

1 (7) Unlike cigarette use that has steadily declined among youth, the prevalence of the use of
2 non-cigarette tobacco products has increased among California youth; and

3 (8) Strong policy enforcement and monitoring of retailer compliance with tobacco control policies
4 (e.g., requiring identification checks) is necessary to achieve reductions in youth tobacco sales; and

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

7 (10) The Board of Supervisors has a substantial interest in protecting youth and underserved
8 populations from the harms of tobacco use; and

9 (11) The Board of Supervisors finds that a local licensing system for tobacco retailers is appropriate
10 to ensure that retailers comply with tobacco control laws and business standards of Lake County in
order to protect the health, safety, and welfare of our residents; and

11 **NOW THEREFORE**, it is the intent of the Board of Supervisors, in enacting this ordinance, to
12 ensure compliance with the business standards and practices of Lake County and to encourage
13 responsible tobacco retailing and to discourage violations of tobacco-related laws, especially those
14 which prohibit or discourage the sale or distribution of tobacco 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.

15 **SECTION II.**

16 **ARTICLE XIII OF CHAPTER 9 OF THE COUNTY CODE IS HEREBY ADDED AS**
17 **FOLLOWS:**

18 **Section 9-116. DEFINITIONS.** The following words and phrases, whenever used in this article, shall
19 have the meanings defined in this section unless the context clearly requires otherwise:

- 20 (a) "Arm's Length Transaction" means a sale in good faith and for valuable consideration
21 that reflects the fair market value between two informed and willing parties, neither of which
is under any compulsion to participate in the transaction.
- 22 (b) "Child-Resistant Packaging" means packaging that meets the definition set forth in Code
23 of Federal Regulations, Title 16, Section 1700.15(b), as in effect on January 1, 2015, and was
24 tested in accordance with the method described in Code of Federal Regulations, Title
16, Section 1700.20, as in effect on January 1, 2015.
- 25 (c) "Cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in
26 tobacco or any substance containing tobacco and weighing more than 4.5 pounds per
thousand.
- 27
28

- 1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
- (d) “Cigarette” means: (1) any roll of tobacco wrapped in paper or in any substance not containing tobacco; and (2) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described herein.
 - (e) “Compliance checks” means systems the department uses to investigate and ensure that tobacco retailers are following and complying with the requirements of this article. Compliance checks may involve the use of persons between the ages of 18 and 20 who purchase or attempt to purchase tobacco products. Compliance checks may also be conducted by the department or other units of government for educational, research, and training purposes or for investigating or enforcing federal, state, or local laws and regulations relating to tobacco products.
 - (f) “Delivery sale” means the sale of any tobacco product to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a tobacco retail establishment. Delivery sale includes the sale of any tobacco product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by licensees or third parties by any means, including curbside pick-up.
 - (g) “Department” means Lake County Department of Health Services and any agency or person designated by the Department to enforce or administer the provisions of this article.
 - (h) “Electronic smoking device” means any device that may be used to deliver any aerosolized or vaporized substance to the person inhaling from the device, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic smoking device includes any component, part, or accessory of the device, and also includes any substance that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine. Electronic smoking device does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.
 - (i) “Flavored tobacco product” means any tobacco product that imparts a taste or odor distinguishable by an ordinary consumer, other than the taste or odor of tobacco, either prior to or during the consumption of such tobacco product, including but not limited to tastes or odors relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, mint, wintergreen, menthol, herb, or spice; or a cooling or numbing sensation distinguishable by an ordinary consumer during the consumption of such tobacco product.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- (j) “Licensee” means a person granted a tobacco retailer's license for the location at which tobacco retailing is to occur.
- (k) “Little Cigar” means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing no more than 4.5 pounds per thousand. “Little Cigar” includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.
- (l) “Manufacturer” means any person, including any repacker or relabeler, who manufactures, fabricates, assembles, processes, or labels a tobacco product; or imports a finished tobacco product for sale or distribution into the United States.
- (m) “Moveable place of business” means any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.
- (n) “Person” means any natural person, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.
- (o) “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 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 has or shares ultimate control over the day-to-day operations of a business.
- (p) “Recreation Facility” means an area, place, structure, or other facility that is used either permanently or temporarily for community recreation, even though it may be used for other purposes, and includes but is not limited to a gymnasium, playing court, playing field, and swimming pool.
- (q) “Sale” or “Sell” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.
- (r) “Self-Service Display” means the open display or storage of tobacco products 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 face-to-face transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

1 (s) "Smoking" means inhaling, exhaling, burning, or carrying any lighted or heated cigar,
2 cigarette, or pipe, or any other lighted or heated product containing, made, or derived from
3 nicotine, tobacco, marijuana, or other plant, whether natural or synthetic, that is intended for
4 inhalation. "Smoking" includes using an electronic smoking device.

5 (t) "Tobacco Product" means:

6 (1) any product containing, made of, or derived from tobacco or nicotine that is intended
7 for human consumption or is likely to be consumed, whether inhaled, absorbed, or
8 ingested by any other means, including but not limited to, a cigarette, a cigar, pipe
9 tobacco, chewing tobacco, snuff, or snus;

10 (2) any electronic smoking device and any substances that may be aerosolized or
11 vaporized by such device, whether or not the substance contains nicotine; or

12 (3) any component, part, or accessory of (1) or (2), whether or not any of these contains
13 tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp
14 wraps, hookahs, mouthpieces, and pipes.

15 (u) "Tobacco product" does not mean drugs, devices, or combination products authorized for
16 sale by the U.S. Food and Drug Administration, as those terms are defined in the Federal Food,
17 Drug, and Cosmetic Act.

18 (v) "Tobacco Retailer" means any person who sells, offers for sale, or exchanges or offers to
19 exchange for any form of consideration, tobacco products. This definition is without regard to the
20 quantity of tobacco products sold, offered for sale, exchanged, or offered for exchange.

21 (aa) "Tobacco Retailing" means engaging in the activities of a tobacco retailer.

22 **Section 9-117. GENERAL REQUIREMENTS AND PROHIBITIONS.**

23 (a) **TOBACCO RETAILER'S LICENSE REQUIRED.** It shall be unlawful for any person to
24 engage in tobacco retailing in Lake County without first obtaining and maintaining a valid
25 tobacco retailer's license for each location at which tobacco retailing is to occur. Tobacco
26 retailing without a valid tobacco retailer's license is a nuisance as a matter of law.

27 (b) **LAWFUL BUSINESS OPERATION.** In the course of tobacco retailing or in the
28 operation of the business or maintenance of the location for which a license issued, it shall be
a violation of this article for a licensee, or any of the licensee's agents or employees, to
violate any local, state, or federal law applicable to the sale of tobacco products.

- 1 (c) **SMOKING PROHIBITED.** Smoking, including smoking for the purpose of sampling any
2 tobacco product, is prohibited within the indoor area of any retail establishment licensed
3 under this article. Smoking is also prohibited outdoors within 25 feet of any retail
4 establishment licensed under this article.
- 5 (d) **MINIMUM LEGAL SALES AGE.** No person engaged in tobacco retailing shall sell a
6 tobacco product to a person under 21 years of age.
- 7 (e) **DISPLAY OF LICENSE.** Each tobacco retailer license shall be prominently displayed in
8 a publicly visible location at the licensed location.
- 9 (f) **POSITIVE IDENTIFICATION REQUIRED.** No person engaged in tobacco retailing
10 shall sell a tobacco product to another person without first verifying by means of
11 government-issued photographic identification that the recipient is at least 21 years of age.
- 12 (g) **SELF-SERVICE DISPLAYS PROHIBITED.** Tobacco retailing by means of a
13 self-service display is prohibited. All tobacco products must be stored behind the sales
14 counter, in a locked case, in a storage unit, or in another area not freely accessible to the
15 general public.
- 16 (h) **DISTANCE FROM YOUTH APPEALING PRODUCTS.** It is unlawful for a tobacco
17 retailer to place or maintain, or cause to be placed or maintained, any displays containing
18 tobacco products within five feet of toys, candy, snacks or non-alcoholic beverages inside a
19 licensed retail establishment.
- 20 (i) **ON-SITE SALES.** All sales of tobacco products shall be conducted in-person in the
21 licensed location. It shall be a violation of this article for any tobacco retailer or any of the
22 tobacco retailer's agents or employees to engage in the delivery sale of tobacco products or to
23 knowingly or recklessly sell or provide tobacco products to any person that intends to engage
24 in the delivery sale of the tobacco product in Lake County.

25 **Section 9-118. SALE OF FLAVORED TOBACCO PRODUCTS PROHIBITED.**

- 26 (a) **FLAVORED TOBACCO PRODUCT SALES PROHIBITED.** It shall be unlawful for
27 any tobacco retailer to sell any flavored tobacco product.
- 28 (b) **PRESUMPTIVE FLAVORED TOBACCO PRODUCT.** A public statement or claim
made or disseminated by the manufacturer of a tobacco product, or by any person authorized
or permitted by the manufacturer to make or disseminate public statements concerning such
tobacco product, that such tobacco product has a taste or smell other than tobacco shall
constitute presumptive evidence that the tobacco product is a flavored tobacco product.

1
2 **Section 9-119. TOBACCO PRODUCT PRICING AND PACKAGING.**

- 3 (a) **PACKAGING AND LABELING.** No tobacco retailer shall sell any tobacco product to
4 any consumer unless the tobacco product: (1) is sold in the manufacturer's packaging
5 intended for sale to consumers; (2) conforms to all applicable federal labeling requirements;
6 and (3) conforms to all applicable child-resistant packaging requirements.
- 7 (b) **DISPLAY OF PRICE.** The price of each tobacco product offered for sale shall be clearly
8 and conspicuously displayed on the tobacco product or on any related shelving, posting,
9 advertising, or display at the location where the item is sold or offered for sale.
- 10 (c) **DISTRIBUTION OF TOBACCO SAMPLES OR PROMOTIONAL ITEMS.** It is
11 unlawful for any person to distribute free or nominally priced tobacco products.

12 **Section 9-120. LIMITS ON ELIGIBILITY FOR A TOBACCO RETAILER LICENSE.**

- 13 (a) **MOBILE VENDING.** No license may issue to authorize tobacco retailing at other than a
14 fixed location. No tobacco retail license will be issued to a moveable place of business.
- 15 (b) **LICENSED CANNABIS BUSINESSES.** No license may issue, and no existing license
16 may be renewed, to authorize tobacco retailing at a location licensed for commercial cannabis
17 activity by the State of California.

18 **Section 9-121. APPLICATION PROCEDURE.**

- 19 (a) An application for a tobacco retailer's license shall be submitted in the name of each
20 proprietor proposing to conduct retail tobacco sales and shall be signed by each proprietor or
21 an authorized agent thereof. All applications shall be submitted on a form supplied by the
22 Department.
- 23 (b) A license issued contrary to article, contrary to any other law, or on the basis of false or
24 misleading information shall be revoked pursuant Section 9-128(c) of this article. Nothing in
25 this article shall be construed to vest in any person obtaining, and maintaining a tobacco
26 retailer's license any status or right to act as a tobacco retailer in contravention of any
27 provision of law.
- 28 (c) Applicant submissions shall contain the following information:
- (1) The name, address, and telephone number of each proprietor of the business seeking a
license.
- (2) The business name, address, and telephone number of the location for which a license
is sought.

1 (3) The name and mailing address authorized by each proprietor to receive all
2 communications and notices required by, authorized by, or convenient to the enforcement
3 of this article.

4 (4) Proof that the location for which a tobacco retailer's license is sought has been issued
5 all necessary state and local licenses for the sale of tobacco products.

6 (5) Whether or not any proprietor or any agent of the proprietor has admitted violating, or
7 has been found to have violated, this article or any other local, state, or federal law
8 governing the sale of tobacco products and, if so, the dates and locations of all such
9 violations within the previous five years.

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

12 (d) A licensed tobacco retailer shall inform the Department in writing of any change in the
13 information submitted on an application for a tobacco retailer's license within 30 calendar days of
14 a change.

15 **Section 9-122. LICENSE ISSUANCE OR DENIAL.**

16 (a) **ISSUANCE OF LICENSE.** Upon the receipt of a complete and adequate application for a
17 tobacco retailer's license and the license fee required by this article, the Department may
18 approve or deny the application for a license, or it may delay action for a reasonable period of
19 time to complete any investigation of the application or the applicant deemed necessary.

20 (b) **DENIAL OF APPLICATION.** The Department may deny an application for a tobacco
21 retailer's license based on any of the following:

22 (1) The information presented in the application is inaccurate or false. Intentionally
23 supplying inaccurate or false information shall be a violation of this article;

24 (2) The application seeks authorization for tobacco retailing at a location for which the
25 jurisdiction prohibits a license to be issued;

26 (3) The application seeks authorization for tobacco retailing for a proprietor to whom this
27 article prohibits a license to be issued; or

28 (4) The application seeks authorization for tobacco retailing in a manner that is prohibited
pursuant to this article, that is unlawful pursuant to any other chapter of this Code, or that
is unlawful pursuant to any other law.

1 (5) Any other reason the granting of a license to the applicant that is not
2 consistent with the requirements of this article, including the applicant's history of
3 noncompliance with this article and other laws relating to the sale of tobacco products.

4 **Section 9-123. LICENSE RENEWAL AND EXPIRATION.**

5 (a) RENEWAL OF LICENSE. A tobacco retailer's license is invalid if the appropriate fee has not
6 been timely paid in full or if the term of the license has expired. The term of a tobacco retailer
7 license is 1 year. Each tobacco retailer shall apply for the renewal of their tobacco retailer's
8 license and submit the license fee no later than 30 days prior to expiration of the current license.
A retailer that fails to timely submit a renewal application and fee is ineligible for license renewal
and must submit a new application pursuant to Section 9-121.

9 **Section 9-124. LICENSES NOT TRANSFERABLE, PAST VIOLATIONS AT RETAIL**
10 **LOCATION.**

- 11 (a) LICENSES NOT TRANSFERABLE. A tobacco retailer's license may not be transferred
12 from one person to another or from one location to another. A new tobacco retailer's license
is required whenever a tobacco retailing location has a change in proprietors.
- 13 (b) PAST VIOLATIONS. Notwithstanding any other provision of this article, prior
14 violations at a location shall continue to be counted against a location and license ineligibility
15 periods shall continue to apply to a location unless:
- 16 (1) the location has been transferred to new proprietor(s) in an arm's length transaction;
and
 - 17 (2) the Department determines that there is adequate documentary evidence submitted by
18 the new proprietor(s) establishing that the new proprietor(s) have acquired the location in
19 an arm's length transaction.

20 **Section 9-125. LICENSE CONVEYS A LIMITED, CONDITIONAL PRIVILEGE.**

21 Nothing in this article shall be construed to grant any person obtaining and maintaining a tobacco
22 retailer's license any status or right other than the limited conditional privilege to act as a tobacco
23 retailer at the location in the Lake County identified on the face of the permit. Nothing in this article
24 shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of
25 applicable law.
26
27
28

1
2 **Section 9-126. FEE FOR LICENSE.**

3 The fee to issue or to renew a tobacco retailer's license shall be established by resolution of the
4 Board of Supervisors and shall be reviewed annually with the master fee schedule. The fee shall be
5 calculated so as to recover the total cost of administration and enforcement of this article, including,
6 but not limited to, issuing a license, administering the license program, retailer education, retailer
7 inspection and compliance checks, documentation of violations, and prosecution of violators, ensure
8 the licensee has a hazardous waste management plan for disposal of tobacco product waste but shall
9 not exceed the cost of the administration and enforcement of this article. All fees and interest upon
10 proceeds of fees shall be used exclusively to fund the administration and enforcement of this article.
11 Fees are nonrefundable except as may be required by law.

12
13 **Section 9-127. COMPLIANCE MONITORING.**

- 14 (a) Compliance with this article shall be monitored by the Department or any law
15 enforcement agency. In addition, the Department may designate additional persons to
16 monitor compliance with this article. All licensed premises must be open to inspection by
17 Department staff or designated persons during regular business hours. At the conclusion of
18 any premise inspection, the license holder shall be provided a report, which, among other things,
19 shall note any documented violations and provide the license holder no greater than fourteen (14)
20 days to cure such violations. Any corrections shall be verified via documentation submitted by
21 the license holder and/or in a subsequent inspection after the period to cure has lapsed.
- 22 (b) Prior to the Department's approval or denial of an application for a license, the Department
23 shall inspect each proposed location for which a complete application for a tobacco retail license
24 is submitted and a nonrefundable application fee has been paid.
- 25 (c) The Department shall inspect each tobacco retailer at least one time per 12-month period
26 to ensure compliance with this article.
- 27 (d) The Department may conduct compliance checks based on allegations of violations received
28 from the public, as resources allow. In collaboration with law enforcement, compliance checks
may involve the participation of persons between the ages of 18 and 20 to enter licensed premises
to attempt to purchase tobacco products.
- (e) Nothing in this section shall create a right of action in any licensee or other person against
the County or its agents.

1 **Section 9-128. SUSPENSION OR REVOCATION OF LICENSE.**

2 (a) FINES, SUSPENSION OR REVOCATION OF LICENSE FOR VIOLATION. In addition to
3 any other penalty authorized by law, the following penalties shall be imposed on a tobacco
4 retailer or licensee if the Department finds, after the licensee is afforded notice and an
5 opportunity to be heard, that the licensee, or any of the licensee's agents or employees, have
6 violated any of the requirements, conditions, or prohibitions of Sections 9-117 through 9-
7 120 of this article.

8 (1) Upon a finding by the Department of a first violation at a location, the license shall be
9 suspended for 30 days and the tobacco retailer shall pay a \$1000 fine.

10 (2) Upon a finding by the Department of a second violation at a location within any
11 60-month period, the license shall be suspended for 90 days and the tobacco retailer shall
12 pay a \$2500 fine.

13 (3) Upon a finding by the Department of a third violation at a location within any
14 60-month period, the license shall be suspended for 120 days and the tobacco retailer
15 shall pay a \$5000 fine.

16 (4) Upon a finding by the Department of four or more violations at a location within any
17 60-month period, the license shall be revoked, and no new license shall issue for the
18 licensee until 5 years have passed from the date of revocation.

19 (b) APPEAL OF SUSPENSION OR REVOCATION. A decision of the Department to impose
20 penalties under Section 9-128(a) is appealable to a third-party Hearing Officer designated by the
21 Department and any appeal must be filed in writing with the Department within 10 days of
22 mailing of the Department's decision. The appeal shall comply with the provisions of subsections
23 (b)(1) - (b)(4) below. If such an appeal is timely made, it shall stay enforcement of the appealed
24 action. An appeal to a Hearing Officer is not available for a revocation made pursuant to
25 subsection (c) below.

26 (1) Upon determining the existence of any of the grounds pursuant to this article for the
27 suspension or revocation of a license, or the imposition of a penalty for tobacco retailing
28 without a license, the Hearing Officer shall issue a notice of intended decision to the
licensee, or the person against whom the penalty for tobacco retailing without a license is
directed. The notice shall be provided by personal service or by first class mail, postage
prepaid, and shall include a copy of the affidavit or certificate of mailing.

(2) The notice of intended decision shall state all the grounds upon which the revocation,
suspension, or imposition of penalty is based.

(3) The notice of intended decision shall specify the effective date of the action.

(4) The notice of intended decision shall state that the Department shall give; the licensee,
or the person subject to the penalty for tobacco retailing without a license an opportunity
to request a hearing thereon. The hearing shall be an informal hearing before the
Hearing Officer. Within 30 days of the hearing, or within 10 days if no hearing is
requested, the Hearing Officer shall issue a decision and serve the decision.

1 (c) REVOCATION OF LICENSE WRONGLY ISSUED. A tobacco retailer's license shall be
2 revoked if the Department finds, after the licensee is afforded notice and an opportunity to be
3 heard, that one or more of the bases for denial of a license under Section 9-122 existed at the
4 time application was made or at any time before the license issued. The decision by the
5 Department shall be the final decision of the Department.

6 **Section 9-129. TOBACCO RETAILING WITHOUT A VALID LICENSE.**

7 (a) INELIGIBLE FOR LICENSE. In addition to any other penalty authorized by law, if the
8 Department finds, or if a court of competent jurisdiction determines, after notice and an
9 opportunity to be heard, that any person has engaged in tobacco retailing at a location without a
10 valid tobacco retailer's license, either directly or through the person's agents or employees, the
11 person shall be ineligible to apply for, or to be issued, a tobacco retailer's license as follows:

12 (1) After a first violation of this section at a location, no new license may issue for the
13 person or the location (unless ownership of the business at the location has been
14 transferred in an arm's length transaction), until 30 days have passed from the date of the
15 violation; and the tobacco retailer will be issued a \$5000 fine for selling without a license.
16 Notification of this violation will be sent to the jurisdiction in which the tobacco retailer
17 was selling without a license.

18 **Section 9-130. SALE OF TOBACCO PRODUCTS TO MINORS**

19 (a) Any licensee or tobacco retailer who sells, gives, or in any way furnishes to another
20 person who is under 21 years of age any tobacco products resulting in an arrest or citation
21 under the California Penal Code shall result in the suspension of the tobacco retail
22 owner's license pending final disposition of the case. During the period of suspension, the
23 licensee or tobacco retail owner shall be given reasonable notice and an opportunity to
24 demonstrate to the Department that the tobacco products were not sold, given, or in any
25 way furnished to another person who is under 21 years of age.

26 (1) Upon a finding by the Department of a first violation at a location, the license
27 shall be suspended for 30 days unless final disposition of the case does not result
28 in a conviction.

(2) Upon a finding by the Department of a second violation at a location within
any 60-month period, the license shall be suspended for 90 days unless final
disposition of the case does not result in a conviction.

(3) Upon a finding by the Department of a third violation at a location within any
60-month period, the license shall be suspended for 120 days unless final
disposition of the case does not result in a conviction.

1 (4) Upon a finding by the Department of four or more violations at a location
2 within any 60-month period, the license shall be revoked, and no new license shall
3 issue for the licensee until 5 years have passed from the date of revocation unless
4 final disposition of the case does not result in a conviction.

5 **Section 9-131. ADDITIONAL REMEDIES.**

- 6 (a) The remedies provided by this article are cumulative and in addition to any other
7 remedies available at law or in equity.
- 8 (b) Whenever evidence of a violation of this article is obtained in any part through the
9 participation of a person under the age of 21 years, such person shall not be required to
10 appear or give testimony in any civil or administrative process brought to enforce this article
11 and the alleged violation shall be adjudicated based upon the evidence presented.
- 12 (c) In addition to other remedies provided by this article or by other law, any violation of
13 this article may be remedied by criminal prosecution by the District Attorney and/or,
14 administrative or judicial nuisance abatement proceedings, civil code enforcement
15 proceedings, and suits for injunctive relief.
- 16 (d) For the purposes of the civil remedies provided in this article:
- 17 (1) Each day on which a tobacco product is distributed, sold, or offered for sale in
18 violation of this article shall constitute a separate violation of this article; and
- 19 (2) Each individual tobacco product that is distributed, sold, or offered for sale in
20 violation of this article shall constitute a separate violation of this article.
- 21 (e) All tobacco retailers are responsible for the actions of their employees relating to the sale,
22 offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco
23 product by an employee shall be considered an act of the tobacco retailer.

24 **Section 9-132. EXCEPTIONS.**

- 25 (a) Nothing in this article prevents the provision of tobacco products to any person as part of
26 an indigenous practice or a lawfully recognized religious or spiritual ceremony or practice.
- 27 (b) Nothing in this article shall be construed to penalize the purchase, use, or possession of a
28 tobacco product by any person not engaged in tobacco retailing.

1 **Section 9-133. CONSTRUCTION & SEVERABILITY.** It is the intent of the Board of Supervisors
2 to supplement applicable state and federal law and not to duplicate or contradict such law and this
3 ordinance shall be construed consistently with that intention. If any section, subsection, subdivision,
4 paragraph, sentence, clause, or phrase of this article, or its application to any person or circumstance,
5 is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not
6 affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs,
7 sentences, clauses, or phrases of this article, or its application to any other person or circumstance.
8 The Board of Supervisors hereby declares that it would have adopted each section, subsection,
9 subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or
10 more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be
11 declared invalid or unenforceable.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SECTION III. EFFECTIVE DATE.

This Ordinance shall take effect and be in force from and after January 1, 2025.

SECTION IV.

The Board of Supervisors finds this ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act (“CEQA”) Guidelines, because there is no potential for it to result in an impact to or physical change in the environment, either directly or indirectly. In the event this ordinance is found to be subject to CEQA, it is exempt from CEQA pursuant to section 15061(b)(3) of the CEQA Guidelines, known as the “Common Sense” exemption, because it can be seen with certainty that there is no possibility of a significant effect on the environment.

1 The foregoing Ordinance was introduced before the Board of Supervisors on the ____ day of _____,
2 2024 and passed by the following vote on the ____ day of _____, 2024.

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

AYES:

NOES:

ABSENT OR NOT VOTING:

COUNTY OF LAKE

Chair, Board of Supervisors

**ATTEST: SUSAN PARKER
Clerk of the Board of
Supervisors**

By: _____

APPROVED AS TO FORM:

**Lloyd GUINTIVANO
County Counsel**