

Neighborhood Services & Education Committee

December 10, 2020

Item (d) 3

Status Report on City Council Policy Priority #12: Flavored Tobacco and E-Cigarettes/ Protecting Our Youth from the E-Cigarette Epidemic

Presenters: Rachel Roberts, Deputy Director
Oscar Carrillo, Interim Division Manager



*Planning, Building and
Code Enforcement*

Background

- September 25, 2019 Rules and Open Government Committee (Carrasco)
 - “Yellow-lit” Flavored Tobacco and E-Cigarettes
 - 1) Develop an ordinance to prohibit the sale of flavored tobacco products and electronic cigarettes by tobacco retail establishments
 - 2) Explore policies to limit further overconcentration of tobacco businesses
 - 3) Remove the tobacco retail license exemption for “eighteen and over tobacco retailers” from Municipal Code
- February 25, 2020 Council Policy Priority Setting Session
 - Combined Priority Proposal:
 - Flavored Tobacco and E-Cigarettes (Carrasco), and
 - Protecting Our Youth from the E-Cigarette Epidemic (Foley)
 - Rank #12

Background

- Santa Clara County Public Health Department (PHD) Healthy Cities Program Grant Funding
 - January 31, 2020: Application Submitted
 - February 13, 2020: Notification of Award
 - \$120, 270
 - Contract Term: October 1, 2020 to June 30, 2021
- State Legislation
 - SB 7 effective June 9, 2016 – increased minimum sale age from 18 to 21
 - SB 793 effective January 1, 2021 – bans flavored tobacco products but exempts pipe tobacco, hookah and premium cigars (petition to repeal)

Work Plan Items

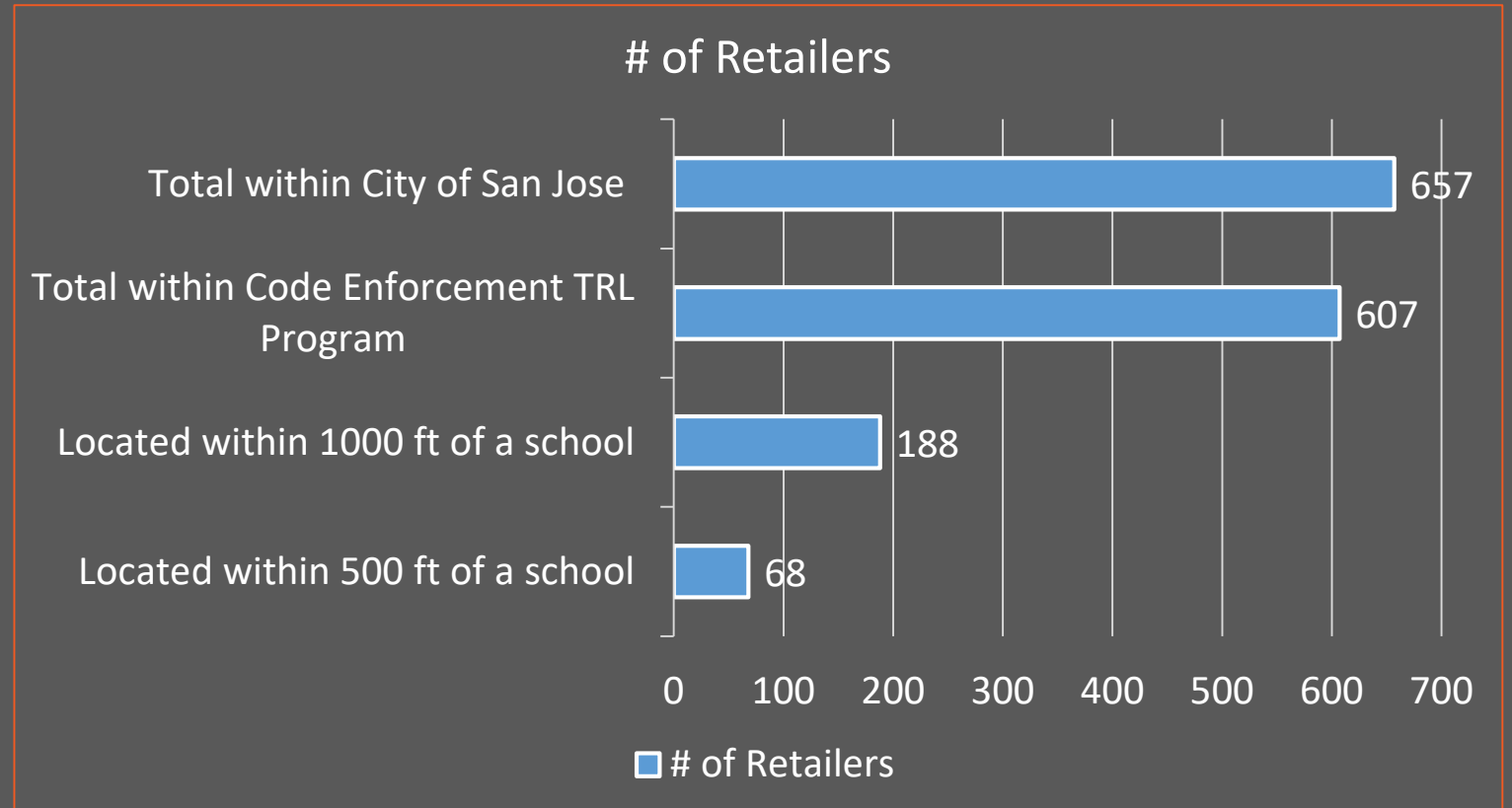
- Research and Benchmarking
 - Prohibitions on sale of tobacco products near schools/other retailers
 - Legal non-conforming status
 - Criteria to revoke legal non-conforming status
 - A six-month grace period



Work Plan Items

Data Collection and Mapping (in progress)

- 68 (10.4%) within 500 feet of a school, and
- 188 (28.6%) within 1,000 feet of a school



Work Plan Items

Tobacco Retail License (TRL) Title 6.87 Draft Amendments

- Prohibiting the sale of flavored tobacco and e-cigarettes and other products including menthol flavored products
- Proximity limits for *new* tobacco retailers to schools/ youth-related sensitive receptors
- Increase the minimum sale age from 18 to 21
- Remove license exemptions
- Define legal non-conforming requirements as appropriate
- Provide a defined grace period for affected retailers
- Align Municipal Code with State and Federal Regulations

Estimated Outcomes

- 18 Smoke/Vape businesses (currently in the TRL Program) required to cease selling vape products
- 44 TRL exempt businesses required to register into the program
- 12 Vape only type businesses required to close per SB 793 as of January 1, 2021
- Up to 188 TRL businesses potentially impacted due to proximity to schools

Next Steps

- Complete work plan items including:
 - Further data collection and analysis
 - Stakeholder outreach
 - Develop proposed ordinance amendments to Title 6.87 in coordination with CAO and PHD and bring forward to Council by June 2021
 - Develop budget and fee proposals as appropriate as part of the annual budget process for FY 2021-2022
- Coordinate with City Manager's Office of Administration, Policy, and Intergovernmental Relations on proposal to partner with state and federal agencies on effective ways to confirm a consumer's age during online purchases of e-cigarettes

Q & A/Discussion