

**ORDINANCE No. 12025 C. M. S.**

AN ORDINANCE AMENDING THE OAKLAND SIGN CODE TO RESTRICT THE PLACEMENT OF OUTDOOR ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS AND ESTABLISHING PENALTY PROCESSES

WHEREAS, Section 23658 of the California Business and Professions Code makes it unlawful for any person under the age of 21 years to purchase any alcoholic beverages in the State of California and prohibits the sale or furnishing of any alcoholic beverages to a person under 21 years of age by any person; and

WHEREAS, Section 25662 of the California Business and Professions Code prohibits, in part, minors from possessing alcoholic beverages in certain locations; and

WHEREAS, Section 308 of the California Penal Code makes it unlawful for any person under the age of 18 years to obtain, possess or control any tobacco products in the State of California, and prohibits the sale or furnishing of any tobacco products to a person under 18 years of age by any person engaged in the manufacture or sale of tobacco products in the State of California; and

**Alcohol Consumption by Youth**

WHEREAS, the Inspector General of the U.S. Department of Health and Human Services has found that junior and senior high school students consume 1.1 billion beers each year and that thirty five percent (35%) of wine coolers are consumed by underage drinkers<sup>1</sup>; and

WHEREAS, sixty percent (60%) of U.S. high school students begin drinking when they are in the 9<sup>th</sup> grade or earlier<sup>2</sup> and the median age at which children begin drinking is just over 13 years<sup>3</sup>; and

WHEREAS, a 1993 study in Castro Valley, a local Bay Area community, found that 23% of Castro Valley High School students reported drinking alcohol within the last 7 days, 38.8% in the last 30 days, 57.0% within the last 6 months, and 68.3% in last year, leaving 31.7% who had never drunk alcohol or did not do so within the last year<sup>4</sup>; and

**Alcohol and Youth Crime**

WHEREAS, the Inspector General of the U.S. Department of Health and Human Services found that 31.9% of all offenders and 32.4% of violent offenders under age 18 in state-operated juvenile facilities were under the influence of alcohol when they committed their crime(s)<sup>5</sup>; and

WHEREAS, 95% of violent crime on college campuses is alcohol-related and 90% of all reported campus rapes involve alcohol use by the victim or perpetrator<sup>6</sup>; and

WHEREAS, a survey of high school students found that eighteen percent (18%) of females and thirty-nine percent (39%) of males say it is acceptable for a boy to force sex if the girl is stoned or drunk<sup>7</sup>; and

WHEREAS, youth are more likely than any other group to have been drinking prior to being either a perpetrator or victim of fatal<sup>8</sup> or non-fatal violence<sup>9</sup>; and

WHEREAS, alcohol and other drug use is the most common characteristic of youth who attempt suicide<sup>10</sup>; and

### **Alcohol Advertising**

WHEREAS, beer, wine, and liquor manufacturers and distributors collectively spent over \$78 million dollars for outdoor advertising during 1995<sup>11</sup>; and

WHEREAS, studies have found that "adolescents more heavily exposed to alcohol advertising were more likely to drink, drink heavily, and drink in hazardous situations such as in conjunction with driving"<sup>12</sup>; and

WHEREAS, adolescents who were highly exposed to alcohol advertising were more likely than adolescents who were less heavily exposed to believe that drinkers possess valued characteristics such as being attractive, athletic, or successful<sup>13</sup>; and

WHEREAS, studies have found that the "use of famous persons to endorse alcohol products is highly effective with teenagers, while the impact on older persons is limited"<sup>14</sup>; and

### **Alcohol Enforcement**

WHEREAS, the City of Oakland has shown its commitment to reducing youth access to alcohol by performing at least 150 minor decoy operations at businesses that sell alcohol in 1995, 25 in 1996, and 150 in 1997 (to date); and

WHEREAS, the City of Oakland has forwarded to the Department of Alcoholic Beverage Control, for their enforcement, police reports on the 124 minor decoy sales that took place as a result of minor decoy operations between 1995 and 1997 (to date); and

WHEREAS, in calendar year 1997 the City of Oakland will spend over \$510,000 to establish a unit of staff dedicated to enforcing crime and nuisance activities at or around businesses that sell alcohol; and

### **Tobacco Consumption by Youth**

WHEREAS, approximately 60 percent of smokers start by the age of 13<sup>15</sup> and 90 percent

begin before the age of 20<sup>16</sup>; and

WHEREAS, the average youth smoker starts smoking at age 13 and becomes a daily smoker by 14½<sup>17</sup>; and

WHEREAS, a survey in the spring of 1996 found that the percentage of teenagers 17 or younger who reported smoking the month before was 34.8 percent, up from just over 30 percent in 1993, and 27.5 percent in 1991<sup>18</sup>; and

WHEREAS, underage tobacco use continues to rise<sup>19</sup>; and

WHEREAS, young black males are the fastest growing group of smokers, doubling within the four years prior to 1996 when 28% reported smoking the month before<sup>20</sup>; and

WHEREAS, even after passage of Federal Regulations in 1996 designed to make tobacco purchases more difficult, 70% of under-age youth who tried to buy tobacco were able to do so and even in towns that performed tobacco stings, 58% of youth were able to buy tobacco<sup>21</sup>; and

WHEREAS, despite laws in every state making it illegal to sell tobacco to minors, teens and children purchase over half a billion packs of cigarettes and twenty-six million containers of smokeless tobacco products each year<sup>22</sup>; and

WHEREAS, the 1996 California Tobacco Survey (CTS), which is conducted every three years throughout California, found that the percentage of youth 12-14 years of age who have never smoked, yet are susceptible to smoking, has risen from 35.5% in 1993 to 42% in 1996 (a 22% overall increase), with increases of over 50% by young adolescents (12 years old), African American youth, and youth with much better-than-average school performance, and increases of over 30% among girls and Asian Americans<sup>23</sup>; and

WHEREAS, the 1996 California Tobacco Survey (CTS) also found that the greatest percentage increase in adolescents (15- to 17-years old) who have smoked more than 100 cigarettes was among African Americans (percentage doubled), youth with lowest school performance (42% increase), and Hispanics (33% increase)<sup>24</sup>; and

### **Tobacco Advertising**

WHEREAS, the tobacco industry spent \$123 million on billboards and other outdoor advertising in 1992, making it the largest outdoor advertiser and that figure has increased in recent years<sup>25</sup>; and

WHEREAS, tobacco advertising and promotion influence adolescents' decision to begin smoking more than peer pressure or parental smoking<sup>26</sup>; and

WHEREAS, an internal RJ Reynolds memo indicates the company discussed plans in 1976 to develop a cigarette brand for 14-18 year olds, "Evidence is now available to indicate that the 14-to-18 year old group is an increasing segment of the smoking population. RJR-T must soon establish a successful new brand in this market if our position in the industry is to be maintained over the long term"<sup>27</sup>; and

WHEREAS, in an internal study, RJ Reynolds marketing executive found that "the fragile, developing self-image of the young person needs all the support and enhancement it can get. Smoking may appear to enhance that self-image in a variety of ways. If one values, for example, an adventurous, sophisticated adult image, smoking may enhance one's self-image...The self-image enhancement has traditionally been a strong promotional theme for cigarette brands and should continue to be emphasized"<sup>28</sup>; and

WHEREAS, the three most heavily advertised brands - Marlboro, Camel, and Newport - garner 86% of the teenage market, but only 35% of the overall market<sup>29</sup>; and

WHEREAS, Camel-brand cigarette's share of the under-18-years of age market rose from one-half of one percent to 33 percent after initiating the Joe Camel advertising campaign<sup>30</sup>; and

WHEREAS, multiple studies have shown that cigarette advertising results in increased demand<sup>31</sup>; and

### **Tobacco Enforcement**

WHEREAS, the City of Oakland has shown its commitment to reducing the purchase of tobacco products by underage minors by adopting Ordinance No. 11434 C.M.S. on April 7, 1992 which regulates the placement of tobacco products in vending machines to minimize access to minors; and

WHEREAS, the City of Oakland adopted Ordinance No. 11433 C.M.S. on April 7, 1992 prohibiting the nonsale distribution of tobacco products and accessories designed to prohibit tobacco product giveaways, a practice which in the past had made tobacco products available to youth; and

WHEREAS, the City of Oakland enforces these provisions through a Complaint Investigator III housed in the Office of the City Manager; and

### **General Outdoor Advertising**

WHEREAS, Outdoor advertisements are a unique and distinguishable medium of advertising which subjects the general public to involuntary and unavoidable forms of solicitation, as the Supreme Court recognized in Packer Corporation v. Utah, 285 U.S. 105 (1932) by citing with approval the following excerpt from the opinion of the Utah Supreme

Court:

Advertisements of this sort are constantly before the eyes of observers on the street...to be seen without the exercise of choice or volition on their part. Other forms of advertising are ordinarily seen as a matter of choice on the part of the observer. The young people as well as the adults have the message of the billboard thrust upon them by all the arts and devices that skill can produce. In the case of newspapers and magazines, there must be some seeking by the one who is to see and read the advertisement. The radio can be turned off, but not so the billboards... These distinctions clearly place this kind of advertisement in a position to be classified so that regulations or prohibitions may be imposed upon all within the class. This is impossible with respect to newspapers and magazines; and

WHEREAS, the Supreme Court and other courts have recognized the positive relationship between advertising and consumption as regards a variety of goods and services, such as electricity, see Central Hudson Gas & Electric v. Pub. Serv. Comm'n, 447 U.S. 557, 569 (1980) ("There is an immediate connection between advertising and demand for electricity. Central Hudson would not contest the advertising ban unless it believed that promotion would increase its sales."); gambling, see Posades de Puerto Rico Assoc. v. Tourism Co. of Puerto Rico, 478 U.S. 328, 341-42 (1986) ("The Puerto Rico Legislature obviously believed, when it enacted the advertising restrictions at issue here, that advertising of casino gambling aimed at the residents of Puerto Rico would serve to increase the demand for the product advertised. We think the legislature's belief is a reasonable one..."); cigarettes, see Capital Broadcasting Co. v. Mitchell, 33 F. Supp. 582, 586 (D.D.C. 1971) (three-judge court) (noting "close relationships between cigarette commercials broadcast on the electronic media and their potential influence on young people."), aff'd per curiam, 405 U.S. 1000 (1972); and alcohol, see Dunagin v. City of Oxford, 718 F.2d 738, 747-51 (1983) (extensively reviewing evidence on connection between liquor advertising and consumption and rejecting inter-brand competition argument), cert. den., 104 S.Ct. 3533 (1984); and

WHEREAS, the Fourth Circuit Court of Appeals recently upheld a similar restriction on alcoholic beverages and tobacco products advertising in the City of Baltimore (Annheuser-Busch v. Schmoke (4<sup>th</sup> Cir. 1996) 101 F.3d 325 and the related case of Penn Advertising v. Mayor of Baltimore (4<sup>th</sup> Cir. 1996) 101 F.3d 332), which held, in part that the Baltimore ordinance:

(a) restricted only the time, place and manner of alcohol advertising by targeting minors who could not be legal users of alcoholic beverages; (b) did not foreclose other forms of advertising such as newspapers, radio and television (going to the requirement that the ordinance be "not more extensive than necessary to serve the governmental interest"); and (c) the Baltimore ordinances protected youth, who are generally more susceptible to advertising messages because youth deserve special solicitude in the First Amendment balance because they lack the ability to assess and analyze fully the information presented through commercial media."; and

WHEREAS, the 1990 Census reports that 107,252 youth under age 21 live in Oakland;

and

WHEREAS, these youth are exposed to more than 1,455 billboards across the City, many of which advertise alcoholic beverages and tobacco products; and

### **New Regulations**

WHEREAS, recently adopted State law AB 752 will only have a limited impact within the City of Oakland because it will allow tobacco advertising to continue to be placed on many streets youth use to travel to school and where youth congregate before and after school and does not apply to alcoholic beverages; and

WHEREAS, AB 752 specifically states that it "does not preempt or otherwise prohibit the adoption of a local standard that imposes a more restrictive or complete ban on billboard advertising or on tobacco-related advertising"; and

WHEREAS, an ordinance restricting the placement of advertisements for alcoholic beverages and tobacco products in publicly visible locations within the City of Oakland is reasonable and necessary for the promotion of the health, safety, welfare and temperance of minors exposed to such advertisements; and

WHEREAS, notwithstanding previous efforts by Federal, State and local governments, there still exists a significant number of minors who purchase and/or consume alcoholic beverages and tobacco products; and

WHEREAS, this ordinance only restricts the "time, place, and manner" of certain advertisements and will not unduly burden legitimate business activities of persons licensed by the State of California to sell alcoholic beverages or authorized to sell tobacco products on a retail basis; and

WHEREAS, in order to protect legitimate business activities and to narrowly focus its efforts on those advertisements which most directly affect minors where they live, attend school, attend church and engage in recreational activities, the Oakland City Council has determined specifically not to restrict advertisements of alcoholic beverages and tobacco products in certain designated business and industrial zones hereinafter identified; and

WHEREAS, the City Council additionally believes that sufficient alternative mediums of communication (including without limitation, newspapers, magazines, radio, television, Internet) are available to promote alcoholic beverages and tobacco products; and

WHEREAS, the requirements of the California Environmental Quality Act (CEQA) of 1970, the Guidelines as prescribed by the California State Secretary for Resources, and the City's Environmental Review Regulations have been satisfied, and that in accordance with Section

15061(b)(3) or Section 15301 of the California Code of Regulations this project is exempt from the provisions of the California Environmental Quality Act; now, therefore be it,

RESOLVED, that the Oakland City Council do ordain as follows:

**Section 1.** That the City Council determines that this Ordinance complies with the California Environment Quality Act and directs the Review Officer to file a Notice of Exemption with the Alameda County Clerk.

**Section 2.** Chapter 2 "Definitions and Abbreviations", Section 202 of the Oakland Sign Code is hereby amended to add (additions are underlined; deletions are ~~crossed out~~):

"Sec. 202. ADVERTISING SIGN is any sign, poster, placard, device, graphic display, or any other form of advertising directing attention to, or otherwise pertaining to, a commodity, service, business, or profession which is not sold, produced, conducted, or offered by any activity on the same lot.

ALCOHOLIC BEVERAGES are alcohol, spirits, liquor, wine, beer, or any liquid or solid containing alcohol, spirits, wine, or beer, which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances."

**Section 3.** Chapter 2 "Definitions and Abbreviations", Section 212 of the Oakland Sign Code is hereby amended to add:

"PERSON is any individual, firm, organization, corporation, partnership, cooperative, association, receiver, trustee, assigns, public or private entity, or other legal entity.

PUBLICLY VISIBLE LOCATION is any location that is open to or visible to the public from any street, sidewalk, or other public thoroughfare, and shall include the placement of outdoor signs such as billboards, signs attached to the sides of buildings, signs attached to poles, posts or other figures, and freestanding signboards on the sidewalk."

**Section 4.** Chapter 2 "Definitions and Abbreviations", Section 215 of the Oakland Sign Code is hereby amended to add (additions are underlined; deletions are ~~crossed out~~):

"Sec. 215. TOBACCO PRODUCTS are any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipes, tobacco, snuff, chewing tobacco and dipping tobacco; cigarette papers; or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance."

**Section 5.** Chapter 16 "Alcohol and Tobacco Advertising" of the Oakland Sign Code is hereby added to read as follows (additions are underlined; deletions are ~~crossed out~~):

"Chapter 16  
RESTRICTING THE PLACEMENT OF OUTDOOR  
ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES  
AND TOBACCO PRODUCTS AND ESTABLISHING  
ENFORCEMENT PROCESSES

**Purpose**

Sec. 1601. The primary purpose of this Section is to promote the general welfare and reduce illegal consumption and purchase of Alcoholic Beverages and Tobacco Products by minors. This is accomplished by limiting the exposure of minors to Publicly Visible Advertisements of Alcoholic Beverages and Tobacco Products.

**Restrictions**

Sec. 1602. **Outdoor advertising of Alcoholic Beverages or Tobacco Products.** No Person may place any Advertising Sign for Alcoholic Beverages or Tobacco Products in Publicly Visible Locations.

**Exceptions**

Sec. 1603. **Exceptions.**

(a) The provisions of Section 1602 shall not apply to:

1. Any sign located on a property designated with one of the following General Plan Land Use categories:

Business Mix  
General Industrial/Transportation  
Mixed Use Waterfront/Estuary Plan Area  
Regional Commercial

And that portion of the Central Business District, bound by Castro Street, 11<sup>th</sup> Street, Franklin Street, 13<sup>th</sup> Street, Harrison Street, Grand Avenue, Telegraph Avenue, Broadway, 14<sup>th</sup> Street to Castro Street.

Except that no alcohol or tobacco Advertising Sign in these areas shall face into other adjoining land use designations and that no alcohol or tobacco Advertising Sign shall be placed within 1,000 ft. of schools, City-owned youth



recreation centers, licensed child care facilities, places of worship, and Raimondi Field.

2. The placement of Signs: (a) inside premises that lawfully sell Alcoholic Beverages or Tobacco Products, including without limitation, any neon or electrically charged Sign that is provided as part of a promotion of a particular brand of product; (b) on commercial vehicles used for transporting Alcoholic Beverages or Tobacco Products; or (c) in conjunction with a one-day Alcoholic Beverage sales license or temporary license issued by the California Department of Alcoholic Beverage Control;

3. Any Sign that contains the name or slogan of a business that sells Alcoholic Beverages or Tobacco Products that has been placed for the purpose of identifying the business;

4. Any Advertising Sign that contains a generic description of Alcoholic Beverages or Tobacco Products;

5. Any Advertising Sign on a taxicab;

6. Any Advertising Sign adjacent to and facing an interstate highway.

(b) This section shall not be construed to permit any Advertising Sign that is otherwise restricted or prohibited by law.

### **Public Service Advertising**

Sec. 1604. **Public Service Advertising.** This Chapter shall not be construed to prohibit the display of an Advertising Sign opposing the use of alcoholic beverages or tobacco products. However, this Section shall not be construed to permit an Advertising Sign promoting the use of Alcoholic Beverages or Tobacco Products by including a message opposing the use of such products within that Advertising Sign.

### **Violations and Penalties**

For the purposes of this Chapter, the following shall apply:

Sec. 1605. **Administrative Enforcement.** Any person who violates, disobeys, omits, neglects, refuses to comply with, or resists the enforcement of any of the provisions of this ordinance shall be subject to procedures contained in the Municipal Code Chapter 1.08; Chapter 1.12; and Chapter 1.16.

Sec. 1606. **Administrative Penalties.** When an Authorized Enforcement Official finds that a violation of this Chapter has taken place or is likely to take place, the Enforcement Official may assess: a) civil penalties pursuant to the standards and procedures established in Chapter 1.08 of the Oakland Municipal Code; b) administrative citations pursuant to the standards and

procedures established in Chapter 1.12 of the Oakland Municipal Code; and/or c) property use limitations pursuant to the standards and procedures established in Chapter 1.16 of the Oakland Municipal Code; and any amendments or revisions thereto.

**Sec. 1610. Civil Actions.** In addition to other remedies provided in this Chapter, any violation of this Chapter may be enforced by a civil action brought by the City. In such action, the City may seek, and the Court shall grant, as appropriate, any or all of the following remedies:

- a) A temporary and/or permanent injunction;
- b) Assessment of the violator for costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for reasonable costs of preparing and bringing legal action under this subsection, including but not limited to attorney compensation;
- c) Costs incurred in removing, correcting, or terminating the adverse effects resulting from the violation.

**Sec. 1611. Continuing Violation.** Unless otherwise provided, a person shall be deemed guilty of a separate offense for each and every day during any portion of which a violation of this Chapter is committed, continued or permitted by the person and shall be punishable accordingly as herein provided.

**Sec. 1612. Concealment.** Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter shall constitute a violation of such provision.

### **Reinspection Fees**

**Sec. 1613. Reinspection Fees.** Whenever an Authorized Enforcement Official determines that upon reinspection of the premises there has been a failure to comply with any orders, notices or directions of the City, the Enforcement Official may charge a reinspection fee.

### **Remedies Not Exclusive**

**Sec. 1614. Remedies Not Exclusive.** Remedies under this Chapter are in addition to and do not supercede or limit any and all other remedies, civil or criminal. The remedies provided for herein shall be cumulative and not exclusive. The Enforcement Official shall have the discretion to select a particular remedy to further the purposes and intent of the Chapter, depending on the particular circumstances. The Enforcement Official's decision to select a particular remedy is not subject to appeal.

### **Joint and Several Liability**

**Sec. 1615. Joint and Several Liability.** The property owner and the Advertising Sign owner/operator shall be jointly and severally liable for violations of this Chapter.

### **Disclaimers**

Sec. 1616. **Disclaimers.** By prohibiting the advertising or promotion of alcoholic beverages and tobacco products in outdoor or publicly visible locations, the City of Oakland is assuming an undertaking only to promote the general welfare by discouraging and reducing the illegal purchase and consumption of alcoholic beverages and tobacco products to minors. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

### **Severability and Validity**

Sec. 1617. **Severability and Validity.** If any portion of this Chapter or the application thereof to any person or circumstances is declared invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Chapter and the application of such portions to other persons or circumstances are to be considered valid. To this end, the provisions of this Chapter are severable."

**Section 6.** Chapter 1.08, Section 1.08.020(a) of the Oakland Municipal Code is hereby amended to read as follows:

- d. This Article relates to the administrative assessment of civil penalties to affect abatement of major violations of the Oakland Building Code, the Oakland Housing Code, the Oakland Planning Code, ***Oakland Sign Code Chapter 16 Alcohol and Tobacco Advertising***, and the following ordinances codified within the Oakland Municipal Code (OMC): Property Blight [OMC Chapter 15], Property Safety and Foundation Maintenance (Fire Damaged Area), Weed Abatement, Graffiti Abatement [OMC Chapter 16], Bedroom Window Security Bar and Smoke Detector Permit Requirements [OMC Chapter 2, Article 15], Regulation of Hotel Rates and Register [OMC Chapter 3, Article 22], and Transient Occupancy Tax [OMC Chapter 5, Article 20].

**Section 7.** Chapter 1.12, Section 1.12.020(a) of the Oakland Municipal Code is hereby amended to read as follows:

- a. This Article relates to the administrative assessment of citations to affect abatement of major violations of the Oakland Building Code, the Oakland Housing Code, the Oakland Planning Code, ***Oakland Sign Code Chapter 16 Alcohol and Tobacco Advertising***, and the following ordinances codified within the Oakland Municipal Code (OMC): Property Blight [OMC Chapter 15], Property Safety and Foundation Maintenance (Fire Damaged Area), Weed Abatement, Graffiti Abatement [OMC Chapter 16], Bedroom Window Security Bar and Smoke Detector Permit Requirements [OMC Chapter 2, Article 15], Regulation of Hotel Rates and Register [OMC Chapter 3, Article 22], and Transient Occupancy Tax [OMC Chapter 5, Article 20].

**Section 8.** Chapter 1.16, Section 1.16.020(a) of the Oakland Municipal Code is hereby amended to read as follows:

- a. This Article relates to the administrative assessment of citations to affect abatement of major violations of the Oakland Building Code, the Oakland Housing Code, the Oakland Planning Code, ***Oakland Sign Code Chapter 16 Alcohol and Tobacco Advertising***, and the following ordinances codified within the Oakland Municipal Code (OMC): Property Blight [OMC Chapter 15], Property Safety and Foundation Maintenance (Fire Damaged Area), Weed Abatement, Graffiti Abatement [OMC Chapter 16], Bedroom Window Security Bar and Smoke Detector Permit Requirements [OMC Chapter 2, Article 15], Regulation of Hotel Rates and Register [OMC Chapter 3, Article 22], and Transient Occupancy Tax [OMC Chapter 5, Article 20].

**Section 9.** The City Council finds and determines that:

- a) This ordinance is necessary to reduce illegal activities by minors.
- b) The findings set forth in support of this ordinance are true and correct and provide a further basis for this Ordinance; and,
- c) The foregoing recitals are true and correct and are an integral part of this Ordinance.

**Section 10.** That this ordinance shall be applied and interpreted to have an effect on all subject Advertising Signs as identified herein, unless the owners of such signs provide written documentation which demonstrates to the City Manager, within 30 days of effective date of this ordinance, that this ordinance unreasonably interferes with any contracts executed before the date of adoption of this Ordinance by the City Council. Failure of the owners/operators of the Advertising Signs to timely provide written documentation for an exemption, shall be grounds for denial of the exemption. The City Manager is authorized to grant an exemption for up to one (1) year from the date that the ordinance is adopted. The decision of the City Manager shall be in writing, is final, and not administratively appealable.

**Section 11.** The City Council determines that the effective date of this Ordinance is the effective date of the General Plan Land Use and Transportation Element update. However, enforcement shall not commence until 45 days after the effective date of this Ordinance.

## ENDNOTES

1. Kusserow, Richard P. *Youth and Alcohol: A National Survey of Drinking Habits, Access, Attitudes and Knowledge*, Office of Inspector General, Department of Health and Human Services, June 1991.
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4. Friedner Wittman, *Survey of Alcohol and Other Drug Experiences Among Castro Valley High School Students in 1987, 1990, 1993*, CLEW Associates, Berkeley, CA, 1993.
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6. Center on Addiction and Substance Abuse at Columbia University, *Rethinking Rites of Passage: Substance Abuse on America's Campuses*, p. 21, June 1994.
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8. Welte, J.W., Abel E.L., *Homicide: drinking by the victim*, J Studies Alcohol, vol. 50, p. 197-201, 1989.
9. Pernanen, K., *Alcohol and crimes of violence*, in *The Biology of Alcoholism*, vol. 4, New York, Plenum Press, 1976.
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11. Adams/Jobson Beverage Group, *Wine Handbook 1996; Beer Handbook, 1995; and Liquor Handbook, 1996*, Adams/Jobson Publishing Corp., 1996.
12. Atkin, C.K., Neuendorf, K., and McDermott, S., *The Role of Alcohol Advertising in Excessive and Hazardous Drinking*, Journal of Drug Education, 13(4), 313-325, 1983.
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16. CDC, PHS, *Smoking and Health: A National Status Report*, DHHS Publication No. (CDC) 87-8396, 1986.
17. *Results of a National Household Survey to Assess Public Attitudes About Policy Alternatives for Limiting Minors' Access to Tobacco Products*, Robert Wood Johnson Foundation, December 1994.
18. Feder, Barnaby J., *Increase in Teen-Age Smoking Sharpest Among Black Males*, New York Times, May 24, 1996.
19. *Is Anybody Getting the Picture? Despite Ads Teenage Smoking is Unabated*, New York Times, July 17, 1997.
20. Ibid.
21. Feder, Barnaby J., *Youth-Smoking Study Sees Little Effect in Sting Efforts*, New York Times, October 9, 1997.
22. *No Sale: Youth, Tobacco and Responsible Retailing*, Findings and Recommendations of a Working Group of State Attorneys General, December 1994.
23. *1996 California Tobacco Survey: Early Results*, U.C.S.D. Cancer Prevention Program.
24. Ibid.
25. Advertising Age, March 15, 1993.
26. Evans, Nicola, et al., *Influence of Tobacco Marketing and Exposure to Smokers on Adolescent Susceptibility to Smoking*, Journal of the American Cancer Institute, October 18, 1995.
27. Levy, Doug, *RJR Memo Targeted Teen Market*, USA Today, October 6, 1995.
28. Teague, C., *Research Planning Memorandum on Some Thoughts About New Brands of Cigarettes for the Youth Market*, RJ Reynolds Tobacco Company, February 2, 1973.
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Introduced- 12-2-97

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 16 1997, 19\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BRUNNER, CHANG, DE LA FUENTE, MILEY, NADEL, REID, RUSSO, SPEES AND  
PRESIDENT HARRIS - 9

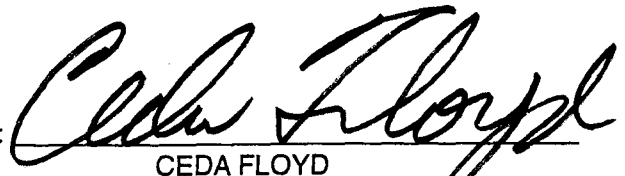
NOES- None

ABSENT- None

ABSTENTION- None

-15-

ATTEST:



CEDA FLOYD

City Clerk and Clerk of the Council  
of the City of Oakland, California

# The Oakland Tribune.

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## PUBLIC NOTICE NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND SIGN CODE TO RESTRICT THE PLACEMENT OF OUTDOOR ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES AND TOBACCO PRODUCTS AND ESTABLISHING PENALTY PROCESSES.

This ordinance will prohibit advertising of alcoholic beverages and tobacco products in publicly visible locations where residential uses are found and within 1,000 ft. of school, City-owned youth recreation centers, and Raimondi Field.

This Ordinance was introduced at the regular council meeting, Tuesday evening, December 2, 1997 and passed to print 7 Ayes, 0 Noes. Hearing on final adoption is set for regular Council Meeting at One City Hall Plaza, Council Chambers, on the third floor in Oakland, California, Tuesday evening December 16, 1997 at 7:00 p.m.

Three full copies are available for use and examination by the public in the office of the City Clerk at One City Hall Plaza, 1st Floor, Oakland, California.

CEDA FLOYD  
City Clerk

The Oakland Tribune, Legal No. 1120925  
December 11, 1997

## PROOF OF PUBLICATION

Case No. ....

In the matter of  
City of Oakland  
.....  
.....  
.....  
.....  
.....  
.....

Samantha Allen-Wise

deposes and says that he/she was the Public Notice Advertising Clerk of THE OAKLAND TRIBUNE a newspaper of general circulation as defined by Government Code Section 6000, adjudicated as such by the Superior Court of the State of California, County of Alameda (Order No. 237798, December 4, 1951) which is published and circulated in Oakland Township in said county and state seven days a week.

That the .....

Notice & Digest .....

of which the annexed is a printed copy, was published in every issue of THE OAKLAND TRIBUNE on the following dates:

December 11, 1997  
.....  
.....

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Date ..... December 11, 1997 .....  
at Oakland, California.

*Samantha Allen-Wise*

Public Notice Advertising Clerk



0-12025

mpw

## NOTICE AND DIGEST

AN ORDINANCE AMENDING THE OAKLAND SIGN CODE  
TO RESTRICT THE PLACEMENT OF OUTDOOR  
ADVERTISEMENTS FOR ALCOHOLIC BEVERAGES AND  
TOBACCO PRODUCTS AND ESTABLISHING PENALTY  
PROCESSES

This ordinance will prohibit advertising of alcoholic beverages and tobacco products in publicly visible locations where residential uses are found and within 1,000 ft. of schools, City-owned youth recreation centers, and Raimondi Field.

Item #32  
12-2-97