


**CDC Office on Smoking and Health
Point-of-Sale Strategies Webinar Series**


*Controlling Your Own Density:
Strategies to Reduce the Number of Tobacco Outlets
in Your Community*

Tuesday, May 3, 2016
2pm Eastern/ 11am Pacific

National Center for Chronic Disease Prevention and Promotion
Office on Smoking and Health



Today's Moderator



Asha Banks, MPA
Public Health Advisor
Office on Smoking and Health
Centers for Disease Control and Prevention

Agenda

Welcome & Introduction
Asha Banks, CDC Office on Smoking and Health

Importance of Reducing Retailer Density
Sharon Lipperman-Kreda, Pacific Institute for Research and Evaluation

Strategies to Reduce Retailer Density
Sara Bartel, ChangeLab Solutions

San Francisco's Density Reduction Ordinance
Derek Smith, San Francisco Department of Public Health

Q&A

Poll Question

What has your community done to reduce tobacco retailer density?

- 1. No formal activities
- 2. Planning/advocating (collecting data/doing education)
- 3. Policy/policies proposed
- 4. Policy/policies enacted/passed (please specify in chat box)
- 5. Policy/policies implemented/in place (please specify in chat box)



Prevention Research Center
Pacific Institute for Research and Evaluation

IMPORTANCE OF REDUCING OUTLET DENSITY AS TOBACCO CONTROL STRATEGY

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Research About Tobacco Outlet Density:

- Effects of outlet density and/or proximity of outlets to residential areas or schools on:
 - Adult and/or young adult tobacco use behaviors
 - Adolescent tobacco use behaviors
- Density of outlets in different areas or neighborhoods to understand social and health disparities

Research Among Young Adults and Adults:

- Outlet density and/or proximity to homes
- Mostly about cigarette smoking
- Primary outcomes examined: past month use, initiation, intention to quit, abstinence, and pro-cessation attitudes
- Findings provide evidence that tobacco outlet density and/or proximity of outlets to homes matter for young adult and adult cigarette and tobacco use behaviors and for cessation efforts

Research Among Young Adults and Adults:

- Intention to quit cigarette smoking (Kirchner et al., 2016)
- Past month tobacco use, race and gender (Brown et al., 2016)
- Urges to smoke (Watkins et al., 2014)
- The role of high poverty (Cantrell et al., 2015)
- Initiation of different types of tobacco/nicotine products (Cantrell et al., 2016)

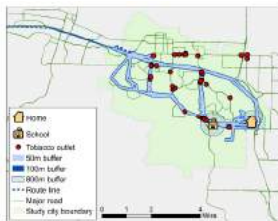
Research Among Adolescents:

- Outlet density and/or proximity to homes and/or schools
- Mostly about cigarette smoking
- Primary outcomes examined: Lifetime and past month use, smoking intention/ susceptibility, experimental smoking, school smoking prevalence, cigarette purchases, and tobacco beliefs
- Findings provide evidence that tobacco outlet density and/or proximity of outlets to homes and schools matter for adolescents' cigarette smoking, initiation and beliefs

Research Among Adolescents:

- Outlet density in city of residence , lifetime cigarette smoking and age (Lipperman-Kreda et al., 2016)
- Outlet density around schools and cigarette purchases in New Zealand (Marsh et al., 2015)
- Past month smoking and outlet density and proximity to homes and schools (Lipperman-Kreda et al., 2014)
- School smoking prevalence (Henriksen et al., 2008)
- Density of outlets and clean air laws (Lipperman-Kreda et al., 2012)

Research Among Adolescents – Activity Spaces



Measures of exposure to tobacco outlets around homes and schools may underestimate youth exposure to tobacco outlets in their environments

Research About Outlet Density in Different Areas Or Neighborhoods

- Examined and characterized areas or neighborhoods with high versus low outlet density
- Identified disparities in outlet density related to the proportion of Blacks, Hispanics, and families living in poverty within an area
- A national study showed that these associations are different for urban versus rural areas (Rodríguez et al., 2014)
- These studies provide evidence about greater density of tobacco outlets in disadvantage areas/communities

Future Research

- Stronger research-based evidence is needed to support policies and community efforts to control the number of tobacco outlets and their proximity to specific areas
- Research about specific areas/locations, other than homes or schools, that may be important to regulate
- Populations who might be more responsive to exposure to tobacco outlets in their daily environments

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□ Our research presented in this talk was made possible by grants CA138956 from the National Cancer Institute (NCI) and 19CA-016 from the Tobacco-Related Disease Research Program (TRDRP)

THANK YOU

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Strategies & Legal Considerations for
REDUCING
Tobacco Retailer
DENSITY





Sara Bartel, JD
Staff Attorney



Healthy communities for all through better laws & policies

ChangeLab Solutions

Disclaimer

The information provided in this discussion is for informational purposes only, and does not constitute legal advice. ChangeLab Solutions does not enter into attorney-client relationships.

ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

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Agenda

- Strategies to reduce density
- Addressing existing retailers
- Legal considerations

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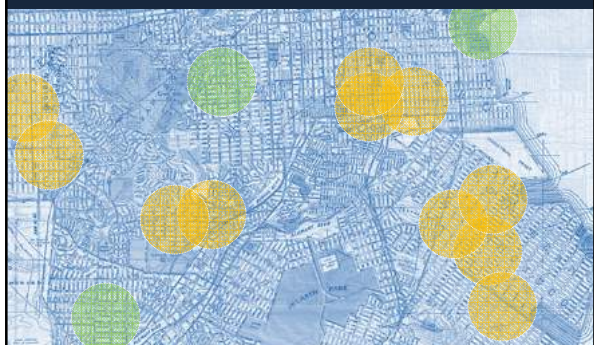
Reduction Methods

- Quantity Caps
- Proximity Limits
- Venue Restrictions

Cap Number Based on Geographic Area or Population



Limit Nearness to Other Retailers and to Youth-Populated Areas





Restrict Sales AT Certain Venues, or Only TO Certain Venues





Licensing

Zoning and Conditional Use Permits

Tobacco Retailer Licensing





Zoning and Conditional Use Permits



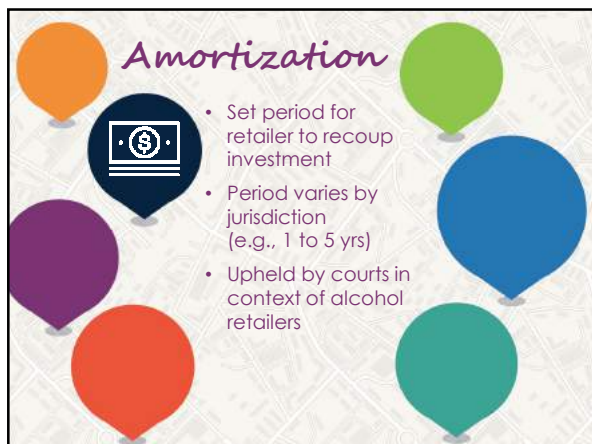
Agenda

- Strategies to reduce density
- Addressing existing retailers
- Legal considerations

Grandfathering is **NOT** the only way...








Agenda

-▶ Strategies to reduce density
-▶ Addressing existing retailers
-▶ **Legal considerations**



“ The 5th Amendment Regulatory Takings

- No public use of property without **“just compensation”** (balancing public benefit with burden to individual)
- **License** likely **not** property interest under 5th Amendment
- Zoning use (newly non-conforming use) may require compensation if no **“economically viable”** use of land



“ The 14th Amendment Equal Protection & Due Process

- Similarly situated groups deserve **“equal protection”** – classifications must **rationally further legitimate government interest**
- Changes to or deprivations of **licenses or land uses** require **“due”** (fair) process (e.g., clear grounds for suspension/revocation, notice, hearing)
- **“Arbitrary or capricious”** government action prohibited (substantive due process required) – must be **rationally related to legitimate end**

Resources

TOBACCO RETAILER LICENSING PLAYBOOK

More details on the strategies discussed today

ChangeLab Solutions

Resources Infographics

TOBACCO RETAILER LICENSING STRATEGIES

Ten strategies for creating and implementing effective tobacco retailer licensing (TRL) policies in your community

1. Assess the current system
2. Build the coalition
3. Develop the ordinance
4. Engage the community
5. Hold a community meeting
6. Develop the ordinance
7. Engage the community
8. Hold a community meeting
9. Develop the ordinance
10. Hold a community meeting

ChangeLab Solutions

Resources Model Language

ChangeLab Solutions

Model California Ordinance Requiring a Tobacco Retailer License
WITH ANNOTATIONS

Revised May 2016 (Original passed September 1998)

Developed by ChangeLab Solutions

This ordinance was developed by ChangeLab Solutions in partnership with the California Department of Public Health, California Tobacco Control Program.

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ChangeLab Solutions

Model California Ordinance Requiring a Tobacco Retailer License
"Plug-in" Policy Options

Revised December 2014 (Original passed June 2006)

These supplemental policy options are intended to be incorporated into ChangeLab Solutions' Model California Ordinance Requiring a Tobacco Retailer License.

www.change lab solutions.org/resources-center

Thank You

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ChangeLabSolutions

Tobacco Density Reduction for Health Equity

Derek Smith, MPH, MSW
Tobacco Free Project
San Francisco Department of Public Health
May 3, 2016

POPULATION HEALTH DIVISION
SAN FRANCISCO DEPARTMENT OF PUBLIC HEALTH

Derek Smith, MPH, MSW
Tobacco Free Project
San Francisco Department of Public Health

POPULATION HEALTH DIVISION
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2009-2014

YLI
YOUTH LEADERSHIP INSTITUTE

The Issue of Concern:

- Over concentration of retail outlets selling tobacco in neighborhoods with more low-income residents, communities of color and youth
- High prevalence of stores that sell tobacco associated with high smoking rates and more litter

TURF Diagnosis

Research and assess the relevant policies:

- Impact Analysis of policy elements: Policy Matrix
- Interviewed researchers at Stanford & others

Primary Research

- Neighborhood Walking Tours & Interviews
- Public Opinion surveys on limiting density
- Interview gov't agencies & decision-makers
- Interview retailers: opinions about tobacco regulation and sale
- Collect data on tobacco permits, from tax collector, Census demographics (SES, youth, POC) by Supervisorial District

Literature review on the issue & other jurisdictions



Main Findings from TURF Advocate research

- Bayview Community (largely lower income African-American) leaders considered tobacco more of an issue than those in Sunset (more middle class and larger Asian population)
- District 6 (Tenderloin & SOMA) = highest density of retailers
- 70% of all schools were within 1000 ft of tobacco outlets
- Retailers claim profits from tobacco are 10-30% of revenue
- Concurrent Healthy Retail Approach- trend emerging toward alternative retail models



Main Findings from TURF Advocate research

Policy Support

A 2009 survey of San Francisco residents in 4 different neighborhoods, showed **83%** supported limits on stores selling cigarettes in low income communities with large numbers of children and youth populations.

A 2012 survey of San Francisco residents in all neighborhoods showed:

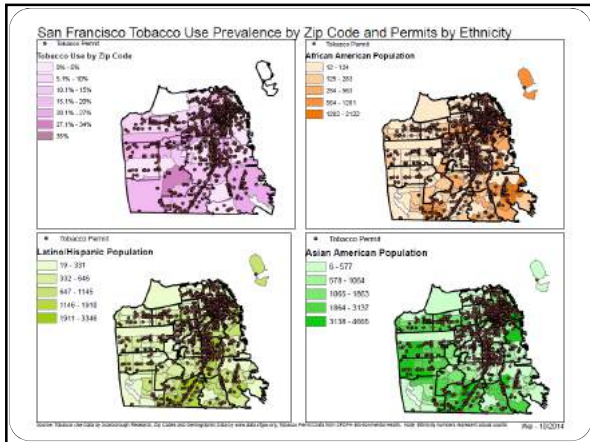
- **88%** of people interviewed agreed that too many stores selling cigarettes is bad for community health
- **78%** believe that one store selling tobacco products every block was too many.

San Francisco Tobacco Permits - 2014



Tobacco Outlets in San Francisco by Supervisory Districts, 2011

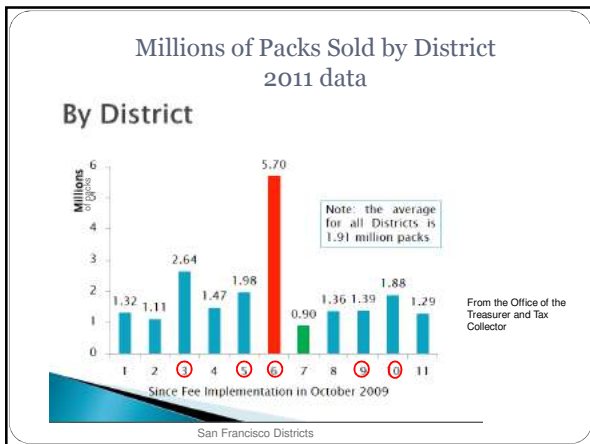




2014 Density Chart by Supervisorial District

District	# of Stores that Sell Tobacco*	Tobacco Retailer Density (%)	Median Household Income**
6 (SOMA/Tenderloin)	180	19%	\$37,431.00
3 (Chinatown/North Beach)	180	19%	\$45,513.00
9 (Mission/Castro)	114	12%	\$67,989.00
5 (Western Addition/Haight)	94	10%	\$67,331.00
10 (Bayview)	69	7%	\$55,487.00
8 (Twin Peaks)	72	7%	\$95,930.00
1 (Richmond)	59	6%	\$74,668.00
11 (Outer Mission)	58	6%	\$71,504.00
2 (Marina)	56	6%	\$105,509.00
4 (Outer Sunset)	51	5%	\$77,376.00
7 (Inner Sunset)	37	4%	\$94,121.00
Total	970		

*Tobacco Permit data from San Francisco Office of Environmental Health
 **Data from U.S. Census Bureau, American Community Survey 2006-2010 sample 8, Census 2010 SF1. Calculated by the Budget and Legislative Analyst from San Francisco Planning Department.



Tobacco Density Policy Factsheet 2

POLICY ELEMENTS	AAGA REQUESTS
Cap the number of permits per block <ul style="list-style-type: none">Cap the number of permits of a particular block in a particular geographic area.If a business location permit is a shared one (e.g., a newsstand), it will be counted toward the cap.No new permits will be issued to a new location.No change in requirements, no exception.	Bill change in requirements <ul style="list-style-type: none">The addition of restriction (block size, sales) will be on the new permit will be issued to that location.
Cap and categorize by <ul style="list-style-type: none">Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.	Requested by AAGA to improve business sales among small businesses <ul style="list-style-type: none">Requested by AAGA to improve business sales among small businesses.Requested by AAGA to improve business sales among small businesses.Requested by AAGA to improve business sales among small businesses.
Business Requirements for New Permits <ul style="list-style-type: none">No new permits will be issued to a business within a block if a business is within that block.No new permits will be issued to a business within a block if a business is within that block.No new permits will be issued to a business within a block if a business is within that block.	
One-Block Permit to Long Term Sales <ul style="list-style-type: none">In the absence of the ordinance, the most that one block can have is one long-term permit.In the absence of the ordinance, the most that one block can have is one long-term permit.In the absence of the ordinance, the most that one block can have is one long-term permit.	One block permit will be viable available for new permits <ul style="list-style-type: none">One block permit will be viable available for new permits.One block permit will be viable available for new permits.One block permit will be viable available for new permits.
One-Block Permit to Tobacco City Sales <ul style="list-style-type: none">Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.	Cap the number of permits of a particular block in a particular geographic area <ul style="list-style-type: none">Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.Cap the number of permits of a particular block in a particular geographic area.

Meetings with AAGA

- Ongoing discussion over two years
- Address concerns and adjust proposal
- Part of comprehensive approach: Healthy Retail SF

Media Advocacy

Youth speaking about Tobacco Density at KPFA local radio

Supporters say the proliferation of tobacco-selling outlets creates a "social norm" and increases young people's chances to become tobacco users

San Francisco Density Ordinance

amends the Health Code (19H- TRL) by adding density, proximity, and establishment limitations.

AMENDED AT BOARD
FILE NO. 141098 ORDINANCE NO. 239-14

1 [Health, Business and Tax Regulations Codes - Tobacco Sales Permits and Associated Fees]
2
3 Ordinance amending the Health Code by adding density, proximity, and sales
4 establishment limitations on the granting of new tobacco sales permits, and
5 renumbering all sections in Article 19H, amending the Business and Tax Regulations
6 Code by increasing the annual license and application fees; and making environmental
7 findings.
8
9 NOTE: Unchanged Code text and unamended text are in plain text. All text
10 additions to Code are in **bold/underlined** (only **Plain Text** additions are
11 **bold/underlined** and **bold/underlined** additions are in **bold/underlined** **bold/underlined**
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14
15 Be it ordained by the People of the City and County of San Francisco:
16
17 Section 1. The Planning Department has determined that the actions contemplated in
18 this ordinance comply with the California Environmental Quality Act (California Public
19 Resources Code Section 21000 et seq.). Said determination is on file with the Clerk of the
20 Board of Supervisors in file No. 142228 and is incorporated herein by reference.
21 Section 2. Article 19H of the Health Code is hereby amended by revising and
22 renumbering (new section numbers in parentheses) Sections 1909.50 (19H.1), 1909.51
23 (19H.2), 1909.53 (19H.4), 1909.55 (19H.6), 1909.56 (19H.8), 1909.57 (19H.10), 1909.58
24 (19H.11), 1909.59 (19H.12), 1909.60 (19H.13), 1909.61 (19H.14), 1909.62 (19H.15), 1909.63
25 (19H.16), 1909.64 (19H.17), 1909.65 (19H.18), 1909.66 (19H.19), 1909.67 (19H.21), and 1909.73 (19H.25);
and renumbering (new section numbers in parentheses) Sections 1909.52 (19H.3), 1909.54

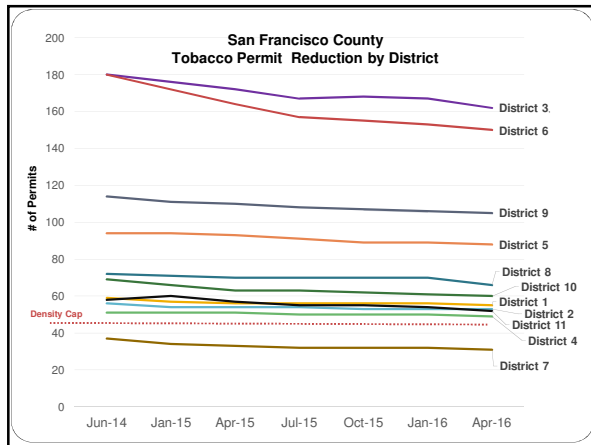
Approved: San Fran. Health Commission, Health Code
Health Code Amendments Page 1
14214

Evaluation- Year 1

970
Stores
2014

871
Stores
April 2016

- Ordinance took effect 1/17/15
- New location license applications were denied
- As stores went out of business or changed ownership, they were no longer eligible for licenses
- The decline is most pronounced in the two notably over-concentrated communities we highlighted at the start of the project (Chinatown and Tenderloin/SOMA)



Does capping license availability work?

- We have seen a 10.2% reduction in total number of tobacco retailers in the first 15 months through attrition
- No availability of licenses near schools/other retailers and no new locations means effective freeze on growth of vape shops
- Caveat: San Francisco is rapidly changing demographically and economically- gentrification is playing a role

Lessons Learned



Policy Development Considerations

- Build onto a Tobacco Retail License
- Attrition is the route- taking away licenses is a political non-starter
- Integrate with comprehensive healthy retail approach
- Engage enforcing agencies early on in policy development process

Developing Partnerships Takes Time

- Took 6 years and considerable financial investment in community partner!
- Negotiation and Compromise: Met public health goals and the goals of merchant association by building trust and learning business language

Lessons Learned contd.

Communications

- Visuals are ESSENTIAL- maps, fact sheets, policy element comparisons
- Focus on the overarching goal of reducing the number of tobacco retailers especially in areas that are disproportionately burdened

Monitoring

- Periodic monitoring are just snapshots of a fluid situation (individual cigar bar exemption)

We Tell Our SF Story at sftobaccofree.org

Tobacco Density

Social Justice and Equity for all San Franciscans

Tobacco use is the leading cause of preventable death in San Francisco. It kills over roughly 14,000 people annually. There are nearly 10,000 tobacco retailers in San Francisco, which are heavily concentrated among the San Francisco Ethnic Diversity Area (EDA) and the San Francisco Downtown Financial District. Many of these tobacco retailers are located in areas of color and low income areas of the City and have high number of youth, racial/ethnic minorities. The tobacco industry's revenue for San Francisco is estimated to be \$1.5 billion annually. The high density of tobacco retailers is related to higher density, increased sales, and tobacco-related diseases and death.^{1,2}

• [Map of Tobacco Density by Neighborhood \(2011-2015\)](#)
• [2014 Density Check for Transgender District](#)

RULES AND REGULATIONS FOR TOBACCO RETAIL PERMIT

PERMIT REQUIREMENTS AND DEFINITIONS

FOR INFORMATION REGARDING OBTAINING A TOBACCO PERMIT

TOBACCO PERMIT DENSITY REDUCTION ORDINANCE (2016)

Retail Density Case Study- 2016



Reducing Tobacco Retail Density in San Francisco: A Case Study

January 2016

*Prepared by Bright Research Group for the San Francisco Tobacco-Free
Project*

Questions?

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Sftobaccofree.org



Questions?

National Center for Chronic Disease Prevention and Promotion
Office on Smoking and Health



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Point-of-Sale Strategies Webinar Series**

Thank you for joining us!

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