



**TO:** Mayor and Councilmembers

**FROM:** Deborah S. Lopez, City Clerk

**SUBJECT:** Certification of Sufficient Referendum Petition against Ordinance No. 21-09, Amending Chapter 5.07 of Title 5 of the Goleta Municipal Code Banning the Sales of Flavored Tobacco and Next Steps

**RECOMMENDATION:**

- A. Receive and File signature verification calculations from the Santa Barbara County Clerk-Recorder and the City Clerk certifying the sufficiency of the Referendum Petition against Ordinance No. 21-09, Amending Chapter 5.07 of Title 5 of the Goleta Municipal Code Banning the Sales of Flavored Tobacco.” (Referendum); and
- B. Consider one of the following actions:
  - 1. Repeal Ordinance No. 21-09 in its entirety and direct staff to return with an ordinance to effectuate the repeal of Ordinance No. 21-09;
  - 2. Submit the Referendum to the voters for consideration at either the next regular municipal election (November 8, 2022) or at a special election, to be held not less than 88 days after the order of the City Council, and direct staff to come back at the next meeting of the City Council with the necessary resolutions; or
  - 3. Direct staff to return with an item at a future agenda and any additional information, as deemed necessary by the City Council, to discuss Options (B)(1) and (B)(2).

**BACKGROUND:**

On October 5, 2021, the City Council adopted Ordinance No. 21-09 Amending Chapter 5.07 of Title 5 of the Goleta Municipal Code Banning the Sales of Flavored Tobacco, with an effective date of December 4, 2021.

On October 7, 2021, a referendum petition against Ordinance No. 21-09 was submitted to the City Clerk’s Office. On October 8, 2021, the City Attorney provided an impartial summary of the adopted ordinance to the proponents, per Elections Code Section 9238. The City Clerk reviewed the petition for compliance with the Elections Code, performed a prima facie review of the signatures and counted 5,407 unverified signatures. To qualify, a referendum petition must contain signatures of at least 10 percent of the

registered voters of the City of Goleta. Per the September 14, 2021 report of voter registration from the Santa Barbara County Registrar of Voters office to the Secretary of State, there were 20,395 registered voters in the City of Goleta; therefore, at least 2,040 valid signatures would be required on the referendum petition.

On November 10, 2021, the City Clerk delivered the petition to the Santa Barbara County Registrar of Voters office for signature verification and requested a “full count” (as opposed to a random sampling count). Pursuant to Elections Code Section 9114, signature verification was completed by the Santa Barbara County Registrar of Voters office within 30 working days from the date the petition was filed with the City Clerk/City elections official.

On December 8, 2021, the Santa Barbara County Registrar of Voters office sent a Certification Letter to the City Clerk confirming that the Referendum contained the required 2,040 signatures (Exhibit A to Attachment 1). Pursuant to California Elections Code Sections 9114 and 9240, the City Clerk’s Office now certifies to the City Council that the referendum petition is sufficient.

## **DISCUSSION:**

It is recommended that the City Council receive and file the Certificate from the City Clerk dated December 8, 2021, indicating that the subject referendum petition does have sufficient valid signatures. Attachment 1 to this report is the City Clerk’s/County Registrar of Voters’ Certification of the Referendum Petition’s sufficiency.

According to California Elections Code Sections 9237, 9240 and 9241, now that the petition has been deemed sufficient and the referendum has qualified, Ordinance No. 21-09 is suspended.

The City Council must reconsider Ordinance No. 21-09 and either repeal it in its entirety or submit it to the voters for consideration at either the next regular municipal election, which will occur for the City of Goleta in November 2022, or at a special election, to be held not less than 88 days after the order of the City Council.

The City Council is not required to make a decision to repeal the ordinance or submit it to the voters at tonight’s meeting. The City Council can choose to direct staff to return early next year with an item to discuss its options and receive any other information deemed necessary by Council.

However, the one-year period to adopt the same ordinance (discussed immediately below) runs from the date the City Council repeals the ordinance or it fails to pass by vote of the people at an election.

If the Ordinance is repealed, then the City is precluded from readopting the protested ordinance for a period of one year from the date the repeal is adopted.

If the protested ordinance is approved by a majority of voters, it will become effective when the City Council certifies the election results (about a month after the election). If the protested ordinance is rejected by a majority of voters, then the City is precluded from readopting the ordinance for a period of one year from the date of the election.

The City Council may submit the ordinance to the voters for approval at the next regular election on November 8, 2022, or at a special election date not less than 88 days from the date of the resolution calling for the election. Under Elections Code Section 1000, the next available "established election date" to schedule a special election will be April 12, 2022 and, after that, the June 7, 2022 Statewide Primary.

While the City Council has the legal discretion to select a special election date other than an established election date, staff recommends that if the Council opts for a special election, that the City utilize an established date to ensure the Santa Barbara County Registrar of Voters can feasibly conduct the election. Further, there is greater likelihood of sharing election costs with other Santa Barbara County cities that consolidate when an established election date is selected. If an alternative special election date is selected beyond what is proposed in this staff report, staff will need to verify the Registrar's ability to conduct the election on that date.

#### **FISCAL IMPACTS:**

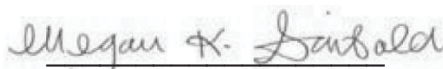
There is no fiscal action to be taken for this agenda item. However, the costs associated with holding a special election are not included in the approved budget for Fiscal Year 2021-22 and would need to be included in the next two-year budget cycle for any election to be held beyond the end of this fiscal year. The cost of any election related to the Referendum would be the responsibility of the City, not the Referendum proponents.

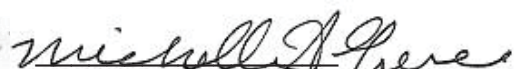
**Reviewed By:**

**Legal Review By:**

**Approved By:**

  
Kristine Schmidt  
Assistant City Manager

  
Megan Garibaldi  
City Attorney

  
Michelle Greene  
City Manager

#### **ATTACHMENTS:**

1. Certification of the Referendum Petition's Sufficiency  
Exhibit A. Results of Santa Barbara County Clerk Recorder Signature Verification

## **ATTACHMENT 1**

Certification of the Referendum Petition's Sufficiency

## **CITY CLERK CERTIFICATION OF REFERENDUM PETITION**

I, Deborah S. Lopez, City Clerk of the City of Goleta, California do hereby certify to the City Council of the City of Goleta, California, that the referendum petition filed November 5, 2021 against Ordinance No. 21-09, Amending Chapter 5.07 of Title 5 of the Goleta Municipal Code Banning the Sales of Flavored Tobacco, (the "Petition") is sufficient based on the following information:

1. On December 8, 2021, I received the final report from the County of Santa Barbara Elections Office (attached hereto, marked as Exhibit "A," and incorporated herein by this reference) which certified that 2,484 signatures on the Petition were valid signatures of registered voters of the City of Goleta.
2. Pursuant to Elections Code 9237, a valid petition against Ordinance No. 21-09, Amending Chapter 5.07 of Title 5 of the Goleta Municipal Code Banning the Sales of Flavored Tobacco is required to be signed by at least 10% of the City's registered voters. Since there were 2,484 valid signatures on the Petition, the Petition qualifies as a valid referendum.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the City Seal this 21<sup>st</sup> day of December, 2021.

SEAL

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Deborah S. Lopez  
City Clerk

**REGISTRAR OF VOTERS**

4440-A Calle Real  
Santa Barbara, CA 93110

Mailing Address:

PO Box 61510  
Santa Barbara, CA 93160-1510



Lompoc Branch Office  
401 E. Cypress Ave, Room 102  
Lompoc, CA 93436

Santa Maria Branch Office  
511 E. Lakeside Parkway, Suite 134  
Santa Maria, CA 93455

**JOSEPH E. HOLLAND**  
**COUNTY CLERK, RECORDER AND ASSESSOR**

I, **JOSEPH E. HOLLAND**, County Clerk, Recorder and Assessor of the County of Santa Barbara, and Registrar of Voters of said County, **DO HEREBY CERTIFY** the following:

That the City of Goleta initiative petition, **Referendum Against an Ordinance Passed by the City Council - Ordinance No. 21-09 which banned the sales of "flavored tobacco products" by tobacco retailers located within city limits**, was filed with the City Clerk of the City of Goleta on November 5, 2021.

That the County Elections Office received the petition for verification of signatures on **November 10, 2021**.

That said petition consists of **503** sections. Each section contains signatures purporting to be the signatures of qualified electors of the City of Goleta.

Pursuant to Elections Code Sections 9211, 9114 and 9115, the County Elections staff verified the required number of signatures by examining the records of registration in this county, current and in effect at the respective dates of such signing, to determine what number of qualified electors signed the petition. From that examination, I have determined the following facts regarding this petition:

- |   |                     |
|---|---------------------|
| 1. Number of unverified signatures filed by proponent (raw count) | <u><b>5,407</b></u> |
| 2. Number of signatures verified                                  | <u><b>5,407</b></u> |
| a. Number of signatures found VALID                               | <u><b>2,484</b></u> |
| b. Number of signatures found NOT VALID                           | <u><b>2,923</b></u> |

**IN WITNESS WHEREOF**, I have hereunto set my hand and affixed my official seal this 8<sup>th</sup> day of December, 2021.



  
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**JOSEPH E. HOLLAND**  
County Clerk, Recorder and Assessor



## Petition Result Breakdown

City of Goleta-Ref against ban of flavored tobacco products

Referendum Against and Ordinance Passed by the City Council - Ordinance No.21-09 which banned the sales of "flavc

Signatures Required	2040		
Raw Count	5,407		
Sample Size	5,407	Percent of Sigs	Percent of
Sigs Checked	5,407	Checked	Sample Size
Sigs Not Checked	0		0.0 %
Sigs Valid	2,484	45.9 %	45.9 %
Sigs Invalid	2,923	54.1 %	54.1 %
Duplicated	39	0.7 %	0.7 %
Non-duplicate Invalids	2,884	53.0 %	53.3 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	2,484	45.9 %
NotReg	Not in System at all	809	15.0 %
NRCancel	Voter found Cancelled	251	4.6 %
OutOfDist	Out of District-Individual Signature	764	14.1 %
CanIdntfy	Cannot Identify	256	4.7 %
Duplicate	Signed petition more than once	39	0.7 %
RegLate	Registered Late	5	0.1 %
WrittenbyOther	Name, Addr, and/or Signature not	15	0.3 %
RegDiffAdd	Registered at a Different Address	395	7.3 %
NoResAdd	No Residence Address Given	4	0.1 %
SigNoMatch	Signatures Don't Match	229	4.2 %
PrintedSig	Printed Signature	8	0.1 %
IncompVoter	Only one name; and/or street, no c	66	1.2 %
UnderAge18	Voter pending under age 18	1	0.0 %
NoPrnt	Not Precinctable	68	1.3 %
OldAddr	New addr before and after petition	1	0.0 %
Withdrawn	Withdrawn	11	0.2 %
ProRemoval	Proponent Removal Raw Count	1	0.0 %

STATISTICS SUMMARY	Value	% Raw	% Req	
Pages Processed	503	100.0 %		
Total Checked	5407	100.0 %	265.0 %	
Uncorrected Valid	2484	45.9 %	121.8 %	Min Required (95%): 1938.0
Duplicate Adjustment	0			Min Required to pass
Estimated Valid	2484	45.9 %	121.8 %	Based on Sample (110%): 2244.0