

# County of Santa Clara

## Department of Environmental Health

1555 Berger Drive, Suite 300  
San José, CA 95112-2716  
(408) 918-3400 FAX (408) 298-6261  
www.EHinfo.org



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**Certified Mail:**  
**7020 0090 0001 4687 7647**

### Notice of Violation

**(Via Standard and Certified U.S. Postal Mail and Posting at Property)**

February 23, 2022

**Responsible Person:**  
Mohammad Hammad

**Subject Business:**  
Raw Smoke Shop  
265 California Avenue  
Palo Alto, CA 94306

**Re: Facility ID: FA0289684**

**Inspection Dates:** September 30, 2021, October 5, 2021, and January 27, 2022

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Dear Mr. Hammad:

On September 27, 2021, the County of Santa Clara Department of Environmental Health (DEH) received a complaint alleging that the Subject Business was selling flavored tobacco products as well as vaping (e-cigarette) products. On September 30, 2021 and October 5, 2021, DEH staff conducted a Compliance Inspection and Follow-up Compliance Inspection, respectively. At both inspections, staff observed violations of Palo Alto Municipal Code (Municipal Code) section 4.64.160 and related provisions. During both of those inspections, you or your representative were provided a copy of a Compliance Inspection Report that (1) informed you that the Subject Business illegally sold flavored tobacco and e-cigarettes that contain nicotine and (2) directed you to remove the products from the Subject Business and discontinue sale of those prohibited items (enclosed).

On November 30, 2021, DEH received another complaint alleging that the Subject Business was selling prohibited flavored tobacco products as well as vaping (e-cigarette) products.

On January 27, 2022, County of Santa Clara Department of Public Health staff performed a Tobacco Retail Permit Compliance Check regarding sales of flavored tobacco products and electronic cigarette products. On that date, staff was able to purchase a flavored tobacco e-cigarette product with nicotine, specifically a PodMesh Frozen Strawberry Guava device with 5.5% nicotine. Sale of this product violates both the sale of flavored tobacco products and

**Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian**  
**County Executive: Jeffrey V. Smith**

electronic cigarette products provisions of the Municipal Code, for which you had previously received notice.

The violations are public nuisances.

As the owner of the Subject Business, you are responsible for the violations described in Section I. You must correct the violations as described in Section II. The consequences of your failure to correct the violations are described in Section IV and may include increasing fines and suspensions for each of the remaining violations, pursuant to Municipal Code section 4.64.140, until corrected.

**I. VIOLATIONS:**

<b>Code Section</b>	<b>Description of Violation</b>
<b>Retail Sale of Tobacco Products Ordinance</b>	
<b>DEH-September 30, 2021</b>	
Muni. Code § 4.64.030 (i)	Sales of Flavored Tobacco Products
Muni. Code § 4.64.030 (l)	Sales and Distribution of Electronic Cigarette Products
<b>DEH-October 5, 2021</b>	
Muni. Code § 4.64.030 (l)	Sales and Distribution of Electronic Cigarette Products
<b>Public Health-January 27, 2022</b>	
Muni. Code § 4.64.030 (i)	Sales of Flavored Tobacco Products
Muni. Code § 4.64.030 (l)	Sales and Distribution of Electronic Cigarette Products

**II. REQUIRED CORRECTIONS:**

1. **Immediately** cease all sales of flavored tobacco products and all sales and distribution of electronic cigarette products in violation of the Municipal Code.
2. **Immediately** contact Christy Kaufman at the DEH Consumer Protection Division at to schedule an in-person meeting to discuss compliance requirements. ***You must schedule this appointment in advance, as we cannot accommodate walk-ins.***
3. **By April 1, 2022** pay an administrative fine of \$1,000 pursuant to Municipal Code section 4.64.130. Checks shall be made payable to the “County of Santa Clara Department of Environmental Health,” referencing the facility name, and shall be delivered within 30 calendar days of the date of this notice to:

County of Santa Clara Department of Environmental Health  
Attn: Consumer Protection Division  
1555 Berger Drive, Suite 300, San José, CA 95112

4. **Effective April 1, 2022**, remove all tobacco products from shelving and displays and cease sales of all tobacco products for 90 calendar days, pursuant to a suspension of your tobacco retailer permit under Municipal Code section 4.64.130(c)(1).

### **III. PROCEDURE TO CHALLENGE THE VIOLATIONS AND FINES**

You may appeal the violations, your responsibility, or the administrative fines to a County Hearing Officer pursuant to Ordinance Code section A37-10. To do so, you must complete the Hearing Request Form (enclosed). You must send the Hearing Request Form via email to: [hearing.officer@ceo.sccgov.org](mailto:hearing.officer@ceo.sccgov.org) or by U.S. Mail, express/overnight mail, or by personal delivery to: Office of the Clerk of the Board, 70 West Hedding Street, East Wing, 10<sup>th</sup> Floor, San José, CA 95110, within 10 days of the date of this Notice, pursuant to Ordinance Code section B11-590. At a minimum, the Hearing Request Form must contain:

1. A statement indicating the specific factual basis on which you contest this Notice and a description of any evidence you want the Hearing Officer to consider; and
2. Your postal address, email address, and telephone number to allow the County to contact and correspond with you (you may request service of notices by email).

If you are requesting waiver or reduction of the administrative fines, a statement that you are doing so accompanied by a sworn affidavit and supporting materials demonstrating your financial inability to pay the administrative fine or establishing other mitigating circumstances justifying a reduction of the amount of the fine.

### **IV. CONSEQUENCES OF FAILURE TO CORRECT**

You must perform the required corrections by the deadlines stated above. If you do not correct the violations by *any of* the deadlines above, or if you challenge the violations but fail to establish, they did not occur, the County will:

1. Charge you any costs the County incurs in correcting the violations, including staff costs and attorneys' fees; and/or
2. Impose increasing administrative fines of up to \$500 per violation and suspensions of your retail tobacco permit of up to one year until the violations are corrected; and/or
3. Institute civil or criminal prosecution, with civil penalties of up to \$2,500 per violation per day.

Please complete the required corrections to avoid these additional fines, fees, and penalties.

We look forward to working with you.

Sincerely,



**Jonathan Rubingh, MSFS, REHS | Program Manager**  
Consumer Protection Division  
Department of Environmental Health, County of Santa Clara  
1555 Berger Drive, Suite 300  
San José, CA 95112  
(408) 918-4787  
Jonathan.Rubingh@cep.sccgov.org

Encl: DEH inspection reports: September 30, 2021, September 30, 2021 revised, October 5, 2021  
Public Health Tobacco Retail Permit Compliance Checks Inspection Form and photo, January 27, 2021  
Request for Hearing Form

Cc: Department of Environmental Health File  
Public Health Department  
City of Palo Alto  
Office of the County Counsel