

# Tobacco Retail License Workshop

AMENDMENTS TO  
SCC 5.138

# OVERVIEW

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## Background

Title 17 Amendments (File ID: 2019-00988)

Title 5 Amendments (File ID: 2019-00385/Ordinance 2019-0012)

- Flavored Tobacco Ban
- Vape Shops and Electronic Cigarettes
- Density Requirement
- Ownership Change
- Enforcement

## Q&A

# BACKGROUND

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- **November 28, 2017** – Law and Legislation Committee directed staff to amend Title 5 to strengthen tobacco regulations
- **April 16, 2019** – City Council passed proposed amendments (7 to 1 vote) but decided to delay effective date to January 1, 2020
- **August 27, 2019** – City Council adopted amendment to Title 17 requiring Conditional Use Permit (CUP)

# BACKGROUND

Title 17	Title 5
Regulates land use requiring entitlement (CUP) before applying for tobacco retailer license	Regulates licensing requirements for tobacco retailers
Amendments took effect 9/26/2019	Amendments will take effect 1/1/2020
Applies to all retailers but will <u>only impact</u> new applications	Applies to all retailers and will impact existing and new
Entitlement stays with the land	License is not transferable

# TITLE 17 - AMENDMENTS

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## AMENDMENTS INCLUDE:

- Definitions updated to be consistent with Title 5
- Requires Conditional Use Permit if retailer is 15,000 square feet or less citywide; or if 15,000 square feet and more than 250 square feet if shelf space is devoted to tobacco and associated paraphernalia
- CUP application will be reviewed by the Zoning Administrator. The process will allow for an appeal to Planning and the Design Commission if application is denied

# TITLE 17 – CONDITIONAL USE PERMIT

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If you held a Tobacco Retail License prior to September 26, 2019, then the location was deemed a Conditional Use Permit and no further action is required from the retailer or the property owner

Applications for a tobacco retailer license received after September 2019 will require the CUP. The TRL application will be denied without the entitlement

Cost of CUP application = \$4,536 and can take 6 – 8 months to process

# TITLE 5 – FLAVORED TOBACCO

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Prohibits the sale of flavored tobacco products including any tobacco product or byproduct that imparts a characterizing flavor starting January 1, 2020

## SECTION 5: SCC 5.138.100 (A)

“...There is a rebuttable presumption that a tobacco product is a flavored tobacco product if a manufacture or agent or employee has made a public statement or claim that the product has or produces a characterizing flavor including but not limited to, text, color, or images on the product’s labeling or packaging...”



# TITLE 5 – FLAVORED TOBACCO

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Flavored tobacco products prohibited include but not limited to:

- Menthol, mint cigarettes
- Flavored cigars, cigarillos
- Flavored pipe tobacco products
- Flavored electronic cigarettes and vaping products
- Flavored hookah that contains nicotine
- Any flavored tobacco product containing, made, or derived from tobacco or nicotine that is intended for consumption



# TITLE 5 – FLAVORED TOBACCO

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## SECTION 2: SCC 5.138.030

**“Flavored tobacco means any tobacco product that imparts a characterizing flavor”**

**“Characterizing flavor means a taste or aroma, other than the taste or aroma of tobacco, imparted either prior to or during consumption of a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to menthol, mint, wintergreen, fruit, chocolate, vanilla, honey, cocoa, dessert, alcohol beverage, herb or spice”**

# TITLE 5 – FLAVORED TOBACCO

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## SECTION 5: SCC 5.138.100 (B)

**“It is a violation of a license for a licensee or his or her agents or employees to violate any local, state, or federal tobacco-related law”**

**The license of a tobacco retailer will be suspend/revoked if caught selling flavored tobacco products**

# TITLE 5 – VAPE SHOPS & E-CIGS

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**SCC 5.138.030**

**Tobacco product means:**

**“...An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including but not limited to, an electronic cigarette, cigar, pipe, or hookah...”**

**Effective January 1, 2020, all vape shops will be part of the City’s Tobacco Retail License program and will be required to obtain the required licenses.**

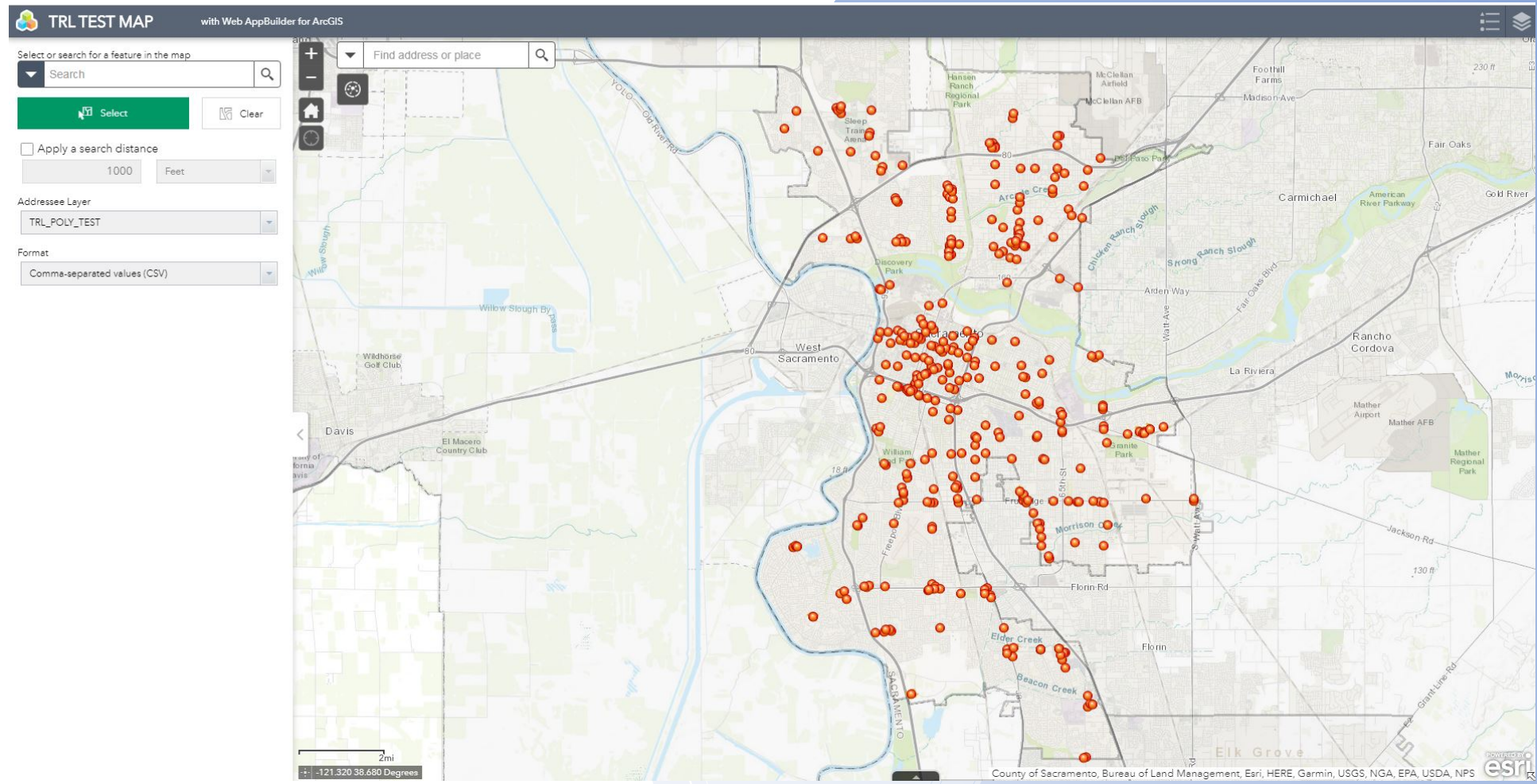
# TITLE 5 – DENSITY REQUIREMENT

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## SECTION 3: SCC 5.138.040 (B)

“No license shall be issued, and no existing license shall be renewed [cease retailing for 60 consecutive days], to authorize tobacco retailing within 1,000 feet of a tobacco retailer already licensed pursuant to this chapter as measured by a straight line from the nearest point of the property line of the parcel on which the applicant’s business is located to the nearest point of the property line of the parcel on which an existing licensee’s business is located”

# TITLE 5 - DENSITY REQUIREMENT





# TITLE 5 - DENSITY REQUIREMENT

The screenshot displays a web application interface for a GIS map. The title bar reads "TRL TEST MAP with Web AppBuilder for ArcGIS". The search bar contains the address "27404100330000". A green circle on the map indicates the search area. Three buildings are highlighted in orange: "NATOMAS SHELL", "NATOMAS WINE & SPIRITS LIQUORS - 708004", and "A L CIGARETTES CHEAPER". The map shows a residential neighborhood with streets like W El Camino Ave and various parks and sloughs. The interface includes a search bar, a search button, a search distance selector (1000 Feet), a layer selector (TRL\_POLY\_TEST), a format selector (Comma-separated values (CSV)), and a download button. The status bar at the bottom indicates the map is powered by Esri and provides coordinates: -121.502 38.613 Degrees.

# TITLE 5 – DISTANCE REQUIREMENT

EXISTING TRL w/in 1000 ft of another retailer	New Applications
Deemed CUP and stays with the property	Must apply for CUP prior to applying for TRL
“Grandfathered” from distance requirement	Must meet distance requirement before applying for CUP or TRL
Ownership change requires application for new license (nontransferable)	
Distance requirement applies to new application	



# TITLE 5 – DISTANCE REQUIREMENT

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The distance requirement will apply to “grandfathered” retailers if they fail to meet certain conditions as outlined in SCC 5.138.060.

Retailers that fail to meet the conditions in that section of the city code will have to apply for a new tobacco license and will be denied a license if a licensed retailer is within the distance requirement.

# TITLE 5 – LICENSE RENEWAL

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## SECTION 4: SCC 5.138.060 (A)

License renewal application denied if:

1. Application is incomplete or inaccurate (i.e., payment is not submitted with application or vice versa)
2. Existing tobacco license is suspended or revoked upon request for renewal of license
3. City has information that retailer violated any local, state or federal tobacco control law
4. Business stops operating for 60 consecutive days
5. Substantial changes are made to the business premises or business operation for the purpose of increasing the sale or display of tobacco products

# TITLE 5 – OWNERSHIP CHANGE

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## SCC 5.138.090

“A license is nontransferable. If a licensee changes business location, that licensee must obtain a new license prior to acting as a tobacco retailer at the new location. If a business licensed to conduct tobacco retailing is sold, the new owner must obtain a license for that location before acting as a tobacco retailer”

Applies when a person has an ownership or managerial interest in a business.

An ownership interest shall be deemed to exist when person has a 10% or greater interest in the stock, asset, or income of a business other than the sole interest of security for debt.

# TITLE 5 – SUSPENSION/REVOCACTION

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## SECTION 6: SCC 5.138.110 – Within 5-year time period:

- First license violation = 30-day suspension
- Second license violation = 90-day suspension
- Third license violation = revocation of license

## Suspension of tobacco license will occur if:

1. Sale of tobacco to person under 21 years of age
2. Sale of flavored tobacco product to any patron

# TITLE 5 – ENFORCEMENT

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## SECTION 10: SCC 5.138.160

- For other violations (not related to sale of flavored tobacco products or sale to persons under 21 years old), retailers will be issued a warning followed by civil penalties if they fail to comply
- Civil penalties of not less than \$250 or more than \$25,000 for each day the violation continues

Q&A

*City of*  
SACRAMENTO

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