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# **PROPOSED CHANGES TO THE COUNTY OF LOS ANGELES' REGULATIONS OF TOBACCO RETAILERS IN THE UNINCORPORATED AREAS**

**SEPTEMBER 5, 2019, 6 PM**

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STAN REDINS – DEPARTMENT OF TREASURER AND TAX COLLECTOR**





## Welcome & Purpose

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Welcome and thank you for participating in this evening's Webinar to discuss the proposed changes to the County of Los Angeles (County) regulations of Tobacco Retailers in the unincorporated areas.

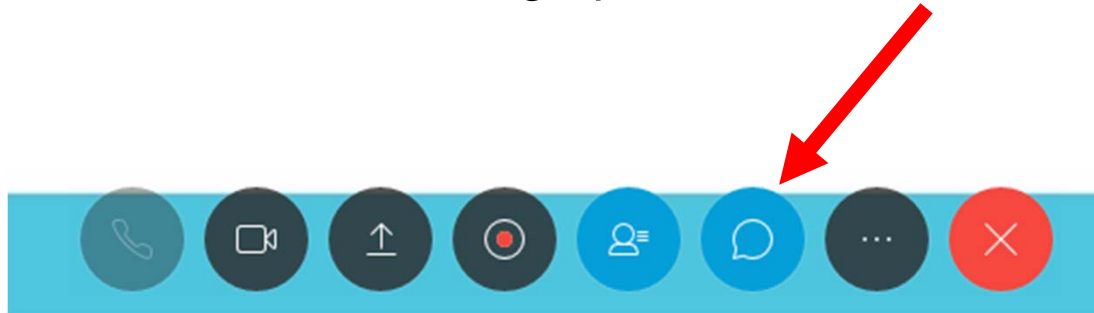
- With a Webinar format, we hope to provide better accessibility to you to present the proposed regulations and to get your feedback.
- Chat box is open for your comments and questions. We will respond to questions by posting our responses on the Department of Public Health's website by September 19<sup>th</sup>. Please log on to <http://lapublichealth.org/tob/> to access responses.

# Comments

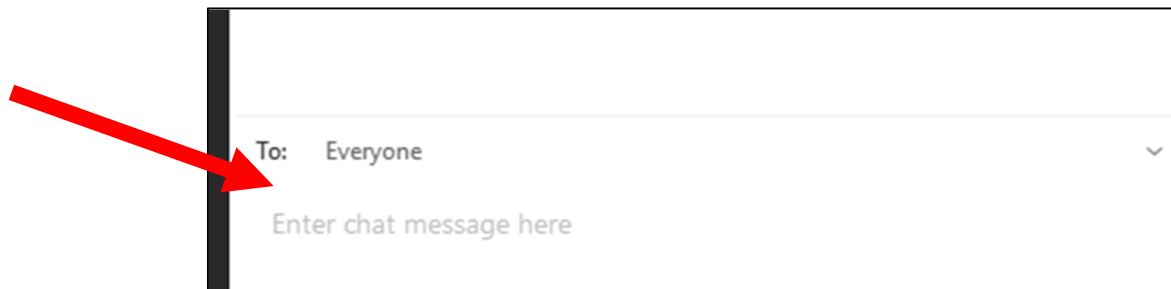
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Please use the Chat box for comments and questions.

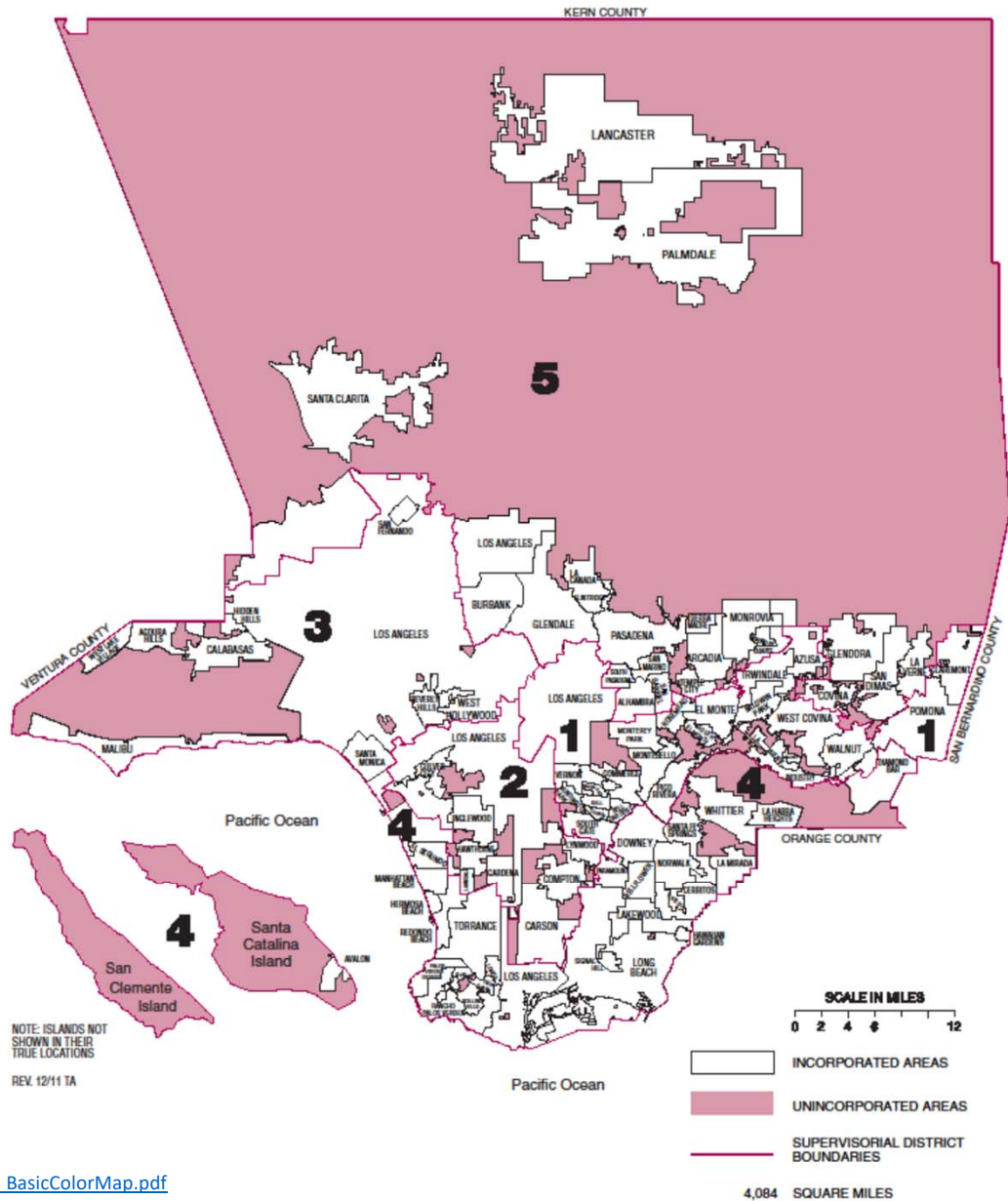
1. Hover over presentation to find Webinar options.
2. Click on chat icon to bring up Chat box.



3. Type comments or questions into Chat box.



The proposed policy changes would only apply to tobacco retailers in **unincorporated areas** of the County.



Los Angeles County map retrieved from [http://file.lacounty.gov/SDSInter/lac/1043452\\_BasicColorMap.pdf](http://file.lacounty.gov/SDSInter/lac/1043452_BasicColorMap.pdf)



# Why the Motion?

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The County Board of Supervisors (Board) introduced a motion for an assessment of tobacco retailers and regulatory best practices. The Board wanted to consider the following:

- Require a business license for tobacco only retailers as a “best practice” to foster healthy retail environments.
- Regulate conduct within and surrounding shops to improve neighborhoods, reduce tobacco product use, and foster healthier communities.
- Amend the County’s Tobacco Retail License (TRL) definition of “tobacco product” to mirror State law so that the ordinance will apply to all tobacco retailers currently subject to State licensure, including vape shops and e-cigarette retailers.
- Regulate the sale of flavored tobacco products as a “best practice” to address the recent surge in youth e-cigarette use. According to the CDC, there were more than 1.5 million more current e-cigarette users in 2018 than 2017.<sup>1</sup>

<sup>1</sup> Centers for Disease Control and Prevention. Vital Signs: Tobacco Product Use Among Middle and High School Students-United States 2011-2018. Morbidity and Mortality Weekly Report 2019, 68(06)

# Agenda

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- 1 Timeline
- 2 Proposed Policy Changes
- 3 Flavored Tobacco Products
- 4 Comments

# 2018 Timeline

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## **March, 2018**

- The Board introduced an initial motion for an assessment of tobacco shops and regulatory best practices.

## **August, 2018**

- Interdepartmental workgroup submitted a report to the Board in response to the motion.

## **September, 2018**

- Subsequent motion regarding tobacco shops and existing regulations.

## **November, 2018**

- Subsequent motion regarding tobacco shops and existing regulations (continued from September 2018).



# 2019 Timeline

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## **February – March, 2019**

- Live informational sessions conducted throughout unincorporated areas of the County.
- At least one session conducted in each Supervisorial District.

## **June, 2019**

- Survey by mail of tobacco retailers in the unincorporated areas of the County.

## **July – September, 2019**

- Retailer webinars.
- Ongoing community engagement.

## **September, 2019**

- Present proposed ordinance and fees to the Board.

# Overview of Proposed Policy Changes

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- 1 Require a Tobacco Shop Business License
- 2 Regulate behavior around all tobacco retailers
- 3 Regulate retailers of electronic tobacco products
- 4 Regulate retailers of flavored tobacco products

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# Treasurer and Tax Collector Business License



# Proposed Tobacco Shop Business License

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- Los Angeles County Code Title 7 - Business License
  - Promote the health, safety, and welfare of the public.
  - Regulate conduct and behavior.
- The Treasurer and Tax Collector (TTC) defines “Tobacco Shop” as:
  - Any business with a primary purpose of selling tobacco, tobacco products, and tobacco paraphernalia (including but not limited to cigars, pipe tobacco, electronic cigarettes, vaping devices, and smoking components and accessories).
- Only Tobacco Shops located in the unincorporated areas of County will be required to obtain a business license.
- Businesses must submit an application within 90 days of the effective date of the ordinance.

# Proposed Tobacco Shop Business License Requirements

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For Tobacco Shops, the following three licenses will be required in the unincorporated areas of the County:

1) County Business License

- Includes land use approval from the Department of Regional Planning (DRP) and approvals from the Department of Public Works – Building and Safety (B&S) and the Fire Department (Fire),

2) County TRL, and

3) California Department of Tax and Fee Administration License (CDTFA).

# Proposed Tobacco Shop Business License Fees

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- Proposed initial business license fee.
  - Includes inspections by B&S, Fire, and TTC.
- Proposed renewal business license fee.
  - Includes approval by TTC only.
- Proposed business license is valid for 2 years and fees are based on cost recovery only.
  - Proposed initial fee: \$778
  - Proposed subsequent fee: \$142
- DRP and TRL fees are not included in the business license fees.

# Proposed Tobacco Shop Business License Operating Requirements

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- Use of tobacco, tobacco products and paraphernalia, and loitering prohibited on premises (Smokers' Lounges exempt).
- Consuming food or alcoholic beverages, or providing food or alcoholic beverages for consumption on the premises is prohibited.
- Limited advertising on windows (33%).
- Clearly recognizable and readable Tobacco Shop signage.

# Smokers' Lounges

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- Smoker's Lounge is defined as an enclosed area in or attached to a Tobacco Shop dedicated exclusively to the sale and use of tobacco products.
- Separate business license is not required.
- Sale and consumption of any food or beverage (including alcohol) is prohibited.



# Proposed Policy Changes Regulate Behavior Around All Tobacco Retailers

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Specific rules to abate nuisances for all tobacco retailers in all unincorporated areas of the County, such as:

- No loitering
- Exterior lighting

Nuisance abatement will apply to all tobacco retailers within the unincorporated areas of the County and will not include buffer zones.

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# Public Health Tobacco Retail License



# County Tobacco Retail License

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## Chapter 11.35 – County Health & Safety Code

- Adopted in 2007 to promote:
  - Health, safety, and general welfare for its residents.
  - Encourage compliance with federal, state, and local laws regulating tobacco sales and use.
  - Discourage the purchase and use of tobacco products by minors.
  - Protect children from being lured into illegal activity through the misconduct of adults.

# County Tobacco Retail License

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- A TRL is required of all tobacco retailers in the unincorporated areas of the County.
- Current annual fee of \$235.
  - Fee is based on cost recovery.
  - Fee covers administration, enforcement and education.
- Current TRL does not regulate the sale of electronic smoking devices (i.e. e-cigarettes, e-hookah and vapes) or vape shops.

# Proposed Policy Changes Regulate Retailers of Electronic Tobacco Products

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- In 2016 the State of California included Electronic Smoking Devices (ESDs) in its definition of tobacco products. The CDTFA 's tobacco license includes ESDs (i.e., electronic cigarettes, vapes, mods, and component parts).
- In the County, 15 jurisdictions require a TRL to sell ESDs, including the cities of Los Angeles, Gardena, South Pasadena, and Palmdale.<sup>2</sup>
- The proposed change would require a County TRL to sell ESDs, including, but not limited to, electronic cigarettes and vape products.

<sup>2</sup>American Lung Association, Center for Tobacco Policy and Organizing (January 2016) Local Policies on the use and Sales of Electronic Cigarettes Retrieved from <https://center4tobaccopolicy.org/wp-content/uploads/2016/11/Local-Policies-on-the-Use-and-Sales-of-E-cigarettes-2016.pdf>

# Electronic Smoking Devices

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ESDs include, but are not limited to, electronic cigarettes, vapes, pods, mods, e-hookahs, and their component parts.



# Proposed Policy Changes Regulate Retailers of Flavored Tobacco Products

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- In 2009, the FDA removed flavored cigarettes from the market, with the exception of menthol cigarettes. However, local jurisdictions may prohibit the sale of flavored tobacco products, including menthol.<sup>3</sup>
- Over 30 California jurisdictions have adopted ordinances to prohibit the sale of flavored tobacco products, including San Francisco, Sacramento, Hermosa Beach, and Beverly Hills.<sup>4</sup>
- The proposed County ordinance would prohibit the sale of all flavored tobacco products (e.g., e-cigarettes, little cigars, menthol cigarettes, etc.) in any retail store in unincorporated areas of the County.

<sup>3</sup> Wellington, N. Focus on Flavors – The authority of state or local government to restrict or prohibit the sale or distribution of flavored tobacco products. Office of the Attorney General of California, 2016.

<sup>4</sup> American Lung Association, Center for Tobacco Policy and Organizing. (2019, May). Matrix of Local Ordinances Restricting the Sale of Flavored Tobacco Products. Retrieved from <https://center4tobaccopolicy.org/wp-content/uploads/2019/05/Matrix-of-Local-Ordinances-Restricting-Flavored-Tobacco-2019-05-07.pdf>

# Flavored Tobacco Products

Flavored tobacco products include, but are not limited to, e-juice, vapes, menthol cigarettes, smokeless tobacco, and little cigars and cigarillos.





# Flavored Tobacco Products

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- The U.S. Surgeon General has stated the e-cigarette epidemic among youth must be addressed immediately.<sup>5</sup>
- According to the Center for Disease Control and Prevention (CDC) youth tobacco use increased dramatically in 2018, with 4.9 million middle and high school students using tobacco products, up from 3.6 million in 2017. This increase was driven by a surge in e-cigarette use.<sup>1</sup>
- 30% of high school students across LA County have reported using e-cigarette products at least once and 10% reported regular use of e-cigarette products.<sup>6</sup>

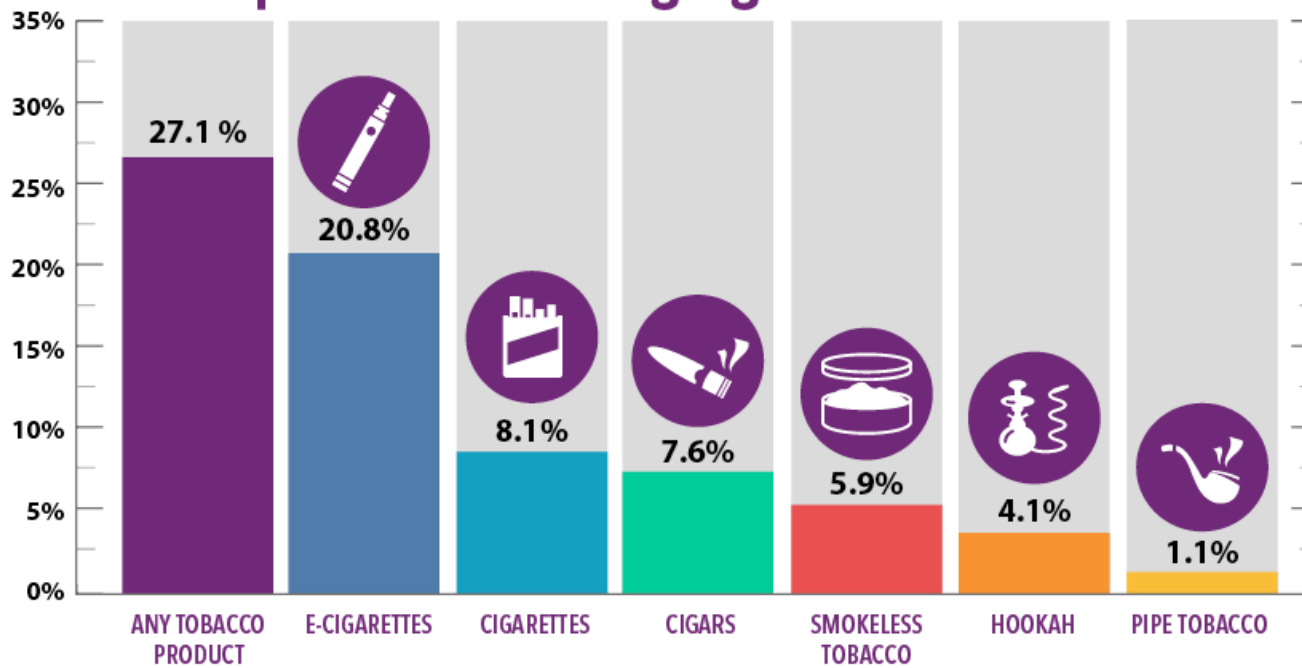
<sup>5</sup> U.S. Surgeon General. (December). *Surgeon General's Advisory on E-cigarette Use Among Youth* [Press release]. Retrieved from <https://e-cigarettes.surgeongeneral.gov/documents/surgeon-generals-advisory-on-e-cigarette-use-among-youth-2018.pdf>

<sup>6</sup> 2017-18 California Student Tobacco Survey and the California Healthy Kids Survey, California of Department of Public Health.

[http://www.lapublichealth.org/tob/pdf/Tobacco\\_Use\\_among\\_High\\_School\\_Students\\_in\\_Los\\_Angeles\\_County\\_Findings\\_from\\_the\\_2017-18\\_CSTS.pdf](http://www.lapublichealth.org/tob/pdf/Tobacco_Use_among_High_School_Students_in_Los_Angeles_County_Findings_from_the_2017-18_CSTS.pdf)

<sup>1</sup> Centers for Disease Control and Prevention. Vital Signs: Tobacco Product Use Among Middle and High School Students-United States 2011-2018. *Morbidity and Mortality Weekly Report* 2019, 68(06)

## Tobacco product use among high school students—2018



SOURCE: Tobacco Product Use Among Middle and High School Students — United States, 2011-2018. Morbidity and Mortality Weekly Report (MMWR), February 2019.

**Vitalsigns**<sup>™</sup>

[www.cdc.gov/vitalsigns/youth-tobacco-use](http://www.cdc.gov/vitalsigns/youth-tobacco-use)

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# Flavored Tobacco Products

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- Menthol cigarettes have been shown to increase youth initiation, inhibit cessation, and promote relapse.<sup>7</sup>
- Although the use of cigarettes is declining in the U.S., sales of menthol cigarettes have steadily increased in recent years, especially among young people and new smokers.<sup>8</sup>

<sup>7</sup> Gardiner, P. and P.I. Clark, Menthol cigarettes: moving toward a broader definition of harm. *Nicotine & Tobacco Research*, 2010. 12: p. 85-93.

<sup>8</sup> Substance Abuse and Mental Health Services Administration, *The NSDU Report: Use of Menthol Cigarettes*. 2009: Rockville, MD.

# Can the County Prohibit the Sale of Flavored Tobacco Products?

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- According to a report by the California Attorney General “a state or local government may restrict or prohibit the sale and or distribution of flavored tobacco products.”<sup>3</sup>
- The Family Smoking Prevention and Tobacco Control Act, a federal statute, expressly preserves state and local power to enact measures relating to the sale or distribution of tobacco products.<sup>3</sup>

<sup>3</sup> Wellington, N. Focus on Flavors – The authority of state or local government to restrict or prohibit the sale or distribution of flavored tobacco products. Office of the Attorney General of California, 2016.

# Would Possession of Flavored Tobacco Products be Prohibited?

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- The proposed ordinance would only prohibit the sale of flavored tobacco products.
- It is legal to possess flavored tobacco products, including all menthol tobacco products, for personal use.

# Comments

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Chat box will be open for comments and questions until 7:30 PM this evening, September 5.

Your comments and questions will remain anonymous.

Responses to questions will be posted on the Department of Public Health's website by September 19<sup>th</sup>. Please log on to <http://lapublichealth.org/tob/> to access responses.

# More Information

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## Tobacco Control and Prevention Program

- Website: <http://lapublichealth.org/tob/>
- E-mail: [tobacco1@ph.lacounty.gov](mailto:tobacco1@ph.lacounty.gov)
- Phone: (213) 351-7890