

ORDINANCE NO. 2184**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF SOUTH PASADENA, CALIFORNIA,
AMENDING CHAPTER 18 (BUSINESS, PROFESSIONS AND TRADES)
WITH THE ADDITION OF PART 6 – (TOBACCO RETAILER PERMIT),
OF THE SOUTH PASADENA MUNICIPAL CODE AND
ESTABLISHING A TOBACCO RETAIL PERMIT FEE**

WHEREAS, based in part on the information contained in this section, the City Council finds that the failure of tobacco retailers to comply with all tobacco control laws, particularly laws prohibiting the sale of tobacco products to minors, presents an imminent threat to the public health, safety, and welfare of the residents of the City; and

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

WHEREAS, approximately 438,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, the World Health Organization (WHO) estimates that by 2030, tobacco will account for 8.3 million deaths per year, killing 50% more people in 2015 than HIV/AIDS, and will be responsible for 10% of all deaths worldwide; and

WHEREAS, the California Legislature has recognized the danger of tobacco use and has made reducing youth access to tobacco products a high priority, as evidenced by the fact that:

- The Legislature has declared that smoking is the single most important source of preventable disease and premature death in California (Cal. Health & Safety Code § 118950);
- State law prohibits the sale or furnishing of cigarettes, tobacco products, and smoking paraphernalia to minors, as well as the purchase, receipt, or possession of tobacco products by minors (Cal. Pen. Code § 308);
- State law requires that tobacco retailers check the identification of tobacco purchasers who reasonably appear to be under 18 years of age (Cal. Bus. & Prof. Code § 22956) and provides procedures for using minors to conduct

onsite compliance checks of tobacco retailers (Cal. Bus. & Prof. Code § 22952);

- State law prohibits the sale of tobacco products and paraphernalia through self-services displays with limited exceptions for tobacco stores (Cal. Bus. & Prof. Code § 22960, 22962);
- State law prohibits the sale of “bidis” (hand-rolled filter-less cigarettes imported primarily from India and Southeast Asian countries) except in adult-only establishments (Cal. Pen. Code § 308.1);
- State law prohibits the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibits the manufacture, distribution, or sale of “roll-your-own” tobacco in packages containing less than 0.60 ounces of tobacco (Cal. Pen. Code § 308.3);

WHEREAS, state law requires all tobacco retailers to be licensed by the Board of Equalization primarily to curb the illegal sale and distribution of cigarettes due to tax evasion and counterfeiting (Cal. Bus. & Prof. Code §§ 22970.1, 22972); and

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

WHEREAS, California courts in such cases as *Cohen v. Board of Supervisors*, 40 Cal. 3d 277 (1985), and *Bravo Vending v. City of Rancho Mirage*, 16 Cal. App. 4th 383 (1993), have affirmed the power of the city to regulate business activity in order to discourage violations of law; and

WHEREAS, despite the state’s efforts to limit youth access to tobacco, minors are still able to access cigarettes, as evidenced by the fact that:

- Each day, nearly 4,000 children under 18 years of age smoke their first cigarette, and almost 1,500 children under 18 years of age begin smoking daily;
- More than 75% of all current smokers in 2001 began smoking before the age of 18;
- Among middle school students who were current cigarette users in 2004, 70.6% were not asked to show proof of age when they purchased or attempted to purchase cigarettes from a store, and 66.4% were not refused purchase because of their age;
- In 2002, youth smoked approximately 540 million packs of cigarettes, generating nearly \$1.2 billion in tobacco industry revenue;

WHEREAS, research demonstrates that local tobacco retail ordinances dramatically reduce youth access to cigarettes, as evidenced by the following:

- A review of thirteen California communities with strong tobacco retailer licensing/permitting ordinances shows that the youth sales rate declined in twelve of the thirteen communities, with an average decrease of 68% in the youth sales rate;
- A study of the effect of licensing and enforcement methods used in the Philadelphia area revealed a decrease in sales to minors from 85% in 1994 to 43% in 1998;
- A study of several Minnesota cities found that an increased licensing fee in conjunction with strict enforcement of youth access laws led to a decrease from 39.8% to 4.9% in the number of youth able to purchase tobacco;

WHEREAS, the implementation of tobacco retailer licensing/permitting requirements is supported by most Californians, as evidenced by the following:

- Statewide, over 80% of California adults think tobacco retailers should be licensed;
- Similarly, in rural areas in California, 78% of adults think tobacco retailers should be licensed, and 91% agree that a store owner who repeatedly sells cigarettes to minors should no longer have the right to sell cigarettes;
- 65% of California's key opinion leaders surveyed support implementation of tobacco-licensing requirements;
- Over 90% of enforcement agencies surveyed in 2000 rated license suspension or revocation after repeated violations as an effective strategy to reduce youth access to tobacco;

WHEREAS, seventy-eight cities and counties in California have passed tobacco retailer licensing/permitting ordinances in an effort to stop minors from smoking; and

WHEREAS, California retailers continue to sell tobacco to underage consumers, evidenced by the following:

- Nearly 11% of all tobacco retailers unlawfully sold to minors in 2007;
- Non-traditional tobacco retailers such as deli, meat, and donut shops sold to minors in 2007 at a much higher rate than the statewide average, as high as 16%;
- Teens surveyed in 2002 say they bought their cigarettes at: gas stations (58%), liquor stores (45%), and supermarkets and small grocery stores (29% combined);

WHEREAS, a requirement for a tobacco retailer permit will not unduly burden legitimate business activities of retailers who sell or distribute cigarettes or other tobacco products to adults. It will, however, allow the City to regulate the operation of lawful businesses to discourage violations of federal, state, and local tobacco-related laws; and

WHEREAS, City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and finally, and most importantly, in protecting children from being lured into illegal activity through the misconduct of adults.

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

SECTION 1. The City Council is enacting this ordinance, to ensure compliance with the business standards and practices of the City 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 minors, 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.

SECTION 2. Chapter 18 (Business, Professions and Trades) of the South Pasadena Municipal Code is hereby amended with the addition of Part 6 (Tobacco Retailer Permit) to read as follows:

PART 6 -TOBACCO RETAILER PERMIT

18.101 Definitions.

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

(a) "Arm's Length Transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market 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 Part is not an Arm's Length Transaction.

(b) "Department" means Finance Department and any agency or Person designated by the Department to enforce or administer the provisions of this Part.

(c) "Person" means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

(d) "Proprietor" means a Person with an ownership or managerial 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. A managerial interest shall be deemed to exist when a Person can or does have or share ultimate control over the day-to-day operations of a business.

(e) "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.

(f) "Smoking" means possessing a lighted Tobacco Product, lighted Tobacco Paraphernalia, or any other lighted weed or plant (including a lighted pipe, cigar, hookah pipe, or cigarette of any kind) and means the lighting of a Tobacco Product, Tobacco Paraphernalia, or any other weed or plant (including a pipe, cigar, hookah pipe, or cigarette of any kind).

(h) "Tobacco Product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, snus, bidis, or any other preparation of tobacco; 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, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

(i) "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, Tobacco Products, or Tobacco Paraphernalia sold, offered for sale, exchanged, or offered for exchange.

18.102 Requirements and Prohibitions.

(a) TOBACCO RETAILER PERMIT REQUIRED. It shall be unlawful for any Person to act as a Tobacco Retailer in the City without first obtaining and maintaining a valid Tobacco Retailer Permit ("Permit") pursuant to this Part for each location at which

that activity is to occur. Tobacco Retailing without a valid Tobacco Retailer Permit is a nuisance as a matter of law.

(b) **LAWFUL BUSINESS OPERATION.** In the course of Tobacco Retailing or in the operation of the business or maintenance of the location for which a permit issued, it shall be a violation of this Part for a Permittee, or any of the Permittee's agents or employees, to violate any local, state, or federal law applicable to Tobacco Products or Tobacco Retailing.

(c) **DISPLAY OF PERMIT.** Each Tobacco Retailer Permit shall be prominently displayed in a publicly visible location at the Permitted location.

(d) **POSITIVE IDENTIFICATION REQUIRED.** No Person engaged in Tobacco Retailing shall sell or transfer a Tobacco Product 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 under state law to purchase and possess the Tobacco Product.

(e) **MINIMUM AGE FOR PERSONS SELLING TOBACCO.** No Person who is younger than the minimum age established by state law for the purchase or possession of Tobacco Products shall engage in Tobacco Retailing.

(f) **SELF-SERVICE DISPLAYS PROHIBITED.** Tobacco Retailing by means of a Self-Service Display is prohibited.

(g) **FALSE AND MISLEADING ADVERTISING PROHIBITED.** A Tobacco Retailer or Proprietor without a valid Tobacco Retailer Permit, including, for example, a person who's Permit has been suspended or revoked:

(1) Shall keep all Tobacco Products out of public view. The public display of Tobacco Products or Tobacco Paraphernalia in violation of this provision shall constitute Tobacco Retailing without a Permit under Section 18.112; and

(2) 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.

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.

18.104. Application Procedure.

(a) Application for a Tobacco Retailer Permit shall be submitted in the name of each Proprietor proposing to conduct 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 Permit. No Proprietor may rely on the issuance of a Permit as a determination by the City that the Proprietor has complied with all laws applicable to Tobacco Retailing. A permit issued contrary to this Part, contrary to any other law, or on the basis of false or misleading information supplied by a Proprietor shall be revoked pursuant to Section 18.111 (d) of this Part. Nothing in this Part shall be construed to vest in any Person obtaining and maintaining a Tobacco Retailer Permit any status or right to act as a Tobacco Retailer in contravention of any provision of law.

All applications shall be submitted on a form supplied by the Department and shall contain the following information:

(1) The name, address, and telephone number of each Proprietor of the business seeking a Permit.

(2) The business name, address, and telephone number of the single fixed location for which a Permit is sought.

(3) A single name and mailing address authorized by each Proprietor to receive all communications and notices (the "Authorized Address") required by, authorized by, or convenient to the enforcement of this Part. 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.

(4) Proof that the location for which a Tobacco Retailer permit is sought has been issued a valid state tobacco retailer permit by the California Board of Equalization.

(5) Whether or not any Proprietor or any agent of the Proprietor has admitted violating, or has been found to have violated, this Part and, if so, the dates and locations of all such violations within the previous five years.

(6) Such other information as the Department deems necessary for the administration or enforcement of this Part as specified on the application form required by this section.

(b) A Permitted Tobacco Retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer Permit within ten (10) business days of a change.

(c) 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 laws' exemptions.

18.105 Issuance of Permit.

Upon the receipt of a complete application for a Tobacco Retailer Permit and the Permit fee required by this Part, the Department shall issue a Permit 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 Part.

(b) The application seeks authorization for Tobacco Retailing at a location for which this Part prohibits issuance of Tobacco Retailer Permits. However, this subparagraph shall not constitute a basis for denial of a Permit if the applicant provides the City 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 Part prohibits a Permit to be issued.

(d) The application seeks authorization for Tobacco Retailing that is prohibited pursuant to this Part (e.g., mobile vending)], that is unlawful pursuant to this Code including without limitation the zoning code, building code, and business license tax code, or that is unlawful pursuant to any other law.

18.106 Permit Renewal and Expiration.

(a) RENEWAL OF PERMIT. A Tobacco Retailer Permit is invalid if the appropriate fee has not been timely paid in full or if the term of the Permit has expired. The term of a Tobacco Retailer Permit is one year. Each Tobacco Retailer shall apply for the renewal of his or her Tobacco Retailer Permit and submit the permit fee no later than thirty (30) days prior to expiration of the term.

(b) EXPIRATION OF PERMIT. A Tobacco Retailer Permit that is not timely renewed shall expire at the end of its term. To renew a Permit not timely renewed pursuant to subparagraph (a), the Proprietor must:

(1) Submit the permit fee and application renewal form; and

(2) Submit a signed affidavit affirming that the Proprietor:

(i) has not sold and will not sell any Tobacco Product or Tobacco Paraphernalia after the permit expiration date and before the permit is renewed; or

(ii) has waited the appropriate ineligibility period established for Tobacco Retailing without a Permit, as set forth in Section 18.112 (a) of this Part, before seeking renewal of the permit.

18.107 Permits Nontransferable.

(a) A Tobacco Retailer Permit may not be transferred from one Person to another or from one location to another. A new Tobacco Retailer Permit is required whenever a Tobacco Retailing location has a change in Proprietor(s).

(b) Notwithstanding any other provision of this Part, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:

(1) the location has been fully transferred to a new Proprietor or fully transferred to entirely new Proprietors; and

(2) the new Proprietor(s) provide the City with clear and convincing evidence that the new Proprietor(s) have acquired or is acquiring the location in an Arm's Length Transaction.

18.108 Permit Conveys a Limited, Conditional Privilege.

Nothing in this Part shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer Permit any status or right other than the limited conditional privilege to act as a Tobacco Retailer at the location in the City identified on the face of the Permit. For example, nothing in this Part shall be construed to render inapplicable, supercede, 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 code, building codes, and business license tax code, 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 Permit does not make the

retailer a "retail or wholesale tobacco shop" for the purposes of California Labor Code section 6404.5.

18.109 Fee For Permit.

The initial fee to issue or to renew a Tobacco Retailer permit is hereby established at one hundred and twenty dollars (\$120.00). The fee shall be calculated so as to recover the cost of administration and enforcement of this Part, including, for example, issuing a Permit, administering the Permit 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 Part. All fees and interest upon proceeds of fees shall be used exclusively to fund the program. Fees are nonrefundable except as may be required by law.

18.110 Compliance Monitoring.

(a) Compliance with this Part shall be monitored by the Finance Department. In addition, any peace officer may enforce the penal provisions of this Part. The City may designate any number of additional Persons to monitor compliance with this Part.

(b) The Department or other Person designated to enforce the provisions of this Part shall check the compliance of each Tobacco Retailer at least one (1) time per twelve (12) month period. The Department may check the compliance of new Permit and Tobacco Retailers previously found in violation of the licensing law more frequently. Nothing in this paragraph shall create a right of action in any Permittee or other Person against the City or its agents.

(c) Compliance checks shall be conducted so as to allow the Department to determine, at a minimum, if the Tobacco Retailer is conducting business in a manner that complies with laws regulating youth access to Tobacco. When the Department deems appropriate, the compliance checks shall determine compliance with other laws applicable to Tobacco Retailing.

(d) The City shall not enforce any law establishing a minimum age for Tobacco purchases or possession against a Person who otherwise might be in violation of such law because of the Person's age (hereinafter "Youth Decoy") if the potential violation occurs when:

(1) the Youth Decoy is participating in a compliance check supervised by a peace officer or a code enforcement official of the City of South Pasadena;

(2) the Youth Decoy is acting as an agent of a Person designated by the City to monitor compliance with this Part;

(3) the Youth Decoy is participating in a compliance check funded in part, either directly or indirectly through subcontracting, by the Los Angeles County Department of Health Departments and/or Pasadena Health Department; or

(4) the Youth Decoy has an immunity letter from the District Attorney's Office.

18.111 Suspension/Revocation of Permit.

(a) **SUSPENSION OF PERMIT FOR VIOLATION.** In addition to any other penalty authorized by law, a Tobacco Retailer Permit 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 Permittee is afforded notice and an opportunity to be heard, that the Permit, or any of the Permittee's agents or employees, has violated any of the requirements, conditions, or prohibitions of this Part or has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in Section 18.102 above. A Tobacco Retailer or Proprietor whose Permit has been suspended is deemed not to have a valid Tobacco Retailer Permit during the suspension period for purposes of this Part.

(b) TOBACCO RETAILER PERMIT SUSPENSION/REVOCATION

(1) After suspension for a first violation of this Part at a location within any twelve-month (12) period, no Person may engage in Tobacco Retailing at the location until Fifteen (15) days have passed from the date of suspension.

(2) After suspension for a second violation of this Part at a location within any twenty-four (24) month, no Person may engage in Tobacco Retailing at the location until thirty (30) days have passed from the date of suspension.

(3) After suspension for a third violation of this Part at a location within any thirty-six (36) month period, no Person may engage in Tobacco Retailing at the location until ninety (90) days have passed from the date of suspension.

(4) After revocation for four or more violations of this Part at a location within any forty-eight (48) month period, no new Permit may issue for the location until one year (1) has passed from the date of revocation.

(c) **APPEAL OF SUSPENSION/REVOCATION.** A decision of the Department to suspend or revoke a permit is appealable to City Manager and/or his/her designee and must be filed with the City Clerk or within ten days of mailing of the Department's decision. If such an appeal is made, it shall stay enforcement of the appealed action. An

appeal to the City Manager or designee is not available for a suspension or revocation made pursuant to subsection (d) below.

(d) **REVOCAION OF PERMIT WRONGLY ISSUED.** A Tobacco Retailer Permit shall be revoked if the Department finds, after the Permit is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a Permit under Section 18.105 existed at the time application was made or at any time before the Permit issued. The decision by the Department shall be the final decision of the City. Such a revocation shall be without prejudice to the filing of a new Permit application.

18.112 Tobacco Retailing Without a Permit.

(a) In addition to any other penalty authorized by law, if a court of competent jurisdiction determines, or the Department 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 Permit, either directly or through the Person's agents or employees, the Person shall be ineligible to apply for, or to be issued, a Tobacco Retailing permit as follows:

(1) After a first violation of this section at a location within any sixty-month (60) period, no new permit 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.

(2) After a second violation of this section at a location within any sixty-month (60) period, no new permit 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.

(3) After of a third or subsequent violation of this section at a location within any sixty-month (60) period, no new permit 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 five (5) years have passed from the date of the violation.

(b) 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 Permittee 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 Part. The decision by the Department may be appealed pursuant to the procedures set forth in Section 18.111(c). 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.

(c) For the purposes of the civil remedies provided in this Part:

(1) each day on which a Tobacco Product or Tobacco Paraphernalia is offered for sale in violation of this Part; or

(2) 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 Part;

shall constitute a separate violation of this Part.

18.113 Enforcement.

(a) The remedies provided by this Part are cumulative and in addition to any other remedies available at law or in equity.

(b) Whenever evidence of a violation of this Part is obtained in any part through the participation of a Person under the age of eighteen (18) years old, such a Person shall not be required to appear or give testimony in any civil or administrative process brought to enforce this Part and the alleged violation shall be adjudicated based upon the sufficiency and persuasiveness of the evidence presented.

(c) Violations of this Part are subject to a civil action brought by the City Prosecutor or the City Attorney, punishable by a civil fine not less than two hundred fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) per violation.

(d) Violations of this Part may, in the discretion of the City Prosecutor be prosecuted as infractions or misdemeanors when the interests of justice so require.

(e) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Part shall also constitute a violation of this Part.

(f) Violations of this Part are hereby declared to be public nuisances.

(g) In addition to other remedies provided by this Part or by other law, any violation of this Part may be remedied by a civil action brought by the City Attorney, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.

SECTION 3. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or

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

SECTION 4. This ordinance shall take effect thirty (30) days after its final passage and within (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 ON this 18th day of February, 2009.



David Sifuentes, Mayor

ATTEST:



Sally Kilby, City Clerk

APPROVED AS TO FORM:



Richard L. Adams II, City Attorney

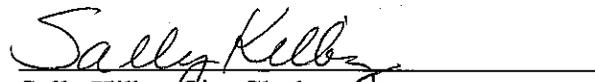
I HEREBY CERTIFY the foregoing ordinance was duly adopted by the City Council of the City of South Pasadena at a regular meeting held on the 18th day of February, 2009, by the following vote:

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

NOES: None

ABSENT: None

ABSTAINED: Noe



Sally Kilby, City Clerk