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

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

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)

IMPORTANCE OF REDUCING OUTLET DENSITY AS TOBACCO CONTROL STRATEGY

Sharon Lipperman-Kreda, Ph.D.
Prevention Research Center, Pacific Institute for Research and Evaluation, Oakland, CA

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Prevention Research Center, Pacific Institute for Research and Evaluation, Oakland, CA
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

- 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 (Rodriguez 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

References

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THANK YOU
skreda@prev.org

Strategies & Legal Considerations for
REDUCING
Tobacco Retailer
DENSITY

Sara Bartel, JD
Staff Attorney
Agenda

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

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

Legal Tools
- 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...

**Amortization**
- Set period for retailer to recoup investment
- Period varies by jurisdiction (e.g., 1 to 5 yrs)
- Upheld by courts in context of alcohol retailers

**Direct Payment**
- Must await turnover (e.g., through failure/change of business)
- Gradual phase out takes time
- Can reduce competition for remaining retailers

**Grandfathering**
- Must await turnover (e.g., through failure/change of business)
- Gradual phase out takes time
- Can reduce competition for remaining retailers
Agenda

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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

More details on the strategies discussed today

Resources

Infographics

Tobacco Retailer Licensing Playbook

Model Language

Resources

Model Language

More details on the strategies discussed today
Tobacco Density Reduction for Health Equity

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

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.
The FACTS
From the Office of the Treasurer and Tax Collector
San Francisco Districts

2014 Density Chart by Supervisors' District

<table>
<thead>
<tr>
<th>District</th>
<th>% of Stores that Sell Tobacco</th>
<th>Tobacco Sales Density (lbs)</th>
<th>Median Household Income ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 (Ocean)</td>
<td>100%</td>
<td>38.8%</td>
<td>$63,411.00</td>
</tr>
<tr>
<td>2 (North Beach)</td>
<td>98%</td>
<td>23.9%</td>
<td>$68,689.00</td>
</tr>
<tr>
<td>3 (Mission)</td>
<td>96%</td>
<td>35.8%</td>
<td>$58,307.00</td>
</tr>
<tr>
<td>4 (Bayview)</td>
<td>96%</td>
<td>26.0%</td>
<td>$56,468.00</td>
</tr>
<tr>
<td>5 (Sunset)</td>
<td>96%</td>
<td>32.0%</td>
<td>$62,504.00</td>
</tr>
<tr>
<td>6 (Mission)</td>
<td>96%</td>
<td>26.0%</td>
<td>$56,468.00</td>
</tr>
<tr>
<td>7 (Pacific)</td>
<td>96%</td>
<td>32.0%</td>
<td>$56,468.00</td>
</tr>
<tr>
<td>8 (Outer Sunset)</td>
<td>96%</td>
<td>32.0%</td>
<td>$56,468.00</td>
</tr>
<tr>
<td>9 (Ocean)</td>
<td>100%</td>
<td>38.8%</td>
<td>$63,411.00</td>
</tr>
<tr>
<td>10 (Bayview)</td>
<td>98%</td>
<td>23.9%</td>
<td>$68,689.00</td>
</tr>
<tr>
<td>11 (Linden)</td>
<td>96%</td>
<td>35.8%</td>
<td>$58,307.00</td>
</tr>
<tr>
<td>Totals</td>
<td>96%</td>
<td>32.0%</td>
<td>$56,468.00</td>
</tr>
</tbody>
</table>

*Millions of Packs Sold by District
2011 data

By District

<table>
<thead>
<tr>
<th>District</th>
<th>Millions of Packs Sold</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5.20</td>
</tr>
<tr>
<td>2</td>
<td>3.20</td>
</tr>
<tr>
<td>3</td>
<td>2.64</td>
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<tr>
<td>4</td>
<td>1.98</td>
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<td>10</td>
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</tr>
<tr>
<td>11</td>
<td>0.29</td>
</tr>
</tbody>
</table>

From the Office of the Treasurer and Tax Collector
TURF Project Action

Activities
- Educational packet
- Media Advocacy: PSAs, Radio and News media
- Organization Endorsements: over 900
- Engaged Key Stakeholders: Arab-American Grocers Association (AAGA)
- Secured decision-maker sponsor: Supervisor Eric Mar, District 1
- Developed and modified policy with AAGA & Mar’s office

Developed educational materials:
Framing The Issue

Endorsing supporters
Meetings with AAGA

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

Media Advocacy

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.
Enforcement: Developed Rules and Regulations
Evaluation - Year 1

- 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)

<table>
<thead>
<tr>
<th>District</th>
<th>970 Stores (2014)</th>
<th>871 Stores (April 2016)</th>
</tr>
</thead>
<tbody>
<tr>
<td>District 1</td>
<td>20</td>
<td>40</td>
</tr>
<tr>
<td>District 2</td>
<td>30</td>
<td>50</td>
</tr>
<tr>
<td>District 3</td>
<td>40</td>
<td>60</td>
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<tr>
<td>District 4</td>
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<td>District 5</td>
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<td>District 6</td>
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<td>District 8</td>
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<td>District 9</td>
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<td>120</td>
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<td>District 10</td>
<td>110</td>
<td>130</td>
</tr>
<tr>
<td>District 11</td>
<td>120</td>
<td>140</td>
</tr>
</tbody>
</table>

San Francisco County Tobacco Permit Reduction by District

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

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
Thank you for joining us!