are provided in order to secure payment of the Installments. The Installments are further authorized to be collected on the property tax roll, pursuant to Health and Safety Code section 5470 *et seq.,* or through a demand for payoff of the entire amount borrowed prior to a transfer of ownership.

E. Property-based fees, charges, and assessments, when imposed by a local agency, are subject to the requirements of article XIII D of the California Constitution. Assessments may only be imposed in accordance with notice, protest, and ballot procedures required under Article XIII D, section 4, and property-related fees and charges may only be imposed in accordance with the notice and protest procedures of article XIII D, section 6. Article XIII D also creates substantive requirements applicable to imposition of assessments, and property-related fees and charges (collectively, these requirements are referred to herein as "Article XIII D Requirements"). The Article XIII D requirements are inapplicable to amounts charged as a result of voluntary, arms' length negotiations, or amounts charged as a part of a voluntary arrangement with the agency, such as the Installments proposed to be charged for financing the costs of the Improvements.

F. Participant is the owner of certain real property within the City requiring the Improvements, as more particularly described in Exhibit A hereto. Participant has requested assistance with financing the costs of the Improvements through entering into this Agreement for payment of Installments, and the City has agreed to provide such assistance.

G. In order for Participant to finance the Improvements, the City will be required to pay the up-front costs of the Improvements, to be repaid by the Installments. In consideration for providing such assistance to Participant, Participant wishes to acknowledge and agree that this Agreement is voluntary in nature, and the Installments are not "imposed" for purposes of the Article XIII D Requirements, and therefore, the Article XIII D Requirements do not apply. Participant further wishes to enter into this Agreement for establishing the terms for the Installments, including term, interest rate, enforcement mechanisms, and other matters set forth herein.

NOW, THEREFORE, the City and the Participant agree as follows:

Section 1. **Recitals**. The foregoing Recitals are true and correct.

Section 2. **Participant's Obligations**.

(a). **Advances to the City for Agreement Expenses.** Participant shall, immediately upon execution of this Agreement, advance the initial sum of $___________ (the "Advance") to the City to be used for reimbursing the City for the costs associated with preparing and entering into this Agreement, for the costs of implementing this Agreement and the Installments, including any costs associated with enforcement of this Agreement, and placement of the Installments on the property tax roll.

(b). **Construction of Improvements**. As conditions precedent to the City's obligations to pay upfront costs of the Improvements, Participant shall contract with a licensed contractor to perform a closed-circuit television (CCTV) inspection of Participant's private sewer lateral connected to the City's sewer line(s) and obtain an estimate of the total costs of needed repairs or replacement. Participant shall provide proof of inspection and estimate to the satisfaction of the City. Upon execution of this Agreement, and with payment by Participant of the Advance, Participant shall commence or contract for the construction of the Improvements. Participant shall forward all applicable invoices for the actual costs incurred for the Improvements to the City within ___xx_ days of receipt.

(c). **Payment of Installments**. Participant further agrees to pay the Installments required under this Agreement, subject to the terms set forth herein.

i. **Term.** Participant agrees to pay the Installments for a term of five (5) years or prior to Participant's transfer of ownership of the Property as described herein, whichever comes first. Prior to transfer of ownership of the Property, Participant agrees to pay to the City all unpaid principal and any accrued interest, in addition to any amounts owed or that the City will be required to pay under any underlying financing by which proceeds for the Installments are made available.

ii. **Interest Rate**. Participant agrees to pay interest on the outstanding amount due for the Improvements at the rate of 0% per annum.

iii. **Total Cost of Improvements**. The total estimated cost of the Improvements is $________. Participant expressly agrees to pay the total actual cost of Improvements. Regardless of the total cost of Improvements, Participant agrees that only the portion of the costs paid upfront by the City, which shall not exceed $7,500, shall be paid by Participant through Installments, subject to the terms of this Agreement, unless otherwise agreed by the Parties. If the cost of Improvements exceeds $7,500, Participant shall be solely liable for paying the costs that exceed $7,500.

iv. **Payment Schedule**. The Improvements shall be paid in five (5) annual Installments, as set forth in Exhibit B hereto, which amounts shall include both the principal and interest component for each Installment. Each Installment shall be due on the dates set forth on Exhibit B hereto, and shall be the responsibility of Participant.

v. **Collection on Property Tax Roll.** The City may take action in any year, subject to approval by the City's City Council, to provide for collection of the Installments on the property tax roll in the same manner and at the same time as property taxes, pursuant to the authority granted in Health and Safety Code section 5465, and 5470 *et seq.*. Should the City Council determine to place the Installments on the property tax roll, Participant agrees not to submit a written protest or otherwise take any action to prevent the City from placing the Installments on the property tax roll.

Section 3. **City's Obligations**.

(a). **Implementation of Agreement**. The City shall take all actions necessary to pay the upfront costs of the Improvements, up to a maximum amount of $7,500, pursuant to the terms of this Agreement, and to collect the Installments as set forth in Exhibit B hereto, following (i) execution of this Agreement by the Parties, and (ii) payment by Participant of the Advance to the City.

(b). **Use and Administration of the Participant Advances**. The City shall use the Advance solely for the payment of expenses relating to implementation and enforcement of this Agreement and the Installments. The City agrees to keep records consistent with its regular accounting practices of the amount of monies advanced by the Participant and the expenditure of such monies. Additionally, the City shall enter into and maintain contracts with all consultants and contractors providing services related to construction of the Improvements, implementation of this Agreement and the Installments that shall specify the scope of services and compensation to be paid to all such consultants. Such records and contracts shall be available for copying by the Participant at Participant's expense, and review during normal business hours upon reasonable notice to the City. If the proceedings to construct the Improvements are not completed and are abandoned by either Party hereto for any reason at any time prior to the completion thereof, there will be no obligation on the part of the City to reimburse Participant for any monies previously advanced pursuant to this Agreement; provided, however, the City does agree to return to Participant any monies previously advanced which remain on deposit with the City and which the City determines are in excess of the amount necessary to pay for any outstanding expenses previously incurred by the City for the purposes of implementing and/or enforcement this Agreement or constructing the Improvements.

Section 4. **Participant's Representations**.

(a). Participant understands and acknowledges that:

1. California Constitution, Article XIII D, Section 4 ("Article XIII D") establishes certain procedural and substantive requirements that apply when any local agency, such as the City, imposes a new or increases an existing property-related assessment.

2. The procedural requirements of Article XIII D include, among other things, the following:

A. The local agency shall identify the parcels upon which the assessment shall be imposed and provide written notice by mail of the proposed assessment to the record owner of each identified parcel.

B. The notice shall identify (i) the amount of the assessment; (ii) the basis upon which the amount was calculated; (iii) the reason for the assessment; and the (iv) date, time, and location of a public hearing on the proposed assessment.

C. The local agency shall conduct a public hearing upon the proposed assessment not less than 45 days after mailing the notice of the public hearing and the proposed assessment, accompanied by an assessment ballot whereby the owner of property proposed to be assessed may express such owner's support for or opposition to such assessment. After the public hearing has been closed, the public agency shall tabulate all assessment ballots received prior to the closure of the public hearing. The agency shall not impose the assessment, if there is a majority protest. A majority protest exists if the assessment ballots submitted in opposition to the levy of assessments outweighs the assessment ballots submitted in support to the levy of the assessments. Each assessment ballot is weighted according to the amount of the assessment proposed to be levied on the parcel for which such assessment ballot has been submitted.

3. The substantive requirements of Article XIII D include, among other things, the following:

A. Revenues derived from any assessment shall not exceed the special benefit provided to the property and improvements.

B. Revenues derived from the assessment shall not be used for any purpose other than that for which the assessment was imposed.

C. The amount of the assessment levied on a parcel shall not exceed the special benefit received by such parcel from the improvements being financed by such assessment.

4. California Constitution Article XIII D, Section 6 also sets forth certain procedural and substantive requirements any time a local agency imposes a new or increases an existing property-related fee or charge. Procedural requirements include holding a public hearing, with notice provided at least 45 days in advance, at which public hearing a majority of affected property owners or customers of record may protest the property-related fee or charge. Additional substantive requirements apply, including requirements that the property-related fee or charge not exceed the proportional cost of service, and be used only for the services for which the fee or charge is imposed.

5. The description of the procedural and substantive requirements established by and contained in Article XIII D set forth above are intended only to summarize certain of such procedural and substantive requirements, and were previously defined as the Article XIII D Requirements.

6. Participant has had a reasonable opportunity to thoroughly read and review the Article XIII D Requirements in their entirety and has further had a reasonable opportunity to consult with Participant's attorney regarding the Article XIII D Requirements.

(b). Participant and City acknowledge, understand, and agree that this Agreement is entered into for the benefit of Participant, in order to accommodate Participant's request to finance the Improvements. Participant and City further acknowledge, understand and agree that the Installments represent the reasonable estimate of the cost of the Improvements, plus interest as authorized by law. Participant further acknowledges, understands and agrees that City is entering into this Agreement with Participant in reliance on Participant's acceptance of and agreement with the amount calculated for the Installments, and that City would not have entered into this Agreement had Participant not agreed to such amounts. Participant further acknowledges, understands, and agrees that this Agreement is voluntary in nature, and is the result of an arms' length negotiation in which Participant had the opportunity to consult with independent counsel. As such, the Installments are not "imposed" for purposes of Article XIII C or Article XIII D of the California Constitution, and the Article XIII D Requirements do not apply and are otherwise waived. Such understanding, acknowledgement, and waiver are granted knowingly and in consideration for the City's willingness to finance Participant's Improvements through the Installments, and in order that the City may be assured of its ability to be repaid for the Improvements with the Installments.

Section 5. **Effect of Agreement**. Nothing contained herein shall be construed as releasing Participant from any condition of or requirement imposed by the City, including payment of any other fee, charge, tax, or assessment of City, or any other agreement with the City or by any law rule, or regulation of the City, the County of Napa, the State of California, or the federal government respecting the Property.

Section 6. **Lien; Recordation**. Upon execution of this Agreement by the parties hereto, City shall cause this Agreement to be recorded in the office of the County Recorder of the County of Napa. The Parties hereby acknowledge and agree that this Agreement, and the obligation of Participant to pay the Installments, shall constitute a lien on the Property.

Section 7. **Events of Default**. The following events shall each constitute an Event of Default hereunder:

(a) Failure to make any Installment due hereunder, provided the City shall provide a grace period of five (5) business days from the due date of each Installment in the event the Installments are not collected on the property tax roll.

(b) Failure to comply with any other provision hereunder.

(c) In the event the City's City Council determines to place the Installments on the property tax roll, submission by Participant of a protest against placement of the Installments on the property tax roll.

Section 8. **Remedies**. If an Event of Default occurs, Participant agrees and acknowledges that such a default shall be treated in the same way as a violation of any of the City's ordinances, rules, or regulations, as they exist on the date of such Event of Default, and all remedies existing thereunder shall be available to the City in the enforcement of this Agreement. In addition, upon occurrence of an Event of Default, the City shall have any of the following additional remedies:

(a) The City may terminate this Agreement and declare all amounts remaining of the Installments immediately due and payable on the date thereof.

(b) If Participant fails to pay the Installments, the City may initiate proceedings for termination of sewer service in accordance with the City's ordinances, rules, or regulations, or whatever policy for termination of sewer service exists at such time. Sewer service shall not be resumed until all delinquent charges, including the Installments due hereunder, as well as costs of disconnection and reconnection, have been paid in full to the City.

(c) The City may exercise any and all other remedies available to the City under law. To the extent the Installments are collected by the County of Napa on the property tax roll, the Installments shall be subject to the same remedies and enforcement mechanisms applicable to property taxes.

(d) In addition, if an Event of Default under Section 7(c) occurs, the City, in its sole discretion, may opt not to terminate this Agreement, but shall be entitled to charge an additional 10% of the amount of each Installment not collected on the property tax roll, in order to compensate the City for the costs of manually collecting the Installments.

Section 9. **Indemnification**. To the fullest extent permitted by law, Participant shall defend (with counsel of the City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, in any manner arising out of, pertaining to, or incident to the payment of the Improvements, or the subject matter of this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Participant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Participant, the City, its officials, officers, employees, agents, or volunteers. This section shall survive any expiration or termination of this Agreement.

Section 10. **Miscellaneous Provisions**.

(a) **Applicable Law**. This Agreement and any disputes relating to this Agreement shall be construed under the laws of the State of California.

(b) **Venue**. In the event of any legal or equitable proceeding to enforce or interpret the terms or conditions of this Agreement, the parties agree that venue shall lie in Napa County.

(c) **Modification**. This Agreement may not be altered in whole or in part except by a modification, in writing, signed by the parties hereto.

(d) **Entire Agreement**. This Agreement, together with all the exhibits attached hereto and thereto, contains all the representations and the entire understanding between the parties regarding payment of the costs of the Improvements. The parties mutually declare that there have not been any oral promises or agreements not contained in this Agreement. Participant further expressly agrees that Participant has not relied upon any oral promises or oral agreements of anyone connected with the City in executing this Agreement.

(e) **Binding Effect**. This Agreement shall inure to the benefit of a binding upon the parties and their respective purchasers, successors, heirs, and assigns.

(f) **Unenforceable Provisions**. The terms, conditions, and covenants of this Agreement shall be construed whenever possible as consistent with all applicable laws and regulations. To the extent that any provision of this Agreement, as so interpreted, is held to violate any applicable law or regulation, the remaining provisions shall nevertheless be carried into full force and effect and remain enforceable.

(g) **Representation of Capacity to Contract**. The party signing this Agreement on behalf of Participant hereby expressly warrants and represents that he/she has the authority to execute this Agreement on behalf of the Participant.

(h) **Opportunity to be Represented by Independent Counsel**. Participant warrants and represents that he/she has been advised to consult independent legal counsel of

Participant's own choosing and has had a reasonable opportunity to do so prior to executing this Agreement. Participant further warrants and represents that he/she has carefully read all of this Agreement and has executed this Agreement voluntarily and with full understanding of all terms and conditions herein.

(i) **Notices**. All letters, statements, or notices required pursuant to this Agreement shall be deemed effective upon receipt when personally served or sent certified mail, return receipt requested, to the following addresses:

To Participant:

[Insert contact information]

To City:

City of St. Helena
ATTN: City Manager
1572 Railroad Avenue
St. Helena, CA 94574

(j) **Attorney's Fees**. In the event any action or proceeding is filed by anyone to challenge, invalidate, interpret or enforce this Agreement, the prevailing party between the City and the Participant shall be entitled to recover all attorney's fees and litigation expenses in addition to all other relief afforded by applicable law.

CITY OF ST. HELENA	**PARTICIPANT**
By: ______________________	By: ______________________
Mark T. Prestwich City Manager	[INSERT NAME OF PARTICIPANT]
ATTEST:	______________________
By: ______________________	

Cindy Tzafopoulos, City Clerk

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

ON ____, before me, ____,Notary Public, personally appeared____ _______________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ____(SEAL)

STATE OF CALIFORNIA)
)
COUNTY OF NAPA)

ON ____, before me, ____,Notary Public, personally appeared _______________________________________ ________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: ____(SEAL)

99999.91642\33121787.1

ATTACHMENT A

DESCRIPTION OF PROPERTY

[insert legal description of Property]

ATTACHMENT B

INSTALLMENTS

[insert amortization schedule[

83578.00011\33122157.4