



Communities can use tobacco retailer licensing to restrict new businesses that primarily sell tobacco products, like smoke shops, head shops, and hookah bars.

More than 100 communities in California have passed tobacco retailer licensing ordinances, many of which have particularly effective fee and enforcement provisions. For a list of communities with strong tobacco retailer licensing laws and the Plug-ins they have incorporated, see the Center for Tobacco Policy & Organizing's *Matrix of Strong Local Tobacco Retailer Licensing Ordinances* at www.center4tobaccopolicy.org/localpolicies-licensing.

“Plug-in” Policy Provisions for a Tobacco Retailer License

Your community has a range of policy choices to consider when designing a local tobacco retailer licensing ordinance (TRL). Our *Model California Ordinance Requiring a Tobacco Retailer License* (“Model TRL”) contains the essential elements for an effective licensing ordinance that can be used to enforce federal, state, and local tobacco control laws. From there, communities can include additional policy options, or “Plug-ins,” to expand the ordinance. These Plug-ins are not intended to be adopted independently, however, any of the Plug-ins could be incorporated into an existing TRL by amending the ordinance..

This fact sheet describes each of the 15 Plug-ins. The Model TRL and Plug-ins are all available at www.phlpnet.org/tobacco-control. If you would like help adapting any of these models for your community, please contact us at www.phlpnet.org/tobaccoquestions.

Limitations on License Issuance

A local tobacco retailer licensing ordinance allows a community to exercise better control over where tobacco products are sold. These Plug-ins limit the types of businesses and the locations that are eligible for a tobacco retailer license. Limiting where tobacco is sold can reduce access to tobacco products and can also facilitate enforcement of the licensing provisions.

Licenses limited by population and density

This Plug-in can be used to limit the density of tobacco retailers in two ways: (1) by capping the total number of tobacco retailer licenses that can be issued based on population (overall density), and (2) by restricting how close tobacco retailers may be to one another (density relative to other retailers). California law limits alcohol licenses based on density, and this Plug-in applies that same rationale to tobacco retailers. One or both options can be included in a licensing ordinance. Communities also can combine this Plug-in with the “proximity” Plug-in (below) to provide even greater control over where tobacco retailers can locate.

No licenses near schools and youth-populated areas

This “proximity” Plug-in prohibits a license for a business operating too close to a school or other area frequented by youth. Because tobacco sales near schools and child-oriented areas have been shown to increase youth smoking, this Plug-in can be used to keep tobacco retailers out of areas where youth typically congregate. Communities can combine this with the “density” Plug-in (above) to exercise greater control over where tobacco retailers can locate.

No license for a new significant tobacco retailer

This Plug-in prohibits a business that primarily sells tobacco products from obtaining a tobacco retailer license. The Plug-in defines a “significant” tobacco retailer based on either the amount of floor space or the percentage of sales devoted to tobacco products or paraphernalia. Existing retailers that fall into this category would be allowed to continue to operate unless they allow their license to lapse, close for more than 60 days, or significantly change their business operation.



Many California communities face increasing public health and safety concerns that stem from the sale and use of illegal drugs. These concerns can be addressed with a TRL Plug-in provision that gives communities the ability to create local enforcement mechanisms for violations of state drug paraphernalia laws and could ultimately reduce sales of drug paraphernalia.



"Little cigars" are designed to be as similar to cigarettes as possible without meeting the legal definition, to escape being subject to increasing regulations.

No license for businesses that allow smoking anywhere on the premises

This Plug-in prohibits a license for any business that allows smoking on site, either indoors or outdoors. One purpose is to eliminate smoking at businesses that also sell tobacco products, such as hookah bars or cafes that may allow smoking outdoors. Another purpose is to eliminate smoking in retail tobacco shops and private smokers' lounges, both of which may permit smoking indoors under current California law.

No licenses in residential zones

This Plug-in prohibits a license for any business operating in an area zoned for residential use, such as a "store" selling tobacco from a house. One purpose of this Plug-in is to formally separate the areas where people live from the areas where tobacco can be sold. This Plug-in could be further modified to list additional zones where tobacco sales are prohibited, or alternatively, to list the specific zones of the community where tobacco sales will be allowed.

No license for bars or restaurants

This Plug-in denies a tobacco retailer license to any business that sells alcoholic beverages for on-site consumption (i.e., a bar), and any establishment that sells food for on-site consumption (e.g., a restaurant). This Plug-in and the Plug-in entitled "Only Off-Sale Alcohol Retailers May Obtain License" (below) are alternative ways to regulate the types of businesses that may obtain a license in your community. Each approach has advantages, but these two policy options are incompatible and should not both be adopted in a single ordinance.

Only off-sale alcohol retailers may obtain a license

This Plug-in provides that a license can only be issued to a business that has a state license to sell alcohol for consumption off the premises (e.g., a liquor store). Restricting licenses in this way consolidates tobacco sales with alcohol sales and indirectly reduces tobacco retailer density to the same levels as alcohol retailer density, which is already regulated by the state. This Plug-in and the Plug-in entitled "No License for Bars or Restaurants" (above) are alternative ways to regulate the types of businesses that may obtain a license in your community. Each approach has advantages, but these two policy options are incompatible and should not both be adopted in a single ordinance.

Additional Retailer Requirements and Prohibitions

A local tobacco retailer licensing ordinance provides an effective tool to enforce a wide range of laws that are related to the sale and use of tobacco products. Many of these Plug-ins allow communities to revoke a license from retailers for violating existing tobacco-related laws. Some also allow communities to implement new policies that address specific public health concerns related to tobacco sales in the communities.

License revocation for violating drug paraphernalia laws

This Plug-in gives communities an additional tool to combat sales of "drug paraphernalia" in their communities. Under this provision, if a retailer is found to have violated state laws regarding drug paraphernalia or controlled substances, that retailer will also be in violation of the tobacco retailer license, and the penalties of the licensing ordinance will apply. For more information on this Plug-in, see our fact sheet on this topic, available at: www.phlpnet.org/tobacco-control/products/using-tobacco-retailer-li.

License revocation for violating storefront signage laws

This Plug-in makes abiding by applicable sign laws—including laws regarding exterior, storefront, window, or door signage—a condition of maintaining a tobacco retailer license. For example a California law requires that liquor stores have no more than 33 percent of window space covered by signs of any kind. If a retailer violated this law or similar local laws, then the retailer's tobacco license could be revoked. Because a significant percentage of signs at tobacco retailer locations are likely to



Cigars, little cigars and cigarillos are packaged for single sale and sold for between 50 cents and a dollar each. They are aggressively marketed to young adults, people of color and low-income communities. They are also targeted to youth is through candy flavors – like grape and cherry.



Strong enforcement provisions are a necessary part of any effective policy, ensuring that citizens abide by the law.

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be tobacco-related, sign laws can have a large, albeit indirect, impact on tobacco advertising. A community could also use this Plug-in to directly limit the amount of signage allowed in storefront windows and doors.

No sales of single cigars

This Plug-in prohibits the sale of individual or small packages of low-priced cigars, including little cigars and cigarillos. These products are particularly appealing to youth due to their low prices and candy flavoring, and though they are often similar to cigarettes, they are not subject to the same restrictions against selling the product individually or in small quantities. This Plug-in allows communities to close that loophole. It also includes optional exemptions for certain “premium” cigars meeting a specific definition, cigars sold above a certain price point, or cigars sold in specialty shops. For more information on this Plug-in, see our fact sheet on this topic, available at: www.phlpnet.org/tobacco-control/products/cigars-minimum-pack-size.

License revocation for violating age-of-purchase laws

Under this Plug-in, if a tobacco retailer is found to have violated any age-of-purchase law (for example, selling alcohol illegally to a minor), the retailer’s tobacco retailer license could be revoked. The rationale for the provision is that if a retailer illegally sells nontobacco products like alcohol or lottery tickets to youth, the retailer should not be trusted to abide by the law prohibiting tobacco sales to minors.

No sales of tobacco look-alike products

This Plug-in prohibits the sale of tobacco “look-alike” products, such as candy cigarettes, bubble gum cigars, and “Big League Chew,” all of which are food items that are packaged to resemble tobacco products and appeal to youth.

No distribution of free tobacco products (no “sampling”)

This Plug-in limits the free or low-cost distribution of tobacco products, also known as sampling. California law, the Master Settlement Agreement (MSA), and the federal Family Smoking Prevention and Tobacco Control Act all contain limitations on the distribution of free tobacco samples. However, there are exceptions for the distribution of smokeless tobacco in certain adult-only facilities. Local governments can go further than existing laws and the MSA by completely banning tobacco sampling at any location where tobacco products are sold. In addition, sampling can be restricted in a more comprehensive way through a stand-alone ordinance (see our model ordinance to prohibit sampling, available at: www.phlpnet.org/tobacco-control/products/sampling-ordinance).

Enforcement

The Model TRL contains mandatory penalties for violating the licensing provisions, but these Plug-ins provide additional enforcement options.

Fine in lieu of license revocation

This Plug-in gives local government staff discretion to impose a fine on a retailer instead of revoking the retailer’s license for the time specified in the ordinance. If your community wants to provide this discretion, mandatory minimum alternative penalties should still be specified in your TRL ordinance. For example, this Plug-in provides that a fine—along with a short suspension (e.g. 1–10 days)—would be available only for a first or second violation and only if the retailer admits guilt.

Private enforcement

This Plug-in allows private citizens to enforce a tobacco retailer licensing ordinance directly, rather than relying solely on local enforcement officials to do so. It permits members of the public to complement traditional government enforcement by suing alleged violators in small claims court or, if appropriate, in Superior Court in order to obtain an injunction (a court order to stop a certain activity) or a modest fine (e.g., \$500).