

**ORDINANCE NO. 2207****AN ORDINANCE OF THE CITY COUNCIL  
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,  
AMENDING SECTIONS 18.101, 18.103, 36.700.020, AND DIVISION  
36.230, TABLE 2-4 OF THE SOUTH PASADENA MUNICIPAL  
CODE REGULATING THE SALE OF TOBACCO PRODUCTS  
WITHIN 500 FEET OF PUBLIC SCHOOLS IN THE CITY**

**WHEREAS**, the City of South Pasadena adopted Ordinance 2108 on September 18, 2002, which extensively revised the South Pasadena Municipal Code Chapter 36 (Zoning); and

**WHEREAS**, on February 18, 2009, the City of South Pasadena adopted Ordinance 2184 to establish a permit system for tobacco retailers in the City; and

**WHEREAS**, on February 3, 2010, the City Council directed staff to prepare an ordinance to prohibit the sale of tobacco products within 500 feet of any public school in the City; and

**WHEREAS**, on September 27, 2010, the Planning Commission, after giving notice thereof as required by applicable law, held a public hearing, at which, pursuant to Zoning Code section 36.620.050A, the Commission passed Resolution 10-20, which made a written recommendation to the City Council to approve various amendments of the Zoning Code and Municipal Code relating to the sale of tobacco products in the City; and

**WHEREAS**, on September 27, 2010, the Planning Commission determined that the proposed Code amendments would not have a significant impact on the environment and that the amendments were exempt from CEQA (Section 15061b3); and

**WHEREAS**, on October 20, 2010, the City Council, pursuant to Article XI, Section 7 of the California Constitution, and based upon the findings described herein and as contained in the City Council Agenda Report presented, held a properly noticed public hearing introducing Ordinance No. 2207 as stated herein.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES HEREBY ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds that the proposed Municipal Code amendments would not, in themselves, have a significant impact on the environment and that they are exempt from CEQA under section 15061b3 —general rule. The general rule states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. All projects are subject to a CEQA determination on a case-by-case basis; any project-specific potential impacts to the environment will be analyzed at that time.

**SECTION 2.** The City Council hereby finds that the proposed Municipal Code amendments that: 1) Prohibit tobacco sales within 500 feet of a public school; 2) allow tobacco sales only in the Commercial General (CG) and Business Park (BP) zones; and 3) clarify the definitions of “Accessory Use,” “Primary Use,” and “Tobacco Retailer” are supported by findings including, but not limited to, a finding of internal consistency with other applicable provisions of the Zoning Code; a finding of consistency with the General Plan in that the General Plan seeks to promote public/community health (Goal 6, Safety & Noise Element); and a finding of a benefit to the public interest, health, safety, convenience, and general welfare of the City by restricting the availability of tobacco products to minors.

**SECTION 3.** Subsection (h) of section 18.101 (“Definitions”) of Part 6 (“Tobacco Retailer Permit”) of Chapter 18 (“Business, Professions and Trades”) of the South Pasadena Municipal Code is amended by amending the definition of the term “tobacco retailer” as follows:

- (h) “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” means the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange. A tobacco retailer can be a primary or accessory land use (as defined in SPMC 36.700.020 or its successor).

**SECTION 4.** Section 18.103 (“Limits on eligibility for a tobacco retailer permit”) of Part 6 (“Tobacco Retailer Permit”) of Chapter 18 (“Business, Professions and Trades”) of the South Pasadena Municipal Code is amended as follows:

**18.103 Limits on eligibility for a tobacco retailer permit.** No permit may issue to authorize tobacco retailing at other than a fixed location. For example, tobacco retailing by persons on foot or from vehicles is prohibited. No tobacco retailer may be located within 500 feet of any public school as measured from the closest point on the property line of the parcels containing the retailer’s establishment and the school. Such measurement shall be in a straight line without regard to intervening structures. No

existing business within 500 feet of a public school may begin operation as a tobacco retailer after the effective date of the ordinance to establish this proximity restriction.

**SECTION 5.** Table 2-4 (“Allowed Uses and Permit Requirements for Commercial and Business Park Districts”) of Division 36.230 (“Commercial Zoning Districts”) of Article 2 (“Zoning Districts, Allowable Land Uses, and Zone-Specific Standards”) of Chapter 36 (“Zoning”) of the South Pasadena Municipal Code is hereby amended with the addition of a new row under the subheading “Retail Trade (Continued)” which lists “Tobacco Retailers (Primary Use)” as not being permitted in the CO zone and being permitted in the CG zone, and being allowed in the BP zone, subject to a CUP; and which lists “Tobacco Retailers (Accessory Use)” as not being permitted in the CO zone, and being permitted in the CG and BP zones only when the associated primary use is permitted, subject to the requirements of SPMC Chapter 18, Part 6 (Tobacco Retailer Permit). The foregoing amendments are included in the amended (partial) table which shall read as follows:

<b>TABLE 2-4. (Continued)</b> <b>ALLOWED USES AND PERMIT REQUIREMENTS</b> <b>FOR COMMERCIAL &amp; BUSINESS PARK</b> <b>DISTRICTS</b>		P	Permitted Use		
		CUP	Conditional Use Permit required		
		AUP	Administrative Use Permit required		
		—	Use not allowed		
<b>LAND USE (1)</b>	<b>PERMIT REQUIREMENT</b>			<b>Specific Use Regulations</b>	
	<b>BY ZONE</b>				
	<b>CO</b>	<b>CG</b>	<b>BP</b>		
<b>RETAIL TRADE (Continued)</b>					
Furniture, furnishings and appliance stores	—	P	—		
Gas stations	—	CUP	CUP		
General retail	—	P	CUP	36.350.140, 220	
Grocery stores	—	AUP	—		
Hardware stores	—	P	—		
Multitenant retail	—	CUP	—		
Outdoor display and retail activities	—	CUP	CUP		
Plant nurseries and garden supply stores	—	P	—	36.350.140, 220	
Restaurants	CUP	P	P		
Restaurants, multitenant retail		CUP(3)			
Restaurants, take-out and with accessory retail food	CUP	P	P		
Restaurants, with catering	CUP	CUP	CUP		
Restaurants, with catering and accessory retail food	CUP	CUP	CUP		
Restaurants, with outdoor dining	CUP	AUP	CUP	36.350.130	

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Second hand stores	—	P	—	
Tobacco retailer—Primary Use	—	P	CUP	SPMC Chapter 18, Part 6 or its successor.
--Accessory Use	—	As required for the primary use that the accessory use is associated with	As required for the primary use that the accessory use is associated with	
Warehouse retail	—	CUP	—	36.350.220

**SECTION 6.** Subsection “A” (Definitions, “A.”) and “P” (Definitions “P”) and “T” (Definitions “T”) of Section 36.700.020 (“Definitions of Specialized Terms and Phrases”) of Article 7 (“Definitions”) of Chapter 36 (“Zoning”) of the South Pasadena Municipal Code are hereby amended as follows:

**Accessory Use.** A use customarily incidental to, related and clearly subordinate to a principal use established on the same parcel (or, in the case of a commercial use, in the space occupied by a particular land use), which does not alter the principal use nor serve property other than the parcel where the principal use is located. “Secondary use” has the same meaning.

**Primary Use.** The main purpose for which a site (or, in the case of a commercial use, in the space occupied by a particular land use) is developed and occupied, including the activities that are conducted on the site (or in a particular commercial space) during most of the hours when activities occur. “Principal use” has the same meaning.

**Tobacco Retailer.** As defined in SPMC 18.101(h) or its successor, and subject to SPMC Chapter 18, Part 6 (“Tobacco Retailer Permit”) or its successor. For the purposes of establishing the allowable zone/s a tobacco retailer may be located in, and required parking levels, a tobacco retailer as a primary use is included in the land use designation “General retail” and a tobacco retailer as an accessory use is included in the land use designation for the primary use for which it is an accessory.

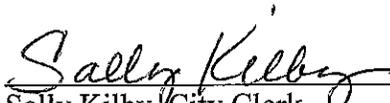
**SECTION 7.** This ordinance shall take effect thirty (30) days after its final passage and within fifteen (15) days after its passage, the City Clerk of the City of South Pasadena shall certify to the passage and adoption of this ordinance and to its approval by the Mayor and City Council and shall cause the same to be published in a newspaper in the manner required by law.

**PASSED, APPROVED, AND ADOPTED** this 3<sup>rd</sup> day of November, 2010.

  
Richard D. Schneider, M.D., Mayor

**ATTEST:**

**APPROVED AS TO FORM:**

  
Sally Kilby, City Clerk

  
Richard L. Adams II, City Attorney

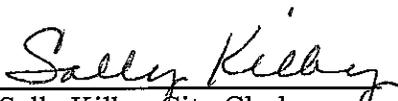
**I HEREBY CERTIFY** the foregoing resolution was duly adopted by the City Council of the City of South Pasadena at a regular meeting held on the 3<sup>rd</sup> day of November, 2010 by the following vote:

**AYES:** Cacciotti, Putnam, Sifuentes, Ten and Mayor Schneider

**NOES:** None

**ABSENT:** None

**ABSTAINED:** None

  
Sally Kilby, City Clerk