From: David Garcia
To: Public Comment
Subject: Urgent Call for Action: Unregulated Classic Car Cruising is Harming Family Health, Safety, and Quality of Life
Date: Sunday, October 12, 2025 6:48:15 PM

Dear Honorable Mayor and City Council Members,

I am writing to demand immediate action regarding the detrimental impact of the ongoing, unregulated classic car cruising activity in National City. While the cultural significance of this tradition is recognized, the activity's current scale and nature constitute a public health and safety crisis that directly compromises the well-being of families and children.

The City's commitment to its residents must prioritize fundamental rights—clean air, peaceful rest, and safe streets—over an unregulated recreational event.

1. Direct Threat to Child Health and Cognitive Development

The primary participants in these events are vehicles that pre-date modern emissions standards, often with modified and illegally loud exhaust systems. This activity subjects our children to concentrated, toxic exposure that goes far beyond normal traffic:

* Toxic Air Pollution: Older engines emit high concentrations of unregulated pollutants, including fine particulate matter (\text{PM}_{2.5}) and unburned hydrocarbons. Children, who breathe faster and are closer to ground-level exhaust, are uniquely vulnerable. Chronic exposure is linked to asthma onset, impaired lung development, and long-term cardiovascular risks.

* Noise Pollution as a Stressor: The excessive noise from loud engines and revving is not just annoying—it is a chronic health stressor. Studies show that persistent traffic noise disrupts sleep, elevates stress hormones (cortisol), and is associated with cognitive impairment and learning delays in children.

2. Destruction of Family Life and Neighborhood Safety

The cruising activity fundamentally destroys the ability of families to use their homes and neighborhood safely during the evenings:

* Sleep Deprivation: The late-night, intense noise frequency repeatedly wakes infants and toddlers, disrupting the critical deep sleep necessary for their physical and mental development.

* Wasted Family Time: The resulting traffic congestion, road closures, and hostile noise levels make it stressful and often impossible to conduct normal family activities, robbing us of valuable, irreplaceable time together.

* Safety Hazard: Our streets turn into an unregulated zone of fast, unpredictable vehicle traffic, making it unsafe for children to walk, bike, or play near their homes.

Request for Immediate and Decisive Action

I urge the Council to act immediately to regulate this activity based on public health priorities:

* Strictly Enforce Noise and Equipment Laws: Utilize police and code enforcement to aggressively ticket vehicles with illegally modified or excessively loud exhaust systems, specifically targeting those exceeding the legal decibel limits.

* Restrict Activity Hours: Immediately limit cruising to hours that do not interfere with family life, such as restricting it to late afternoon or ending the activity entirely on weeknights and at an earlier time on weekends.

* Deploy Public Health Monitoring: Commission independent air and noise quality monitoring along the cruise route during event hours to quantify the public health hazard and inform a permanent regulatory solution.

The City has a responsibility to provide a safe, healthy environment for its most vulnerable residents. The current status of car cruising is unacceptable. I look forward to the Council's prompt action on this critical matter.

Sincerely,

David Garcia Ozua, PhD

[redacted]

From: David Garcia
To: Public Comment
Subject: 2302 I Ave
Date: Saturday, October 11, 2025 9:41:58 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hi,

[redacted] at 2302 I Ave, National City CA 91950, is still leaving animal food in public areas. Please, resolve the issue.

David Garcia Ozua, PhD
[redacted]

NOTICE OF VIOLATION OF CALIFORNIA GOVERNMENT CODE SECTION § 54954.2(a)(3)

You, Vice Mayor Marcus Bush and Mayor Ron Morrison, are hereby placed on notice that you have and are likely to continue violating California Government Code § 54954.2(a)(3), which limits your response to citizens making public comment at National City City Council Meetings to (1) **briefly respond** to statements made or questions posed by persons exercising their public testimony rights under Government Code § 54954.3; (2) to ask a question for **clarification**; or (3) make a brief announcement.

On the following dates, you violated Government Code Section 54954.2(a)(3) by making the following comments in response to citizens exercising their public testimony rights under Government Code § 54954.3. These transcripts are copied from National City City Council's published, public website:

1. **Violation No. 1** Meeting Feb 18, 2025 - City Council (Video Timestamp 2:58:32-3:01:39)

   Mayor Ron Morrison: Now, one other thing that I'm gonna bring up, and it's simply, and this is on a personal level, and that's because when you sit here, uh, a lot of times you have to take a lot of stuff. And people realize that for an elected official you can say just about anything you want to about 'em, and they have to take it. And, you know, and it's, you know, it can get crazy. And we've got a couple of individuals that are on an imagined personal vendetta that are doing their best to just try to cause as much havoc as possible. And we've heard comments, there was comments earlier this evening, uh, and the, uh, during the, uh, closed session, uh, uh,

or, or yeah, our closed session, uh, meeting before this, there was co meeting, there was comments made in the last couple of, uh, uh, uh, meetings here and by them and by some of their supporters. Um, and they are just making all kind of crazy claims about both myself and my staff. And the deal is they are demanding that we prove that we prove that we didn't do something instead of them proving we did something. You know, that's the exact opposite of the American judicial system where the idea you're innocent until you're proven guilty, but instead their deal is you're guilty until you prove you're innocent. And we can just make whatever claims we want to out. No, no matter how outlandish they are. And you know, and so, and so, a lot of times i have to sit here and kind of take it when they say these things, but at the same time, if you don't say something back, people think, well, maybe there's something to it. And all i can tell you is it's a bunch of lies and what, you know, but they're continuing to play this game and continuing to snowball this thing and saying things that are very reckless and that are, you know, to the point of, um, you know, whether, as much as they wanna do legal stuff, they maybe have to have to go legal the other direction. And because you, you gotta be responsible for your, your words and what you put out to people. And you can say things to a certain point and you can have viewpoints and they're certainly, everyone's entitled to their viewpoints. But when you make allegations of illegalities without a shred of evidence and just making it up outta thin ear, that's something different. So therefore, I did wanna put that on the record that, uh, that, you know, it's, um, sure they can say it does not make it true. And I guarantee you none of the stuff they're saying is true. And I'll just leave it at that with that. And as say I've been in this office for too long, 33rd year, and my integrity and my honesty, uh, and that of my office is way too important to me. And I've worked too hard to get it to the point to allow people just to make up stuff and uh, and go around and gloat about it. So, with that, that is the end of our deal.

2. **<u>Violation No. 2</u>** March 04, 2025 - City Council (Video Timestamp 34:42-36:38)

Mayor Ron Morrison: Alright. Uh, let me just say, normally we don't make comments on during public comment, but since this has now become the opportunity for people to come up and just say anything they want to and that nobody can protect themself, is, I've gotta say something. Um, they keep talking about all the things that we haven't turned in. We have scoured everything trying to find anything. They keep wanting us to provide records that we can't find that exist. And a lot of this stuff is, is on, uh, the city computers. We can't delete it if we wanted to. Uh, that has all been scoured everything else. So, the, uh, this and cell phone stuff has all been turned in. Everything that I'm aware of has been turned in. It's just you guys keep asking for something else and yeah. Do we help developers? Absolutely. We help'em to get through a process. We don't make a decision until it comes before us one way or another. I remember one pros, uh, one developer that was wanting to do something that we went with them and helped them on a county project. Matter of fact, it was la vista for their crematory. But I guess that was, that would've been something that was evil. Um, so, you know, and the charges that keep getting made and inferences that I'm taking money without any evidence whatsoever, uh, whether it's buckets or suitcases, and that my assistant is getting financial favors without an ounce of, of real evidence, they keep claiming there's this evidence, we're not giving it to 'em. So, you know, it's, it's easy to say all that stuff, uh, but it's different when you actually try to prove it. And as i say, we help developers whether if we are gonna agree with the project or not, all the time to get through the process. Last thing you want to do is tie up a bunch of staff time that's not going anywhere. That's our job, and we're gonna continue to do it. So anyway, that's all I'll say at this time.

3. **Violation No. 3** April 1, 2025 – City Council (Video Timestamp 3:28:13-3:28:16)

Mayor Ron Morrison: She has been ganged up by you on, you get by you guys one deal after another. So don't the chair through the chair.

4. **Violation No. 4** April 15, 2025 – City Council

(Video Timestamp 2:50:40-2:54:06)

Mayor Ron Morrison: I'm gonna make, uh, a couple comments. And part of it is over some of the accusations that were made at the early part of the meeting. And since I was challenged during, during that time to make a comment at the end of the meeting when they knew almost no one to be here. Uh, it is a gr great, you know, it's, it's great grandstanding. Um, there was the comment, uh, by our cemetery neighbors from lincoln acres that the, uh, um, that somehow I received brico discounts of gasoline and, uh, uh, alcohol. I never had heard of brico discounts or asking people like that for discount. Well, no, I won't say that. I've never heard of it because I did, because, uh, there's, uh, they kept wanting to show up different stuff about text messages. There's a text messages they're not showing. And that is a text message between mika and the developer, the brico where she is demanding that they put in a formal listing, a formal letter that they, that lua, uh, luisa and mika would get a discount of gasoline and discount for alcohol and to have it notarized. And that's actually in a text, but they don't show that because that wasn't between them and a government official. It was between them and the developer. They were the ones asking for it. Then she actually had the audacity to come up here and ask, like, as if I was doing that. I mean, that's, that's the epitome of hypocrisy. Uh, and so, you know, I can't let that go by and just let have it be said. And the sad part is the people that are hearing it now is basically our staff and not her followers that run around with her. Uh, the same thing with the, uh, uh, holding up those different nice big, big signs of text messages and then drawing conclusions off of them that had nothing to do with the text message and saying, here's proof. Uh, and even the one that was from martin reeder and claimed on there, how they were putting it on hold. So there it's not

to hold, he didn't, the part he didn't mention, if you looked up at the top of there, and I was close enough, I could see it. The subject matter of the text for martin reeder was application withdrawal. He forgot to mention that part. I mean, this is just one bit of misinformation after another. And this is continuing at every meeting. And like tonight we had our four o'clock meeting, uh, for a closed session. We didn't get into closed session till 4 45 because they had a whole presentation of a whole bunch of people coming up here. Even though we only let 'em one minute to speak, it still took us 45 minutes to get into the closed session. And that was one of the rea that's a big reason that we were 45 minutes late getting out of the closed session and had to hold everybody up and just with a whole series of nothing but lies one after another. And I'm just calling it what it is, because otherwise someone's actually gonna believe some of this garbage they're putting out, hate to have to do it this way, but when they continually are misusing our meetings and our, our, uh, platform up here to just play this, this, this circus, we have to, we have to hold on and we have to say something at some point.

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(Video Timestamp 2:54:06-2:55:06)

Councilmember Marcus Bush: Real quick. I will say I agree. At what point, and so since you're going to bring this up, I'll bring it up too. When Mika ca uh, came up here, even said, don't say anything. So, but I'm gonna say this part that when, when Mika said that she referenced that, um, that I was dismissive and I told her that, um, that I, I didn't want her to stop saying that. So what she was referring to, just for the record, and I'm really, I I, I told her I'm, I'm really honestly p****d off about this because when they keep saying, when people keep saying including mike gear, that it was placed on consent, they keep saying that and it's driving me nuts because it, that that wasn't an issue. We had a detailed report from staff, it wasn't an issue. And so just full transparency, I've asked

them on that point to stop saying that because it's factually inaccurate and it's misleading on that point. Other points I'm not gonna touch, but just because she, um, said that, I just want to announce for that, that was the conversation. And so, but I really would like us to just move past this. 'Cause I really think we beat this dead horse.

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(Video Timestamp 2:55:07-2:55:12)

Mayor Ron Morrison: Wish, wish they would, you know, that project was dead over four months ago.

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(Video Timestamp 2:55:26-2:56:00)

Mayor Ron Morrison: And it has to go on the record also that these things are lies and, and the whole stuff about the burial and everything, it is not the way that what actually happened and what is in the record is not the way they're telling it. And uh, so, but they say stuff and make out a thought, an accusation, and then they go, now that we know that happened, no, we don't know what happened. You just said it. But there's no nothing to back it up. In fact, the actual evidence is the other way around. And so they want to go not in a court, but they want to go with a court of public opinion by just throwing this stuff out. And so I have to disclaim it for that reason.

5. **Violation No. 5** April 22, 2025 - Special City Council (Video Timestamp 47:47-48:27)

Mayor Ron Morrison: You know, uh, we hear everyone come up during public comment. And public comment is a time when people can come up and kind of say what they want. In this case it's

to a specific, specific subject, but they can kind of say what they want and they can say assumptions and they can say allegations as if they're factual. That doesn't make them factual. And so that's still, that fact finding has to be done. And this is, I think, an individual who has had the, the kind of integrity that will do that without bias for one side or another, but will be taking a look at what, what are the actual facts and on any and all subjects and, and has demonstrated that year after year.

6. **Violation No. 6** May 06, 2025 - City Council (Video Timestamp 4:26:41-4:27:12)

   Mayor Ron Morrison: Uh, one thing is, uh, I never told, I would never tell anyone that they've got a cup, let it expire. That's the stupidest thing in the world. If you got a cup hang onto it as long as you can, you know, and, uh, uh, that's, you know, that's totally, that's, that's idiocy. And uh, but as you notice, they brought all, they brought their employees here to all say that. Yeah, we know what happened. You said that. No, I would never say that to anybody. That's the stupidest thing. And that, that would probably put me liable and, uh, on that one.

7. **Violation No. 7** June 4, 2025 – Special City Council (Video Timestamp 7:43-8:07)

   Councilmember Marcus Bush: Uh, I also have, I have, I mean, can I ask a question too, because I actually want to see if they've made offers on the property. Like I, I wanna expose everything. I want to expose the connections with Jose and the discussions there that you've been having. If we wanna have a discussion, folks and we wanna start crashing these meetings and doing all this, I'm here. Let's, let's have it, let's, let's do it because honestly, I have nothing to hide.

8. **Violation No. 8** June 17, 2025 – City Council

(Video Timestamp 4:15:46-4:24:21)
Mayor Ron Morrison: Um, it was mentioned that I was a big, that I was a proponent for annexation. Never have I, I have, I, matter of fact, I fought with the people with, and what I'm saying with them, silicon acres, when annexation came up before and went for a vote. 'Cause I said, no, shouldn't be. And they was trying to be forced down their throat. I've never been for annexation. If individuals want to annex, that's their right. It's their property. And you go through a process and, uh, you know, and, uh, someone made mention a while ago of the, the deal about, uh, toxic materials because it's on their land. Well, no, it's on somebody else's land. And so this, for some reason, the, the, uh, individuals that live there in lincoln acre somehow think this property belongs to them and things do change. They saw the pictures there and it showed where the, the seven 11 used to be, and then where the seven 11 was gonna be. And then the houses there. It also, if you look at the lower portion of that picture, there was a golf course that changed. That's called plaza bonita. Now things change. Uh, I live on a street that's entirely residential and, but at the end of our street, guess what? They made it commercial. And so I've got two houses, and then I've got the back of a seven 11, and then a whole bunch of commercial that goes, goes entirely all down the street. Uh, that's normal. That's called development. It does happen. Things do change. Um, the, uh, and I think just there's a fundamental deal here that keeps getting brought up on this about, you know, what the neighbors want to do what? That land. That's all nice and good. And I think you should have input and you and your input should be, should be valued. But that doesn't mean you get the say with somebody else's land. It's not your land. It's somebody else's land. And you know, and hopefully, you know, the same way, if i got a neighbor who wants to do something, i had people that built a house, two houses actually behind my house. A house and a and a granny flat. It ain't no granny flat like you've ever seen that did a really nice job. But they were very accommodating. You'd hope whatever your neighbors are that are gonna build around you would be accommodating and would take your suggestions, things along

that line. But it's not your land. That's the reality. Uh, the, uh, the the other, one of the other things, i mean, taking a look at this, what standing do you have then for making a request for rezoning? You know, that's done either by the, the, the whatever the government level, if it's a city or the county or whatever. Done then through, uh, general plan updates, general plan, um, um, concepts and also the specific plans. Or it's done by the request of the property owner. You don't own the property. That's the, that is just a simple reality. And for this deal of, of making some of these statements and just saying as if they're factual. I don't know of a, of a single real estate person that will tell you that going from a site of that size, from commercial and going down to residential is no different. That's the most idiotic thing I think I've ever heard in my life. Uh, and so would there be a taking absolutely. There's a taking whether, if there'd ever been a project there or not. I mean, there was one project that was already approved. Now whether if they had a contract or not, doesn't make any difference. They were still able to get the approval on it. And that's been over a number of years. Um, so for us to go in and start telling a, a person what to do with their property and to down zone it because somebody else wants you to down zone it, and as we just heard appear, who those people are making a are making proposals for that property. So in other words, you know, darn good. Well, the property value for a commercial property and you take it to residential is gonna go down. And so people that are asking for us to down zone it are also asking to buy it once it gets down. Zoned at a cheaper price. Yeah. I'm sorry. There is a conflict. Um, so, you know, this, you know, and I don't care if you quote me on this or not. This circus that has went on for the last six months has been just that, uh, that has continued on this. I was not pushing this project. I was pushing to get the project through the process as i have done, uh, all kinds of, yeah. And, and to be honest with you, it is really interesting 'cause I talked to the other mayors all the time, and they ask about what's going on here in the city. And on this one they go, wait a minute, you've got people saying that the mayor shouldn't talk with developers about bringing development into a city and helping 'em through the

process just to get through the process. They go, who are these people? What? They don't seem to know what the, they don't know anything about local government. And I'm in a total agreement. Uh, so, you know, there is, and I know some people up here like to use this for ken and fodder and we're distraction or whatever else. Um, but there's been a lot of accusations and both professionally and personally without an ounce of proof, whether if it was buckets of money or all the other things that have been, uh, have been accused of, uh, you know, or the accusation, uh, that, you know, that came out much later here on the whole idea of, uh, somehow both myself and my assistant were getting, uh, gas at discounts and alcohol at discounts when actually all the documents showing the people that were asking for those discounts in return for favoring the project was actually the two people whose names are on this letter. Uh, so, you know, just getting up to the microphone, and this has been our first opportunity to really had kind of addressed this stuff, but just going up the microphone and constantly making claims is totally ridiculous and it's childish. And this is about as junior high an activity as I have seen. And a lot of it has gotten just, people have went way over, stepped way on beyond boundaries, what they should be stepping and some of the personal things and everything else that's been done. And so, I don't care how well you can organize, you can organize all you want to. You can call up people all over the county. Believe me, I get calls from people telling me they're being called, uh, the, you know, you can do that all you want to. That doesn't make it anything you're doing righteous. And, uh, so from a city standpoint, I don't see how we can touch this request at all because it is somebody else's property. And we are not hearing from that property owner or the person who's even leased to saying, we would like to be a rezoning. We're here, we're talking from people that two things don't own the property that live in other jurisdictions. And, and saying, we want to, that'd be like me going to the county and says, guess what? I want you to rezone the vista. That's the same thing. No different. Now you would think that would be ridiculous. It would be. But that's what is basically being asked here. And, uh, you know, and

so using all the threats and making all these, I mean, very spurs, accusations and, uh, personality attacks and everything else. Um, you know, and then when people say, we are gonna do this and we're gonna do this, and I know tonight we come up here, uh, you know, we're gonna do this. Uh, as far as a recall of aun a national city council member by people that don't even live in national city. You know, how intelligent is that? And I'm sure they can get some people to front for 'em, but the people behind it don't even live in national city

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(Video Timestamp 4:32:48-4:36:48)

Councilmember Marcus Bush: And, uh, and then for, um, our city clerk, um, so we've had a number of pas on this. And so part of my issue, and why I wanted to bring this forward is because this whole discussion over a project that's dead, even though there's been several lies publicly, that yes, you luisa have told, and you mika have told lies about this project not being on hold, telling the community members that it is continuing, the project is dead. The gas station project is dead. Luisa, you know very well, you've come to my house, I've come to your house, and you know, I had concerns about the gas station component of the project, you know, that I guided you on the land use and on what our staff did well, and what maybe we could have done better on the project is dead. So what you're doing, what you and mika are doing is very inappropriate. What you are doing and what you have been doing attacking staff, and you have been attacking staff, blowing up pictures of martin or railing josie through the mud and attacking her every way, which way you can. And I've asked the staff, has josie in any way, josie or the mayor inappropriately pushed you and asked you, they said, no, you guys have no evidence, have not brought any evidence. And I was open just for the record, I was open to your concerns. Did the mayor improperly address staff? That was a concern of mine. But there is no evidence. So i don't

know why you guys are continuing this unless it's an attempt to extort the property owner and try to take the property for yourselves. And that's what it really appears. And the way you're doing it is political. It's, it's abusing the pra process. It's exhausting us through these meetings.,and I don't think it's professional. I don't think it's appropriate for la vista and ms. Aveda and ms. Sandy, I do think you both are sincere and I want you both to know we absolutely, I, you interviewed with me. I, I was heartfelt and all of my fears and concerns about the, about the project that that's there. I do care about your opinion. But what isn't appropriate is after the project is dead, to continue to lie about it, to continue to have personal texts against staff, to weaponize things politically and to continue this charade. We, we want development in our city. We want to have, uh, to work with the lincoln acres residents, work with the national city residents. But it's, but it's also not fair for an outside entity for lincoln acres for folks there to say, don't, uh, as, as, uh, the mayor pointed out, keep away, uh, national city from annexing lincoln acres, stay out of our land use, but then turn around and tell us what to do on a parcel of land that the property owner wanted zoned. So I hope that eventually this, all this back and forth. Yes. This, this does stop that. We can stop wasting time. It's, it's 11 o'clock, so we shouldn't be doing this.but this has gotten to this point because you guys keep bringing this, and, and this is our response, and i think it's been very unprofessional and inappropriate. I think there's been, and there still is opportunities for us to squash all this to move forward. Luisa, I've shared with you that we can get past all this, that la vista before all of this drama started, that you guys have done a lot of community events that I would be open to partnering with you guys on, on, on festivals, on de los mutos, on us being cohesive, but continuing to do these attacks and file lawsuits. That's really not getting anyone, any, anywhere. So we heard as a body, um, we, well, we didn't get to hear the gas station part of the project, but that was already canceled. So there was some support for your guys' concerns. But you guys have taken this way too far. You're exhausting staff, exhausting me. I think you're exhausting your own resources, and I

think it's time for a direction. That's what I would ask you all to do. Change direction on, on where you're going in your approach. Where can we work together on something, not always these attacks and back and forth lawsuits.

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(Video Timestamp 5:14:25-5:15:22)

Councilmember Marcus Bush: I think we all need rest, but, uh, for just my message to staff and really to the public, everyone, uh, listening, thank you guys for your patience and, you know, I encourage, I did encourage that item. I asked staff to bring it up in response to all the chaos, but I want you guys to know why I brought it up and it's because you, you saw here, you saw what it was. it's bullying. So, we have folks trying to bully us and trying to harass us, even employees. and, um, you know, those of us on the diocese that don't do exactly what they want for their profit and you see what they do, they try to threaten politically and, and we see that it's a whole campaign. So, I'm not gonna accept it. I have nothing to hide. I'm always gonna tell the truth to folks. Um, and I'm gonna fight for National City and when people are attacking our business owners, which is what's happening, attacking our staff, no, I absolutely don't accept it. So, uh, it's unfortunate that, that they keep coming back and this project is dead and we have to sit here and, and listen to it.

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(Video Timestamp 5:18:20-5:20:27)

Mayor Ron Morrison: I just wanna make a couple quick comments. Uh, we had the comment with made a while ago, and I heard from two individuals and I heard from others. We are gonna recall you? No, they're not. Uh, because they live in Bonita, you get, don't get to vote in national city. And so you can't say you're gonna recall a

national city council member. You may get other people to do it, but you can't even vote on it. And so that i think is a little ridiculous and we want to get comments from them. That's not a problem. I think what was state stayed, appear and made it sound, except we didn't want comments from people who live in Bonita or, uh, Lincoln Acres. No. We want comments. And not only are they in our sphere of influence, but we're in their sphere of influence. We want to hear comments, but just don't say keep hands off of us, but we want to come over and we want to tell you what to do. It's gotta be a two-way street. That's the only thing we were saying and that was being misrepresented with that. Can we go to our, uh, and I'm gonna say, wait a minute. One other thing, because an accusation was brought up again about Josie Clark because she was supposed to be at a deposition and she didn't show up, but she was, a picture was shown with her at a brunch. Okay. With those two attorneys in the room during my deposition, they brought that up 'cause it'd only been like a day before. And I mentioned to 'em and I told 'em then, so they know the truth and they got up here and deliberately misconstrued it. And that's a lie. And that is, yes. She had to drop off her husband at the hospital to be surgery. She came back to the office and worked. We had that brunch that was scheduled. We went to that. Then he got outta surgery and out of, out of, uh, rehab, or not rehab, but uh, re recovery, called her and then she had to go pick him up, but, oh. Uh, but they wanted her for the entire day. There's no way she could do that with an emergency surgery. They knew that, but they got up here and made an accusation knowing that they were lying through their teeth. That's gotta stop anyway, with that.

9. **Violation No. 9** July 29, 2025 - Special City Council (Video Timestamp 13:54-14:13)

Councilmember Marcus Bush: Are you representing La Vista Memorial Cemetery? Are you representing La Vista? Oh, that's interesting. Okay. Okay. Please disclose who you guys are representing and if you're being paid to represent that, I think that's

really important from a legal standpoint, especially because you're threatening lawsuits and yeah.

10. **Violation No. 10** August 19, 2025 – City Council (Video Time Stamp 35:49-36:04)

Mayor Ron Morrison: And, uh, and let me just say, I know we had a couple people there that, that are still upset on the, uh, sweetwater road project. And they say the truth will come out and indeed it will. But that goes both directions. So we'll leave it at that with that.

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(Video Timestamp 36:05-36:35)

Councilmember Marcus Bush: And I just want to add, all of this has been responded to. That's why we put out the press release. That's why they keep coming back. And what this is about is they're trying to buy, extort us and buy a property that is not theirs and have us lower the value so we can go on and on. Again, they can keep coming back week after week, throwing out insults. We have nothing. I have nothing to hide. We have nothing to hide. We're gonna keep telling the truth. And whatever personal petty insults they bring out, that's fine. At the end of the day, they can come up and speak, but we're gonna respond with our truth and, um, we just are gonna keep moving forward. So thank you.

11. **Violation No. 11** October 7, 2025 - City Council

(Video Timestamp 5:34:35-5:34:38)

Councilmember Marcus Bush: Our air pollution control district, which I currently chair...

**

(Video Timestamp 5:39:56-5:41:03)

Councilmember Marcus Bush: Last thing I'll say, um, uh, two of the comments that I think were hypocritical, and I don't appreciate from Mica and Luisa for a number of different reasons. And they come here with their clown show every single meeting, but it's the height of hypocrisy for them to come up here and try to chastise us, or even the applicants about air pollution when they own La Vista Memorial Park. It has a crematorium. I have here a notice of violation right here, and I can, can give out copies from August 15th, 2024, until the date that this was report, October 10th, 2024, they had a notice of violation for air pollution, for the air crematory exceeding air, air particulate matter. In specifically, it was, uh, uh, particulate matter condition 12, failure to maintain the exhaust stack, total particulate grain loading below 10 grains at 12% co2 volume. So when you read this, it's nearly three times the limit. That's an issue. And so I don't want people coming up here being hypocrites, right? They were polluting themselves. They got cited by our air pollution control district. So I wanna put that, uh, on the record

Demand

This demand is made on behalf of Micaela Polanco and Luisa McCarthy, who exercised their public testimony rights under Government Code § 54954.3, at the above-identified meetings. These citizens demand that at the next duly noticed National City City Council Meeting, an item be placed on the Public Notice Agenda as follows:

1. Adopt Council Policy: Members are required to limit comment after citizens of the public exercise their public testimony rights under California Government Code § 54954.3, as required under California Government Code § 54954.2(a)(3).

/ / /

AGUIRRE & SEVERSON, LLP

Dated: October 21, 2025

/s/Michael J. Aguirre
Michael J. Aguirre, Esq.
Attorneys for citizens
Micaela Polanco and Luisa McCarthy

GENERAL PUBLIC COMMENT

From: donotreply@escribemeetings.com on behalf of eSCRIBE.Admin
To: Shelley Chapel
Subject: Public Comment Received
Date: Tuesday, October 21, 2025 10:39:17 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

User Ted Godshalk has enter the following comment(s):

The last City Council meeting strikes as a new low in the organization's history. Like many of your meetings, it started late. You should move Special Meetings to Mondays. Then, the USDFuels item started after 8:00 and went to 12:30, with over 100 people in attendance who could not sit down in the lobby nor use the committee room. The item should have been moved up in the agenda. Meetings with larger groups expected should be moved to MLK. Are you trying to discourage civic participation?

for PUBLIC COMMENT in Regular City Council Meeting 10/21/2025 6:00:00 PM

Please log into eSCRIBE to review the submitted comment(s).

CALIFORNIA FUELS + CONVENIENCE ALLIANCE

October 20, 2025
National City City Council
1243 National City Boulevard
National City, CA 91950

Subject: CFCA National City Tobacco Ordinance Letter - REVISED Oct. 20 2025

Dear Members of the National City City Council,

On behalf of the California Fuels and Convenience Alliance (CFCA), we write to formally express our concerns regarding the Tobacco Retail License Ordinance being reintroduced for consideration. We understand that the Council is revisiting this ordinance, and we appreciate this opportunity to work together on policy that balances public health goals with support for local businesses.

The ordinance's non-transferable license provisions fundamentally undermine business investment and economic development in National City. Tobacco sales account for a large portion of a business's transferable value, with industry estimates indicating that at least 30% of in-store purchases at gas stations and convenience stores are tobacco-related. By prohibiting license transfers to new owners, these stores will no longer be worth the same investment and lose their value.

Existing retailers benefit from grandfathering protections while new retailers face multiple barriers to entry, creating an anti-competitive market. The ordinance's distance restrictions further compound this problem by arbitrarily banning new gas stations and convenience stores from certain areas in the city, which places them at a competitive disadvantage.

As the Council revisits this ordinance, there's an opportunity to support National City's business owners. We respectfully urge the City Council to consider the following amendment:

1. Allow license transfers under specific conditions to protect business investments and prevent unnecessary barriers when businesses change ownership.
2. Remove distance restrictions to youth facilities, other tobacco retailers, and cannabis retailers.

CFCA is committed to collaborating with National City on workable, effective policy solutions that serve the interests of both the community and the business operators who help sustain it. We welcome the opportunity to work with the Council during this reconsideration to develop an ordinance that achieves the City's public health objectives while preserving economic opportunity for National City businesses.

Sincerely,

Alessandra Magnasco
Sr. Director, Government Affairs
California Fuels & Convenience Alliance

October 21, 2025
National City- City Council
1243 National City Boulevard
National City, CA 91950

Subject: National City TRL Ordinance

Dear Members of the National City Council,

My name is ____Ansam Goro_____. I have owned and operated a store for a few months at _2425 Sweetwater Rd._____. I am writing to you today to formally express our concerns regarding the Tobacco Retail License Ordinance being reintroduced for consideration. We understand that the Council is revisiting this ordinance, and we appreciate this opportunity to work together on policy that balances public health goals with support for local businesses.

The ordinance's non-transferable license provisions fundamentally undermine business investment and economic development in National City. Tobacco sales account for a large portion of a business's transferable value, with industry estimates indicating that at least 30% of in-store purchases at gas stations and convenience stores are tobacco-related. By prohibiting license transfers to new owners, these stores will no longer be worth the same investment and lose their value.

Existing retailers benefit from grandfathering protections while new retailers face multiple barriers to entry, creating an anti-competitive market. The ordinance's distance restrictions further compound this problem by arbitrarily banning new gas stations and convenience stores from certain areas in the city, which places them at a competitive disadvantage.

As the Council revisits this ordinance, there's an opportunity to support National City's business owners. We respectfully urge the City Council to consider the following amendment:

1. Allow license transfers under specific conditions to protect business investments and prevent unnecessary barriers when businesses change ownership.
2. Remove distance restrictions to youth facilities, other tobacco retailers, and cannabis retailers.

As a retailer doing business in National City, I am committed to collaborating with National City on workable, effective policy solutions that serve the interests of both the community and the business operators who help sustain it. I welcome the opportunity to work with the Council during this reconsideration to develop an ordinance that achieves the City's public health objectives while preserving economic opportunity for National City businesses.

Sincerely,

Ansam Goro (store owner)

7- Eleven store #13583

2425 Sweetwater Rd. National City, CA 91950

From: Elizabeth Murphy
To: Public Comment
Subject: 10-21-25 Item 10.2
Date: Tuesday, October 21, 2025 10:51:35 AM

Dear Honorable City Councilmembers,

I urge you to vote **YES** and support the swift passage of a strong Tobacco Retail License (TRL) ordinance for National City. This ordinance is a critical, evidence-based measure that prioritizes public health, youth protection, and local accountability. Please do not be distracted by the opposition's attempts to delay approval. The focus must remain on the health and safety of our community.

A strong TRL is essential for three core reasons:

1. Protecting Youth and Public Health

The TRL is our most effective tool against the youth e-cigarette epidemic. By instituting proximity limits near schools and youth-serving areas, we restrict constant exposure and temptation, which is vital given the industry's targeting of kids.

2. Ensuring Fair Business Accountability & Strong Enforcement

Local oversight is essential for accountability. A TRL ensures consistent enforcement and creates a fair, level playing field for compliant retailers. While the opposition claims to be "law-abiding" and demands that the city only regulate "bad players," reality shows that self-policing is insufficient. For instance, one of the most vocal National City retailers opposing this TRL is currently being sued by the San Diego City Attorney for repeatedly selling illegal flavored tobacco. This TRL provides the city with the necessary power to monitor and penalize such repeat violators, supporting both public health and responsible businesses.

3. Maintaining Community Balance

Implementing license caps prevents the clustering of tobacco retailers, especially in low-income neighborhoods that are often targeted by the tobacco industry. We believe in building healthier communities with more parks and education, not a tobacco retailer on every other corner. Claims that the TRL will harm revenue or devalue businesses are misleading, as research consistently shows TRLs do not harm overall business revenue; they simply ensure tobacco is sold responsibly.
The National City TRL ordinance is a necessary step to safeguard the health of our students and the integrity of our neighborhoods.

I strongly urge you to stand with our youth and public health advocates by voting to pass this critical measure.

Thank you for your leadership and consideration.

Respectfully,

Liz Murphy, M.Ed.
She/Her
Tobacco Use Prevention Education Coordinator
Teacher on Special Assignment
Student Support Services
Sweetwater Union High School District
619-585-6041

"Education is the key to unlock the golden door of freedom." – George Washington Carver

From: Gabriela Romero
To: Public Comment
Subject: Item 10.2 Public Comment
Date: Tuesday, October 21, 2025 10:10:42 AM
Attachments: SAY_Pride_Logo.png

Dear National City Council Members,

I urge you to adopt a comprehensive Tobacco Retail License for National City. A strong TRL will help reduce youth access to tobacco and vaping products, ensure retailers follow the law, and prevent the illegal sale of flavored tobacco. Other cities, such as San Jose and Fresno, have seen real improvements in compliance and public health after adopting similar policies/ordinances.

This is an important step to protect our youth and create a healthier community for everyone.

Thank you for your leadership.

Gabriela Romero

Gabriela Romero | *she, they*
Prevention Specialist, North City Prevention Coalition (NCPC)
SAY San Diego | Alcohol, Tobacco, and Other Drug Prevention
4775 Viewridge Avenue | San Diego, CA 92123
Cell: 858-264-8104
www.saysandiego.org

From: Jean Duffy
To: Public Comment
Subject: Agenda Item 10.2 for meeting on 10/21/25
Date: Monday, October 20, 2025 3:54:00 PM
Attachments: Outlook-dxrzta0i.png
Outlook-thsetfhq.png
Outlook-icllckoy.png
Outlook-1oh13uzl.png
Outlook-Text Box.png
Outlook-Live Well.png

RE: Public Hearing Item 10.2 for City Council Meeting on 10/21/25

Mayor, Vice Mayor, City Council and staff.

Thank you for your leadership in protecting the health of young people in National City.

My name is Jean Duffy, and I work for CASA (Community Action, Service & Advocacy) for Safe and Healthy Neighborhoods. For many years, CASA staff have worked with cities to adopt and implement comprehensive Tobacco Retailer Licensing (TRL) policies, including the first TRL adopted in San Diego County in El Cajon and the most recent policy for the City of La Mesa. A strong TRL includes restrictions on the sale of flavored tobacco including vape products, limits the number of stores that sell tobacco in the city, establishes minimum prices for tobacco products, and does not allow tobacco retailers within at least 1000 feet of youth sensitive areas like schools and churches.

Additionally, it is imperative that Arm's Length Sale, where parties have no personal, family or business relationship, is required in your ordinance, so that store owners who have been found in violation of the ordinance cannot simply transfer ownership to a family member to avoid penalty--especially license revocation for multiple violations.

Also, to reduce youth accessibility to deadly addictive tobacco products, continuous and rigorous monitoring of stores is necessary. Minor Decoy Operations must be conducted ANNUALLY at 100% of stores to ensure clerks are not illegally selling to underage youth. Teens learn quickly which stores will sell to them. We also recommend that all clerks be at least 21 years old to sell age restricted products.

Thank you for considering our recommendations and for your dedication to changing policies that lead to a healthy safe community.

Jean Duffy

Jean Duffy
Public Health Advocate
Community Action Service & Advocacy/CASA
7839 University Ave, Suite 107
La Mesa, CA 91942
619.442.2727 X 6#
www.CASAneighborhoods.org

From: leslie johnson
To: Public Comment
Subject: tobacco licenses
Date: Monday, October 20, 2025 11:48:35 AM

The law making the license not transferable is another hindrance to business. when the state outlawed flavored tobacco the stores were stuck with thousands of dollars worth of product they could not sell and paid taxes on..this is just another bad decision for mom and pop stores..the big stores can deal with it the little ones can't ..it is unfair to stick the little guys with laws that do not benefit anyone?..the law makes no money for anyone

From: Manveer Sahota
To: Public Comment
Cc: Manuel Andrade
Subject: Item 10.2
Date: Tuesday, October 21, 2025 12:11:00 PM

Good evening, Council Members.

My name is Manveer Sahota, and I am a National City resident, father of two adolescent children, and a public health advocate. I'm here tonight to express my strong support for adopting a strong Tobacco Retail License (TRL) ordinance—one that protects youth, supports responsible businesses, and safeguards our community's health.

Local oversight is essential for accountability. Without a TRL, the City has limited tools to monitor or penalize retailers who violate state and federal tobacco laws. A local license ensures consistent enforcement and protects responsible retailers who follow the rules—creating a fair, level playing field for everyone.

This ordinance protects youth—not profits. The TRL reduces access to harmful and illegal flavored tobacco products that drive the youth nicotine epidemic, including flavored vapes being used in our schools. Local school districts have passed resolutions supporting this program because they see the impact firsthand—students vaping in classrooms and bathrooms.

Proximity limits and license caps are evidence-based protections that keep tobacco retailers away from schools and youth spaces while preventing the overconcentration of shops in low-income neighborhoods already targeted by the industry. We need more parks and safe community spaces, not tobacco stores on every corner near where our kids learn and play.

The industry has tried to argue that this ordinance will hurt businesses, but research consistently shows otherwise. TRLs do not harm overall business revenue—they simply ensure that tobacco is sold responsibly. Healthy communities are good for business in the long run.

Licenses are privileges, not commodities. They are non-transferable and should not be treated as business assets. Retailers who follow the law have nothing to fear—this ordinance only penalizes those who repeatedly violate the rules and put our youth at risk.

As a father and community member, I urge the Council to stand firm against industry pressure and adopt the strong version of the TRL ordinance—without weakening amendments or delays. National City's families and youth deserve your leadership and protection.

Thank you for your time and commitment to public health.

Respectfully,

Manveer Sahota

National City Resident and Public Health Advocate

Public Statement in Support of a Strong Tobacco Retail License Ordinance

October 21,2025
National City-City Council
1243 National City Boulevard
National City, CA 91950

Subject: National City TRL Ordinance

Dear Members of the National City Council,

My name is Mirna Sallo .I have owned and operated a store for 20785 for few months at 2400 highland ave, national city, CA, 91950 I am writing to you today to formally express our concerns regarding the Tobacco Retail License Ordinance being reintroduced for consideration. We understand that the Council is revisiting this ordinance, and we appreciate this opportunity to work together on policy that balances public health goals with support for local businesses.

The ordinance's non-transferable license provisions fundamentally undermine business investment and economic development in National City. Tobacco sales account for a large portion of a business's transferable value, with industry estimates indicating that at least 30% of in-store purchases at gas stations and convenience stores are tobacco-related. By prohibiting license transfers to new owners, these stores will no longer be worth the same investment and lose their value.

Existing retailers benefit from grandfathering protections while new retailers face multiple barriers to entry,creating an anti-competitive market. The ordinance's distance restrictions further compound this problem by arbitrarily banning new gas stations and convenience stores from certain areas in the city,which places them at a competitive disadvantage.

As the Council revisits this ordinance, there's an opportunity to support National City's business owners.We respectfully urge the City Council to consider the following amendment:

1. Allow license transfers under specific conditions to protect business investments and prevent unnecessary barriers when businesses change ownership.

2. Remove distance restrictions to youth facilities, other tobacco retailers,and cannabis retailers.

As a retailer doing business in National City, I am committed to collaborating with National City on workable, effective policy solutions that serve the interests of both the community and the business operators who help sustain it. I welcome the opportunity to work with the Council during this reconsideration to develop an ordinance that achieves the City's public health objectives while preserving economic opportunity for National City businesses.

Sincerely,

Mirna Sallo
7-11 on 2400 highland ave, national city, CA, 91950

From: scott knutson
To: Public Comment
Subject: Item 10.2
Date: Tuesday, October 21, 2025 11:38:49 AM

Dear Honorable Mayor and Councilmembers of National City,

My name is Gena Knutson, and I am a public health professional with two decades of experience in tobacco prevention. I want to express my appreciation to the City of National City for adopting the tobacco retail license ordinance in September, and I strongly urge you to reaffirm your support by approving it again without any changes.

I am particularly concerned about the impact of tobacco retailer proximity on youth exposure to these harmful and highly addictive products. Research published by the National Institutes of Health and the National Library of Medicine shows that greater density and proximity of tobacco retailers, especially near schools and youth-oriented areas, are linked to higher youth smoking rates, increased cigarette consumption, and lower success rates in quitting.

Moreover, studies indicate that communities with higher tobacco retailer density are often low-income neighborhoods or areas with a higher percentage of African American and Hispanic residents, highlighting a concerning equity issue.

Limiting the number of tobacco retail outlets, particularly near homes and schools, is an evidence-based strategy for reducing smoking rates, especially among young people. These associations remain strong even after accounting for neighborhood factors such as land use, racial demographics, and income levels.

I respectfully urge you to take this research into account as you make your decision tonight.

Sincerely,

Gena Knutson

ITEM 10.2 TRL

San Diego Land Lawyers
Real Estate • Land Use • Environmental

October 17, 2025

Honorable Mayor Ron Morrison and Members of the City Council
City of National City
1243 National City Boulevard
National City, CA 91950

RE: Tobacco Licensing Ordinance – Agenda Item 10.2, October 21, 2025

Dear Mayor Morrison and Councilmembers,

On behalf of the Neighborhood Market Association (NMA) and dozens of responsible local retailers, we respectfully urge the City Council to adopt the Tobacco Licensing Ordinance with the amendments proposed by NMA (see attached redline).

These amendments reflect a common-sense, enforcement-focused approach that strengthens youth protection and compliance without unfairly penalizing long-standing small businesses that follow the law. The proposed revisions replace arbitrary restrictions with a practical framework centered on accountability, education, and self-funded enforcement.

Why the Amended Tobacco Ordinance Works

- Produces immediate, measurable results. It empowers the City to conduct more compliance checks, inspections, and retailer education—funded entirely through license fees, not the general fund.

- Protects youth effectively. Experience shows that strong enforcement—not distance restrictions—is what prevents illegal sales to minors. Training, ID verification, and accountability are proven deterrents; one-size-fits-all 1,000-foot buffers are not.

- Holds violators accountable. Graduated penalties, suspension, and revocation provisions ensure that repeat offenders are removed from the marketplace.

- Protects responsible businesses. The ordinance preserves the right of compliant retailers to operate and allows a new owner purchasing an existing business through an arm's-length transaction to apply for a new license—ensuring fairness and continuity for legitimate operators.

- Preserves local tax revenue. By maintaining lawful retail operations within National City, the ordinance prevents the loss of sales tax revenue to neighboring jurisdictions.

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

San Diego Land Lawyers
Real Estate • Land Use • Environmental

Why the SAY Version Falls Short

The SAY-drafted ordinance relies on arbitrary 1,000-foot buffers and license caps that would, over time, eliminate many existing compliant businesses. This approach punishes the 80% of honest retailers to reach the alleged 20% who don't follow the rules, without delivering any measurable improvement in youth safety or compliance.

Our Request to the Council

We respectfully ask the City Council to:

1. Rescind the September 16 action (as recommended by staff) due to improper notice under the Brown Act; and

2. Adopt the Amended Tobacco Licensing Ordinance submitted by the NMA as the fair, effective, and legally sound alternative.

This path achieves the City's shared goals: protecting youth, ensuring fair and lawful business practices, and providing the enforcement tools needed to hold bad actors accountable—without jeopardizing the livelihoods of responsible local merchants.

Thank you for your attention and commitment to fair, effective regulation. We appreciate your thoughtful consideration of the NMA's proposed amendments and stand ready to assist staff and the City Attorney in finalizing this balanced ordinance.

Respectfully submitted,

Robin Madaffer, Esq.
Counsel for the Neighborhood Market Association

Attachment: Amended Tobacco Ordinance (Redline)

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

ORDINANCE NO. 2025 -

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NATIONAL CITY, CALIFORNIA, AMENDING TITLE 9 OF THE NATIONAL CITY MUNICIPAL CODE BY AMENDING CHAPTER 9.38 PERTAINING TO TOBACCO RETAILER LICENSING AND RESTRICTING THE SALE, DISPLAY AND PROMOTION OF TOBACCO TO YOUTH.

WHEREAS, the City of National City (the "City"), pursuant to the police powers delegated to it by the California Constitution, has the authority to enact or amend laws which promote the public health, safety, and general welfare of its residents; and

WHEREAS, pursuant to the terms and provisions of the Government Code of the State of California, proceedings were duly initiated for the amendment of the National City Municipal Code; and

WHEREAS, pursuant to a published 5-day notice of the adoption of said ordinance, a public hearing was held by the City Council on October 21, 2025, and at said public hearing, all persons interested were given the opportunity to appear and be heard before the City Council.

NOW, THEREFORE, the City Council of the City of National City, California, does ordain as follows:

Section 1. All protests, if any, against said amendment to the Municipal Code and each of them be and hereby are denied and overruled.

Section 2. Section 9.38 (Restricting the Sale, Display and Promotion of Tobacco Products or Cigarettes to Minors) is hereby amended to read as follows:

Chapter 9.38 - TOBACCO RETAILER LICENSE AND RESTRICTING THE SALE, DISPLAY AND PROMOTION OF TOBACCO TO YOUTH.

Section 9.38.010 Purpose and intent.

It is the intent of the City Council, in 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 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. Accordingly, the City Council enacts the following regulations as not preempted by the Federal Cigarette Labeling and Advertising Act, 15 U.S. Code sec. 1332, et seq.

Section 9.38.020 Definitions.

For purposes of this chapter:

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 chapter is not an Arm's Length Transaction.

B. "Applicant" means the Person applying for a permit pursuant to this chapter.

C. "Cannabis" has the meaning set forth in California Business and Professions Code Section 26001, as that section may be amended from time to time.

D. “Cannabis Product” has the meaning set forth in California Business and Professions Code Section 26001, as that section may be amended from time to time.

E. “Cannabis Retailer” means any retail establishment in which cannabis or cannabis products are sold or offered for sale to persons that do not hold a license to engage in commercial cannabis activity issued by the State of California in accordance with the Business and Professions Code Section 26000 et seq., as that section may be amended from time to time.

F. “Child-Resistant Packaging” means packaging that meets the definition set forth in Code of Federal Regulations, title 16, section 1700.15(b), as in effect on January 1, 2015, and was tested in accordance with the method described in Code of Federal Regulations, title 16, section 1700.20, as in effect on January 1, 2015.

G. “Cigar” means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than 4.5 pounds per thousand.

H. “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.

I. "City" means City of National City, California.

J. “Compliance checks” means systems the department uses to investigate and ensure that tobacco retailers are following and complying with the requirements of this chapter. 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.

K. “Coupon” means any voucher, rebate, card, paper, note, form, statement, ticket, image, or other issue, whether in paper, digital, or other form, used for commercial purposes to obtain an article, product, service, or accommodation without charge or at a discounted price.

L. “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.

M. “Department” means the Community Development Department and any agency or person designated by the City to enforce or administer the provisions of this chapter.

N. "Electronic Smoking Device" means an electronic 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."

O. "Flavored Tobacco Product" means any tobacco product that imparts:

1. 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

2. a cooling or numbing sensation distinguishable by an ordinary consumer during the consumption of such tobacco product.

P. “Full Retail Price” means the displayed price plus all applicable taxes and fees if such taxes and fees are not included in the displayed price. For the purposes of this chapter, “Displayed Price” means the price displayed for a tobacco product on its packaging or on any related shelving, advertising, or display where the tobacco product is sold or offered for sale.

Q. "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.

R. “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.

S. “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.

T. "Person" means any human being, partnership, cooperative association, corporation, personal representative, receiver, trustee, assignee, or any other legal entity.

U. “Pharmacy” means any retail establishment in which the profession of pharmacy is practice by a pharmacist licensed by the State of California in accordance with the Business and Professions Code and where prescription pharmaceuticals are offered for sale, regardless of whether the retail establishment sells other retail goods in addition to prescription pharmaceuticals.

V. “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.

W. “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.

X. “Sale” means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

Y. "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.

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

AA. "Tobacco Product" means:

1. Any product containing, made of, or derived from tobacco or nicotine that is intended for human consumption or is likely to be consumed, whether inhaled absorbed, or ingested by any other means, including but not limited to, a cigarette, cigar, little cigar, pipe tobacco, snuff, snus, or chewing tobacco;
2. Any electronic smoking device and any substances that may be aerosolized or vaporized by such device, whether or not the substance contains nicotine; or
3. Any component, part, or accessory of (1) or (2), whether or not any of these contains tobacco or nicotine, including but not limited to filters, rolling papers, blunt or hemp wraps, hookahs, mouthpieces, and pipes. "Tobacco Product" does not mean "drugs," "devices," or "combination products," authorized for sale by the United States Food and Drug Administration, as those terms are defined in the Federal Food, Drug, and Cosmetic Act.

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

CC. "Tobacco Retailing" means engaging in the activities of a tobacco retailer.

~~DD. "Youth-Oriented Facility" means a parcel in the city that is occupied by:~~

~~1. a private or public kindergarten, elementary, middle, junior high, or high school;~~
~~2. a library open to the public;~~
~~3. a playground open to the public;~~
~~4. a youth center, defined as a facility where children, ages 6 to 17, inclusive, come together for programs and activities;~~
~~5. a recreation facility open to the public, defined as 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;~~
~~6. a park open to the public or to all the residents of a private community;~~
~~7. a licensed child-care facility or preschool (other than a small-family day care home or a large-family day care home [as defined in California Health & Safety Code § 1596.78]).~~

Section 9.38.030 General requirements and prohibitions.

A. *Tobacco retailer's license required*. It shall be unlawful for any person to engage in tobacco retailing in the City without first obtaining and maintaining a valid tobacco retailer's license for each location at which tobacco retailing is to occur.

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 license issued, it shall be a violation of this chapter 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.

C. *Smoking prohibited*. Smoking, including smoking for the purpose of sampling any tobacco product, is prohibited within the indoor area of any retail establishment licensed under this chapter. Smoking also prohibited outdoors within 25 feet of any retail establishment licensed under this chapter.

D. *Minimum Legal Sales Age*. No person engaged in tobacco retailing shall sell a tobacco product to a person under 21 years of age.

E. *Display of License*. Each tobacco retailer license shall be prominently displayed in a publicly visible location at the licensed location.

F. *Positive identification required*. No person engaged in tobacco retailing shall sell a tobacco product to another person without first verifying by means of government- issued photographic identification that the recipient is at least 21 years of age.

G. *Self-service displays prohibited*. Tobacco retailing by means of a self-service display is prohibited.

H. *On-site Sales*. All sales of tobacco products shall be conducted in-person in the licensed location. It shall be a violation of this chapter for any tobacco retailer or any of the tobacco retailer's agents or employees to engage in the delivery sale of tobacco products or to knowingly or recklessly sell or provide tobacco products to any person that intends to engage in the delivery sale of the tobacco product in the City.

I. *Posting of Signs.* Every tobacco retailer shall post conspicuously in their place of business at each point of purchase a notice stating that the sale of tobacco products and cigarettes to persons under twenty-one years of age is prohibited by law and subject to penalties. The notice shall also state that photo identification is required to purchase tobacco products. The letters of the sign shall be at least one-half inch in height.

    a. Any sign meeting the content requirements of California Business and Professional Code Section 22952(b) and regulations promulgated thereunder, and the posting requirements of California Penal Code Section 308(c), satisfies Subsection I of this Section.

Section 9.38.040 Limits on eligibility for a tobacco retailer license.

A. *Mobile Vending*. No license may be issued to authorize tobacco retailing at other than a fixed location. No tobacco retail license will be issued to a moveable place of business.

B. *Licensed cannabis businesses*. No license may be issued, and no existing license may be renewed, to authorize tobacco retailing at a location licensed for commercial cannabis activity by the State of California under Business and Professions Code Division 10.

C. *Pharmacies*. One year after the effective date of this ordinance, no license may be issued, and no existing license may be renewed, to authorize tobacco retailing in a pharmacy.

~~D. *Proximity to youth oriented facilities*. No newly established business requesting to be licensed for the sale of tobacco may be within 1,000 feet of a youth-oriented facility as measured by a straight line from the nearest point of the property line of the parcel on which the youth oriented facility is located to the nearest point of the property line of the parcel on which the applicant's business is located.~~

~~E. *Proximity to other tobacco retailers*. No newly established business requesting to be licensed for the sale of tobacco may be within 1,000 feet of a tobacco retailer location already licensed pursuant to this chapter as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the~~

~~nearest point of the property line of the parcel on which an existing licensee's business is located.~~

~~F. *Proximity to cannabis retailers*. No new license may be issued to authorize tobacco retailing within 1,000 feet of an existing cannabis retailer as measured by a straight line from the nearest point of the property line of the parcel on which the applicant's business is located to the nearest point of the property line of the parcel on which an existing cannabis retailer is located.~~

~~G. *Measure of distance*. The distance between any tobacco retail store and any school, playground, recreation center or facility, childcare center, library, or other tobacco retailer, or cannabis retailer, shall be measured in a straight line, without regard to intervening structures, from the exterior of the tobacco retail store to the closest property line of the school, playground, recreation center or facility, childcare center, or library.~~

~~H. *Maximum number of licenses*. The issuing of tobacco retailer licenses is limited as follows:~~

~~1. The total number of tobacco retailer licenses within the city shall be limited to 54.~~

~~2. No new license may be issued to authorize tobacco retailing if the number of tobacco retailer licenses already issued equals or exceeds the total number authorized pursuant to subsection (1).~~

~~I. *Existing retailers*. A tobacco retailer operating lawfully on the date this ordinance is adopted may receive an exemption from Subsection D, E, F, and H, as long as all of the following conditions are met:~~

~~1. the license is timely obtained and is renewed without lapse or revocation;~~

~~2. the tobacco retailer is not closed for business or otherwise suspends Tobacco Retailing for more than sixty (60) consecutive days;~~

~~3. the tobacco retailer retains the right to operate under other applicable laws.~~

~~J.~~D. *Change of business dispute*. If the City determines that a tobacco retailer has substantially changed their business premises or operation and the tobacco retailer disputes this determination, the Tobacco Retailer bears the burden of proving by a preponderance of evidence that such change(s) do not constitute a substantial change.

Section 9.38.050 Restrictions on location of tobacco products, and tobacco advertising displays.

A. It is unlawful for any tobacco retailer to place, maintain or cause to be placed or maintained any tobacco product or tobacco advertising display within two feet of any candy, snack, or non-alcoholic beverage display inside a tobacco retail store ~~located within one thousand feet (1,000) of any youth-oriented facility~~.

~~B. Except as allowed in subsection A, it is unlawful for any person to advertise tobacco products within one thousand feet (1,000) of any youth-oriented facility.~~

~~C.~~B. Subsection A does not apply to commercial establishments where access to the premises by persons under twenty-one years of age is prohibited by law.

Section 9.38.060 Sale of flavored tobacco products prohibited.

The sale of flavored tobacco products shall be regulated by state law.

Section 9.38.070 Tobacco product pricing and packaging.

A. *Packaging and labeling*. No tobacco retailer shall sell any tobacco product to any consumer unless the tobacco product: (1) is sold in the manufacturer's packaging intended for sale to consumers; (2) conforms to all applicable federal labeling requirements; and (3) conforms to all applicable child-resistant packaging requirements. Upon request by the City, a licensee must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

B. *Display of price*. The price of each tobacco product offered for sale shall be clearly and conspicuously displayed on the tobacco product or on any related shelving, posting, advertising, or display at the location where the item is sold or offered for sale.

C. *Distribution of tobacco samples or promotional items.* It is unlawful for any person to distribute free or nominally priced tobacco products.

D. *Prohibition of tobacco coupons and discounts.* No tobacco retailer shall:

1. honor or redeem, or offer to honor or redeem, a coupon to allow a consumer to purchase a tobacco product for less than the full retail price;

2. sell any tobacco product to a consumer through a multiple-package discount or otherwise provide any such product to a consumer for less than the full retail price in consideration for the purchase of any tobacco product or any other item; or

3. provide any free or discounted item to a consumer in consideration for the purchase of any tobacco product.

E. *Prohibition on the sale of individual cigarettes*. No tobacco retailer shall sell cigarettes individually or in packages containing less than 20 cigarettes.

Section 9.38.080 License application procedure.

A. An application for a tobacco retailer's license 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. All applications shall be submitted on a form supplied by the Department.

B. A license issued contrary to this Chapter, contrary to any other law, or on the basis of false or misleading information shall be revoked pursuant to this Chapter. Nothing in this Chapter shall be construed to vest in any person obtaining and maintaining a tobacco retailer's license any status or right to act as a tobacco retailer in contravention of any provision of law.

C. Applicant submissions must 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.

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

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

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

6. A signed affidavit affirming that the proprietor has not sold and will not sell any tobacco product without a license required by this Chapter.

7. Such other information as the Department deems necessary for the administration or enforcement of this Chapter as specified on the application form required by this section.

8. Copies of applications for licenses and licenses issued pursuant to California Business and Professions Code Section 22970 et seq., the "Cigarette and Tobacco Products Licensing Act of 2003." If an application for a license pursuant to the "Cigarette and Tobacco Products Licensing Act of 2003" has been denied, copies of documentation regarding the reason for the denial of such license.

D. *Change in information.* A licensed tobacco retailer shall inform the Department in writing of any change in the information submitted on an application for a Tobacco Retailer's license within 10 business days of a change.

E. 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.

Section 9.38.090 License issuance and renewal.

A. *Issuance of license*. Upon the receipt of a complete and adequate application for a tobacco retailer's license and the license fee required by this chapter, the Department may grant or deny the application for license, or it may delay action for a reasonable period of time to complete any investigation of the application of the applicant deemed necessary.

B. *Denial of application.* The Department may deny an application for a tobacco retailer's license based on any of the following reasons:

1. The information presented in the application is inaccurate or false. Intentionally supplying inaccurate information shall be a violation of this chapter;

~~2. The application seeks authorization for tobacco retailing at a location for which this chapter prohibits a license to be issued;~~

~~3.~~2. The application seeks authorization for tobacco retailing for a proprietor to whom this chapter prohibits a license to be issued; or

~~4.~~3. The application seeks authorization for tobacco retailing in a manner that is prohibited pursuant to this chapter, that is unlawful pursuant to any other chapter of this Code, or that is unlawful pursuant to any other law.

~~5.~~4. Any other suitable reason the granting of a license to the applicant is not consistent with the public health and welfare, including the applicant's history of noncompliance with this

Chapter and other laws relating to the sale of tobacco products.

~~6.~~5. The applicant is under the age of twenty-one.

Section 9.38.100 License renewal and expiration.

A tobacco retailer's license is invalid if the appropriate fee has not been timely paid in full or if the term of the license has expired. The term of a tobacco retailer license is one (1) year. Each tobacco retailer will apply for the renewal of their tobacco retailer's license and submit the license fee no later than thirty (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 this Chapter.

Section 9.38.110 Licenses not transferrable, past violations at retail location.

A. *Licenses not transferrable*. A tobacco retailer's license may not be transferred from one Person to another or from one location to another. A new tobacco retailer's license is required whenever a tobacco retailer has a new tobacco retailing location. or a location has a change in proprietors.

B. *Past violations*. Notwithstanding any other provision of this chapter, prior violations at a location shall continue to be counted against a location and license ineligibility periods shall continue to apply to the location unless:

1. The location has been transferred to the new Proprietor(s) in an Arm's Length Transaction; and

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

Section 9.38.120 License conveys a limited, conditional privilege.

Nothing in this chapter shall be construed to grant any Person obtaining and maintaining a Tobacco Retailer's license 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. Nothing in this chapter shall be construed to render inapplicable, supersede, or apply in lieu of, any other provision of applicable law

Section 9.38.130 Fee for license

The fee to issue or to renew a tobacco retailer's license shall be established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the total cost of administration and enforcement of this chapter, including, but not limited to, issuing a license, administering the l 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 chapter. 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.

Section 9.38.140 Compliance monitoring.

A. Compliance with this chapter shall be monitored by the Department. In addition, the City may designate additional persons to monitor compliance with this chapter. All licensed premises must be open to inspection by city staff or designated persons during regular business hours.

B. The Department shall inspect each tobacco retailer at least one (1) time per 12-month period.

C. The city shall conduct one compliance check per two-year period that involves the participation of persons between the ages of 18 and 20 to enter licensed premises to attempt to purchase tobacco products, with additional compliance checks as required.

D. Nothing in this section shall create a right of action in any licensee or other person against the city or its agents

Section 9.38.150 Suspension or revocation of permit.

A. *Notice.* Upon discovery of a suspected violation, the Department shall issue the alleged violator, either personally or by first class mail addressed to the authorized address, an administrative citation that sets forth the alleged violation and which shall inform the alleged violator of their right to be heard on the accusation. The administrative citation shall comply with the requirements of Section 1.44.030 of the National City Municipal Code.

B. *Hearings.* Upon issuance of an administrative citation, a person accused of violating this Ordinance may request in writing a hearing on the matter in accordance with the procedures set forth in Sections 1.44.070 – 1.44.120 of the National City Municipal Code.

C. *Costs*. If this administrative citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of one thousand dollars ($1,000) must be paid by the person requesting the hearing.

D. *Continued violation*.

1. Each day on which a tobacco product is distributed, sold, or offered for sale in violation of this Chapter shall constitute a separate violation of this Chapter; and

2. Each individual tobacco product that is distributed, sold, or offered for sale in violation of this Chapter shall constitute a separate violation of this Chapter.

E. *Revocation of License Wrongly Issued.* A tobacco retailer's license shall be revoked if the Department finds, after the Licensee is afforded notice and an opportunity to be heard, that one or more of the bases for denial of a license under this Chapter existed at the time application was made, or at any time before the permit issued, or one or more of the bases for denial of a renewal permit under this Chapter existed at the time the renewal permit was issued. Notice and appeal of the revocation shall be conducted in accordance with this section.

F. If a license issued under this chapter is suspended or revoked, all tobacco products at the suspended or revoked tobacco retailer's location shall be removed from public view for the duration of the suspension or revocation. The tobacco retailer additionally shall not display any advertisement relating to tobacco products 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 for the duration of the suspension or revocation.

Section 9.38.160 Violations and penalties.

A. Any licensee who is found to be in violation of this Ordinance, whether such violation is determined by a hearing officer or superior court; or the Licensee has pleaded guilty, "no contest," or its equivalent, or admitted to a violation, will be charged an administrative fine and as well as their license suspended or revoked follows:

1. Upon a finding by the Department of a first violation of this chapter at a location, the Licensee shall be issued a warning.

2. Upon a finding by the Department of a second violation of this chapter at a location within any 36-month period, the licensee will be charged an administrative fine of $300 and the license shall be suspended for 90 days.

3. Upon a finding by the Department of a third violation of this chapter at a location within any 36-month period, the licensee will be charged an administrative fine of $600 and the license shall be suspended for one year.

4. Upon a finding by the Department of a fourth violation of this chapter at a location within any 36-month period, the licensee will be charged an administrative fine of $1,000 and the license shall be revoked.

B. *Tobacco retailing without a valid license.* In addition to any other penalty authorized by law, if 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's 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 retailer's permit as follows:

1. After a first violation of this section at a location within any 36-month period, no new permit may be issued for the person or the location (unless proprietorship of the business at the location has been transferred in an Arm's Length Transaction), until 90 days have passed from the date of the violation.

2. After a second violation of this section at a location within any 36-month period, no new permit may be issued for the person or the location (unless proprietorship of the business at the location has been transferred in an Arm's Length Transaction), until 180 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 36-month period, no new license may be issued for the person or the location (unless Proprietorship of the business at the location has been transferred in an Arm's Length Transaction), until five years have passed from the date of the violation.

C. Whenever evidence of a violation of this chapter is obtained in any part through the participation of a Person under the age of 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 chapter and the alleged violation shall be adjudicated based upon the preponderance of the evidence presented.

D. All tobacco retailers are responsible for the actions of their employees relating to the sale, offer to sell, and furnishing of tobacco products at the retail location. The sale of any tobacco product shall be considered an act of the tobacco retailer.

E. Tobacco products offered for sale in violation of this Chapter are subject to seizure by the Department or its designee and shall be forfeited after the licensee or any other owner of the tobacco products seized is given reasonable notice and an opportunity to demonstrate that the tobacco products were not offered for sale in violation of this Chapter. The decision by the Department may be appealed pursuant to the procedures set forth in Section 9.38.150. Forfeited tobacco products shall be destroyed and properly disposed of at the cost of the seller 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.

F. Violations of this Chapter may, at the discretion of the City Attorney, be prosecuted as infractions or misdemeanors when the interests of justice so require.

G. Violations of this Chapter are hereby declared to be public nuisances.

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

I. The remedies specified in this section are cumulative and in addition to any other remedies available under State or local law for a violation of this Code.

Section 9.38.170 Exceptions.

A. Nothing in this Chapter prevents the provision of tobacco products to any person as part of an indigenous practice or a lawfully recognized religious or spiritual ceremony or practice.
B. Nothing in this Chapter shall be construed to penalize the purchase, use, or possession of a tobacco product by any person not engaged in tobacco retailing.

Section 9.38.180 Construction and severability.

It is the intent of the City Council to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Chapter, 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 Chapter, or its application to any other person or circumstance. The City Council 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 9.38.190 Public records.

All information provided to the Department by a licensee or license applicant pursuant to this Chapter shall be subject to disclosure under the California Public Records Act (California Government Code section 6250 et seq.) or any other applicable law.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this

Ordinance. The City Council hereby declares that it would have passed this Ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

Section 4. This Ordinance shall take effect and be in force thirty (30) days from the date of its passage, and before the expiration of fifteen (15) days after its passage, it or a summary of it, shall be published once, with the names of the members of the City Council voting for and against the same in the Star News, a newspaper of general circulation published in the County of San Diego, California.

INTRODUCED this 21st day of October, 2025.

PASSED and ADOPTED this ____day of _____, 2025.

_____
Ron Morrison, Mayor

ATTEST:

_____
Shelley Chapel, MMC, City Clerk

APPROVED AS TO FORM:

_____
Barry J. Schultz, City Attorney

San Diego Land Lawyers
Real Estate • Land Use • Environmental

Date: October 16, 2025

VIA EMAIL

Barry J. Schultz
City Attorney
City of National City
1243 National City Boulevard
National City, CA 91950
bschultz@nationalcityca.gov

Re: Clarification of Ordinance Adoption Status – September 16, 2025 Tobacco Retail Licensing Ordinance

Dear Mr. Schultz:

This correspondence is submitted to clarify the legal status of the tobacco retail licensing ordinance considered by the City Council on September 16, 2025. Based on the record and the language of the proposed ordinance, that action did not constitute a valid adoption, and therefore, no ordinance has taken effect or will take effect as of October 16, 2025.

1. No Proper Adoption Occurred

The ordinance text itself provides that it "shall take effect and be in force thirty (30) days from the date of its second reading and adoption." The September 16 meeting was noticed only as a single hearing and was not docketed as a second reading. Under Government Code §§ 36933–36934, an ordinance cannot be adopted at the same meeting at which it is introduced unless it is an urgency measure. Because there was no properly noticed second reading, the ordinance was never lawfully adopted and no 30-day effective-date period commenced.

2. Brown Act and Notice Defects Render the Action Void

The September 16 item also failed to meet the Brown Act's agenda-posting requirements (Gov. Code § 54954.2) and lacked the five-day pre-adoption publication required by Gov. Code § 36933(a). Consequently, the action is procedurally void and cannot ripen into law.

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

San Diego Land Lawyers
Real Estate • Land Use • Environmental

3. October 21 Agenda Item

It appears the October 21, 2025 agenda will include a "repeal and re-introduction" of the amended ordinance. While the Council may take that action to formally clear the record, a repeal is not legally necessary because the September 16 ordinance never took effect. The Council may lawfully treat the October 21 item as a first reading of a new ordinance, provided that the required agenda posting and five-day publication occur before any future adoption.

4. Request for Confirmation

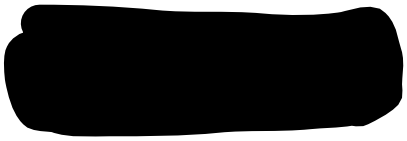
To avoid public confusion and ensure a clear legislative record, please confirm in writing that:

1. The ordinance considered on September 16, 2025 was never adopted and did not take effect, so no repeal is required for validity, but permissible as part of the administrative record; and

2. The October 21, 2025 action will be treated as a new introduction of the ordinance.

Thank you for your prompt attention and for ensuring that all future actions comply fully with the Brown Act and Government Code §§ 36933–36937.

Sincerely,



Robin Madaffer, Esq.

cc: Mayor Ron Morrison
Councilmember Ditas Yamane
Councilmember Marcus Bush
Councilmember Luz Molina
Councilmember Jose Rodriguez
Shelley Chapel, City Clerk
Neighborhood Market Association

San Diego Land Lawyers, Inc.
1620 Fifth Avenue, Suite 400
San Diego, CA 92101

Robin Madaffer, Esq.
(619) 239-7600
robin@SDLandLaw.com

October 21, 2025

Mayor Ron Morrison
City of National City
1243 National City Blvd
National City, CA 91950

Re: Development Impact Fee Update- Request for Continuation

Dear Mayor Morrison:

On behalf of the Building Industry Association of San Diego, I write with the request that the proposed update to the Development Impact Fee be continued so as to ensure that our member home builders have adequate opportunity to review its potential impacts. While we recognize that this review of fees is a required practice governed by state law, we would appreciate a dialogue with the consultant and City staff to ensure there are no adverse impacts from fees and/or policies that could be further clarified or understood.

In short, it is necessary to highlight that the dramatic increase in fees reflected in the DTA study will adversely impact projects currently in plan. Furthermore, to absorb such significant increases, the affordability levels of future development is unclear. Given this Council's commitment to housing National City's families, we urge the City to reconsider the severity of the increases and work with industry to create a process that more easily allows absorption of a further reviewed fee amount, or longer implementation timeline. Furthermore, it may be worthwhile for the City to work with industry to identify the development trends and typologies expected in the future to confirm that we are planning practically and for the unit type we want.

Equally important to the amount of the fee increase is the clarity for the development community to plan and budget for any increases. We are hopeful that these questions on process and timeline can be addressed in a way that provides certainty for the production of homes necessary while also contributing to the City's fire, police, parks and other needs as identified.

We are deeply appreciative of your consideration of this feedback and look forward to continuing to work with you. For further discussion, please contact Stefanie Benvenuto at (714) 336-6536.

Sincerely,

[redacted]

Lori Holt Pfeiler
President & CEO
Building Industry Association of San Diego

October 21, 2025

Mayor Ron Morrison
Vice Mayor Ditas Yamane
Councilmember Jose Rodriguez
Councilmember Luz Molina
Councilmember Marcus Bush

City of National City
1243 National City Blvd
National City, CA 91950

Re: Development Impact Fee Update – Request for Further Review and Dialogue

Dear Mayor, Vice Mayor, and City Council Members,

As National City's most active multifamily housing provider with significant investment and interest in the City, we appreciate the need to ensure public facilities keep pace with new growth. We understand that updating the Development Impact Fee program is a necessary step in mitigating the cumulative impacts of new development, in compliance with the California Mitigation Fee Act (Government Code 66000).

However, after reviewing the 2025 Development Impact Fee Justification Study by DTA, we have several substantive and procedural concerns regarding the analysis and the proposed implementation that warrant further clarification and reconsideration. We request that the impact fee hearing, scheduled for October 21, 2025, be opened for discussion but to move the final decision to a later date to allow staff and the consultant to address these points.

Substantive Issues with the Fee Analysis

Our primary concern is that the magnitude of the fee increase may have unforeseen consequences for housing feasibility and affordability, while the underlying methodology requires greater clarity to comply with state law:

1. **Lack of Clarity on Square Footage Metric:** The methodology used to calculate the Residential Fee (Per Sq. Ft.) does not explicitly define whether the square footage is based on net habitable area or gross building area. Using gross area should not be considered as it levies fees on non-impact producing space such as stairs, private open space (patios and balconies), utility rooms and public corridors to name a few. The fee basis should be clarified as net square footage to avoid unfairly penalizing different building designs.

2. **Affordability and Market Shock:** The proposed increase represents a potential "market shock" that could severely impact the feasibility of new projects. For our recently completed 92-unit project, the approximate fee increase is **617% (from $1,190 to $7,337 per unit)**. To maintain a typical developer's expected yield on cost based on today's market (6.5% based on a 5.0% market cap rate and a 1.5% spread), an apartment's monthly rent would need to **increase by approximately $47.57 (or $571 annually)** to absorb the additional fee burden. Conversely, land residual values would need to be reduced $6,147 per unit to offset the increased fees. In reality, it often takes land sellers and brokers a few years to adjust to large fee increases so what's likely to happen is something in the middle where less land trades in the short term and rents tick up at a higher rate than they would with a phased in fee. We urge the City to consider a phased implementation to mitigate this impact on project feasibility.
3. **Disincentivizing Family Units:** The uniform per-square-foot fee structure, while intended to comply with AB 602, disincentivizes the creation of larger, much-needed family-sized units. Larger units typically have a proportionally smaller impact per square foot (e.g., in terms of residents or trips) than smaller studios. We urge the City to consider a sliding scale that reduces the fee per square foot as unit size increases, a model successfully employed by neighboring jurisdictions like the City of San Diego.
4. **Exclusion of DIF for Affordable Units:** The City should exclude all Development Impact Fees (DIFs) from any units that are deed-restricted for low income households at 80% of the Area Median Income (AMI) or less. The financial burden of DIFs is particularly detrimental to affordable housing financing models, and the City would see a greater community benefit by offsetting these costs from other revenue sources to stimulate the production of low-income housing.
5. **Fee Credits for Demolished Property:** We request clarification on how fee credits will be calculated and applied for the demolition of existing structures and the replacement/intensification of previous uses. Specifically, we ask:
    - Will the existing use credit be calculated based on the prior development's potential impact under the new 2025 Fee Schedule? The methodology should consider the full impact reduction provided by the old use against the new use, applying the measure of demand used in the study.

Procedural and Implementation Questions

We're also requesting clarification on administrative and legal aspects of the fee implementation:

6. **Applicable Fee Date (Vesting):** While Government Code allows fees on residential development to be collected at final inspection, the date the fees are deemed effective is critical for project financial certainty. We ask the City to clarify whether the applicable fee schedule is determined at:

1) Project Submittal (Recommended): This provides the certainty needed to secure financing and move forward with the project.
2) Permit Issuance.
3) Final Inspection.

7. **Treatment of Projects Currently in Planning:** Clarification is needed on how projects that are already in the City's planning and entitlement process will be handled relative to the adoption date of the new fees.
8. **Administration Costs and Fees:** The study notes that the cost of implementing the DIFs is not included in the fees themselves and recommends these expenses be handled through a user fee charged to applicants. We request a clear fee schedule or policy detail explaining how and when this separate administrative cost will be assessed.

We are eager to work with City staff and DTA to resolve these issues and establish a predictable, phased-in fee structure that maintains market viability and housing production. We look forward to partnering with the City to find an equitable solution for housing providers and their ability to serve the residents of National City.

Respectfully,

Joshua Santa
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