

CITY OF LOS ANGELES  
MUNICIPAL CODE (2019)  
ARTICLE 6.9

TOBACCO RETAILER'S PERMIT

SEC. 46.90. DEFINITIONS.

(a) "Proprietor" shall mean a person with ownership or managerial interest in the business. An ownership interest shall be deemed to exist when a person has ten percent or greater interest in the stock, assets, or income of a business. A managerial interest shall be deemed to exist when a person can or does, have or share, ultimate control over the day-to-day operations of the business.

(b) "Tobacco paraphernalia" shall mean cigarette papers or wrappers, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other item designed for the smoking, preparation, storing, or consumption of tobacco products.

(c) "Tobacco product" shall mean any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis or beedies, hookah tobacco or any other preparation of tobacco. "Tobacco product" shall also include any product or formulation of matter containing nicotine derived from tobacco, or synthetic nicotine, that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into the human body. "Tobacco product" does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

(d) "Tobacco retailer" shall mean any person or proprietor who sells, offers for sale, or exchanges or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean engaging in any of the above. These definitions are without regard to the quantity of tobacco, tobacco products, or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(e) "Arm's length transaction" shall mean 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 article is not an arm's length transaction.

SEC. 46.91. TOBACCO RETAILER'S PERMIT REQUIRED.

(a) It shall be a misdemeanor for any person or proprietor, within the City of Los Angeles, to act as a tobacco retailer at a location for which a valid Tobacco Retailer's Permit has not been issued pursuant to this article. A separate Tobacco Retailer's Permit is required for each location at which tobacco retailing is to occur. No permit shall be issued to authorize tobacco retailing at any place other than a fixed location. Tobacco retailing from any non-permanent location, including from vehicles, is prohibited. No permit shall be issued for residences, newsstands, or locations where engaging in tobacco retailing is prohibited by federal, state, or local law.

(b) A person or proprietor without a valid Tobacco Retailer's Permit, including a person or proprietor whose permit has been suspended or revoked, shall keep all tobacco products and tobacco paraphernalia out of public view. The public display of tobacco products or tobacco paraphernalia in violation of this provision shall constitute tobacco retailing without a permit.

(c) A person or proprietor whose permit has been suspended or revoked, shall not display any advertisement relating to tobacco products or tobacco paraphernalia that promotes the sale or distribution of such products from the tobacco retailer's location or that would lead a reasonable consumer to believe that such products can be obtained at the tobacco retailer's location.

(d) Each day that a person or proprietor sells or offers for sale tobacco, tobacco products or tobacco paraphernalia without a valid Tobacco Retailer's Permit shall constitute a separate violation.

SEC. 46.92. APPLICATION PROCEDURE.

(a) Application for a Tobacco Retailer's Permit shall be submitted to the Office of Finance by any proprietor of a business seeking the permit. Each applicant shall be responsible for reviewing the conditions of conducting retail tobacco sales within the City of Los Angeles and shall agree to abide by these conditions by signing the application under penalty of perjury. All applications shall be submitted on a form supplied by the City and shall contain the following information:

(1) The business name, address and telephone number of the location for which the Tobacco Retailer's Permit is sought.

(2) The name, mailing address and telephone number of the proprietor or person authorized to receive communications and notices required by or authorized by this article. If this such information is not supplied, each proprietor shall be understood to consent to the provision of notice at the business address of the location for which the Tobacco Retailer's Permit is sought.

(3) Such other information as the City Attorney deems necessary for enforcement of this ordinance.

(b) A Tobacco Retailer's Permit must be obtained prior to the sale of any tobacco product. A new Tobacco Retailer's Permit must be obtained upon change of ownership or upon change of form of ownership prior to the sale of any tobacco product or tobacco paraphernalia, including but not limited to a sole proprietor becoming a corporation.

SEC. 46.93. ISSUANCE OF PERMIT.

(a) The permit shall state the following on its face:

(1) Legal owner,

(2) Doing Business As (D.B.A.),

(3) Los Angeles Municipal Code section regulating Tobacco Retailer's Permits;

(4) Business and mailing addresses,

(5) Date permit was issued and permit expiration date;

(6) Account number.

(b) Upon the receipt of an application for a Tobacco Retailer's Permit and fee payment, the Office of Finance shall issue a permit, unless the City Attorney demonstrates one of the following bases for denial:

(1) The application is incomplete or inaccurate; or

(2) The application seeks authorization for tobacco retailing at a location for which a suspension or revocation is in effect pursuant to Section 46.99; or

(3) The application seeks authorization for tobacco retailing that is unlawful pursuant to any section of this article or any federal, state, or local law.

(c) A Tobacco Retailer's Permit issued in error or on the basis of false or misleading information supplied by a proprietor may be revoked.

(d) **City Attorney's Responsibilities.** It shall be the responsibility of the City Attorney or his/her designee to enforce all provisions set forth in this article, which includes, but is not limited to, the following:

(1) Investigate and prosecute tobacco retailers who fail to obtain and/or maintain a Tobacco Retailer's Permit.

(2) Conduct any and all audits that may be necessary in the investigation of tobacco retailers.

(e) **Office of Finance Responsibilities.** It shall be the duty of the Office of Finance to administer and process the Tobacco Retailer's Permit application; mail renewal notices to permittees; and deposit funds collected for each Tobacco Retailer's Permit into the General Fund.

SEC. 46.94. DISPLAY OF PERMIT.

Any Tobacco Retailer's Permit issued pursuant to this article shall be prominently displayed in public view at the location for which it is issued. A violation of this section shall be punishable as an infraction.

SEC. 46.95. FEES FOR PERMIT.

(a) A fee shall be charged for a Tobacco Retailer's Permit. The permit fee for calendar year 2018 and 2019 shall be \$300. The permit fee for calendar year 2020 and thereafter shall be \$437. All fees are non-refundable, except as required by law, and shall be used exclusively to reimburse the costs incurred for the program. Fees shall not be prorated. All fees collected shall be deposited into the General Fund.

(b) A \$5.00 charge shall be imposed for the issuance of a duplicate permit upon the permittee or an authorized representative stating, in a properly executed affidavit of loss, that the original permit has been lost or destroyed. This charge shall be deposited into the General Fund.

**SEC. 46.96. RENEWAL OF PERMIT; DELINQUENCY.**

A Tobacco Retailer's Permit is invalid unless the required fee has been paid in full and the term of the permit has not yet expired. The term of the permit shall be one year, and the permit shall be deemed expired on December 31st of the year for which the permit was issued. Renewal statements shall be due and payable November 1st of each year and shall be delinquent by January 1st of the next year. Delinquent renewals shall be charged an additional sum equal to 25 percent of the required permit fee. Such additional sum shall become a part of the fee required by the Office of Finance.

**SEC. 46.97. PERMITS NOT TRANSFERABLE.**

A Tobacco Retailer's Permit is non-transferable. If a new person or proprietor acquires a business engaged in tobacco retailing, that person or proprietor must apply for a new permit before engaging in the sale of tobacco products or tobacco paraphernalia.

**SEC. 46.98. ADMINISTRATIVE VIOLATIONS.**

(a) **Cumulative to Other Violations.** The violations set forth in this section are cumulative to, and in addition to, any other violations of federal, state, or local law and shall be punished as specified in Section 46.99.

(b) **Failure to Comply With Federal, State, or Local Law.** An administrative violation shall be found when the City Attorney is in receipt of an official record of any court or governmental agency that demonstrates that a tobacco retailer, or any of the tobacco retailer's agents or employees, has violated any federal, state, or local law applicable to tobacco retailing, or has allowed smoking in an enclosed place of employment in violation of California Labor Code Section 6404.5. An official record of any court or governmental agency includes, but is not limited to, an abstract from the State of California Department of Public Health that a tobacco retailer has paid a civil monetary penalty imposed for violating the Stop Tobacco Access to Kids Enforcement Act (Business and Professions Code Division 8.5), or a certified court docket reflecting the entry of a plea of guilty or "no contest" to a criminal charge involving tobacco retailing or to a violation of California Labor Code Section 6404.5.

**SEC. 46.99. ADMINISTRATIVE PENALTIES.**

(a) Any tobacco retailer determined by the City Attorney or his/her designee to have violated Section 46.98 shall be subject to the penalties of this section. The City Attorney or his/her designee shall notify the tobacco retailer that there has been an initial determination of violation under the provisions of this ordinance, and shall specify the violation and the penalty imposed, including the effective date of the suspension, if any. The notice shall further state that the tobacco retailer may, within 15 calendar days of receipt of the notice, submit to the City Attorney any written or documentary evidence to contest the initial determination of violation. After receiving and considering the evidence that is provided, the City Attorney or his/her designee shall prepare a final written decision with findings, and shall serve this final determination upon the tobacco retailer. Upon written request, the tobacco retailer shall have the right to receive copies of any records upon which the final determination

is based. This final determination shall be served within 30 calendar days of the initial determination.

(b) Administrative penalties shall be imposed as follows:

(1) For the first violation in any five-year period, the Tobacco Retailer's Permit shall be suspended for 30 calendar days;

(2) For the second violation in any five-year period, the Tobacco Retailer's Permit shall be suspended for 90 calendar days;

(3) For a third violation in any five-year period, the Tobacco Retailer's Permit shall be suspended for 120 calendar days;

(4) For a fourth violation in any five-year period, the Tobacco Retailer's Permit shall be revoked. The Office of Finance shall not issue a Tobacco Retailer's Permit to a location at which a Tobacco Retailer's Permit has been revoked unless a period of three years has passed since the date of the issuance of the revocation, and the tobacco retailer attends and completes a tobacco retailer education program provided by the City Attorney.

(c) For the duration of any Tobacco Retailer's Permit suspension, the tobacco retailer shall clearly and conspicuously post a Notice of Suspension sign provided by the City Attorney at each customer entrance. Failure to post the Notice of Suspension sign during a suspension period shall be punishable as an infraction.

(d) Notwithstanding any other provision of this article, prior violations, permit suspension periods and permit revocation shall continue to apply to a location unless the business engaged in tobacco retailing at that location has been fully transferred to a new proprietor with no financial relationship to the former proprietor, and the new proprietor provides the City Attorney with clear and convincing evidence that the new proprietor has acquired or is acquiring the business in an arm's-length transaction.

(1) The City Attorney's determination of an arm's-length transaction shall be provided to the Office of Finance in written form and waive the requirements for reinstatement of a revoked permit listed in Subsection (b)(4) of this section.

**SEC. 46.100. RIGHT TO ADMINISTRATIVE REVIEW AND PROCEDURES.**

(a) The tobacco retailer shall have the right to an administrative review of the final determination of the City Attorney. The administrative review shall be conducted by the Police Permit Review Panel as authorized by Section 102.13.01 of the Los Angeles Municipal Code. To obtain an administrative review of the City Attorney's final determination, the tobacco retailer must notify the City Attorney, in writing, within 15 calendar days of its receipt of the City Attorney's final determination. The timely filing of a request for an administrative review shall hold in abeyance any permit suspension until the administrative review is heard and decided.

(b) **Notice of Review.** If a review is requested pursuant to Section 46.100(a) the City Attorney shall provide written notice, within 45 calendar days of its receipt of the request, to the

tobacco retailer of the date, time, and place of the review.

(c) **Review Procedure.** The administrative review hearing shall be recorded by a certified court reporter. During the hearing, no evidence or testimony shall be presented to the Police Permit Review Panel. The purpose of the Panel's review is to ascertain whether the final determination of the City Attorney was supported by the administrative record. A decision shall be rendered by the Police Permit Review Panel at the conclusion of the hearing. Notice of the decision shall be mailed to the tobacco retailer who requested the review.

(d) **Finality of The Police Permit Review Panel's Decision.** The decision of the Police Permit Review Panel shall be the final decision of the City.

**SEC. 46.101. SEVERABILITY.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance or the rules adopted hereby. The City Council of the City of Los Angeles hereby declares that it would have adopted independently 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.

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