

# Tobacco Retail License Ordinance

On April 16, 2019, the City of Sacramento adopted amendments to Chapter 5.138 of the Sacramento City Code relating to the regulation of Tobacco Retailers. The primary components of the amendments:

- a) Prohibit all tobacco retail establishments from the sale and distribution of tobacco products that impart a characterizing flavor and flavored cigarettes including menthol cigarettes.
- b) Updated the definition of “tobacco product” to include electronic cigarettes and vaping products.
- c) Incorporate a 1,000-foot proximity requirement between tobacco retailers

## Flavored Tobacco Provisions

### **What is the Flavored Tobacco Sales Ban?**

The ban prohibits Tobacco Retail License holders from selling any tobacco product or byproduct, including but not limited to cigars, cigarillos, vape liquid, and hookah tobacco that imparts a characterizing flavor.

### **What is a flavored tobacco product?**

“Flavored tobacco product” 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, candy, cocoa, dessert, alcohol beverage, herb, or spice.

### **When do the amendments go into effect?**

City Council voted to enact the ordinance starting January 1, 2020 to provide tobacco retailers time to deplete flavored tobacco inventory. Discontinue ordering and restocking flavored tobacco products now to prevent losing your investment once the rules and regulations are enforced.

***All flavored tobacco products sales must stop before January 1, 2020!***

### **When will the City initiate enforcement of the new law?**

Enforcement of the new law will commence January 1, 2020. Discontinue the sale of flavored tobacco products by January 1, 2020 to avoid suspension or revocation of your tobacco retail license.

### **Are there any tobacco retailers allowed to sell flavored tobacco products after the amendments go into effect?**

No retail establishment may sell flavored tobacco products within the City of Sacramento after January 1, 2020.

Why is the City prohibiting the sale of flavored tobacco products, including menthol flavored cigarettes?

### **Why is the City prohibiting the sale of menthol flavored tobacco products?**

The ordinance represents an important step in reducing health disparities and smoking incidence rates in Sacramento. Mentholated and flavored products have been shown to be “starter” products for youth who begin using tobacco. These products are proven to help establish tobacco habits that can lead to long-term addiction. Flavored tobacco has significant public health implications for youth and people of color because of targeted industry marketing strategies and product manipulation.

Unlike cigarette use that has steadily declined among youth, the prevalence of the use of noncigarette tobacco products has remained statistically unchanged and, in some cases, increased among youth. From 2013 to 2015, an estimated 15 percent of ninth and eleventh grade students in California reported using electronic smoking devices. Nine and three-tenths percent of high school students in California reported buying their own electronic cigarettes from a store.

**How is “tobacco product” defined in the ordinance?**

Section 5.138.030 of the Sacramento City Code defines “Tobacco product” to mean:

1. A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff;
2. 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; and
3. Any component, part, or accessory of a tobacco product, whether or not sold separately.
4. “Tobacco product” does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

**Which tobacco products are not allowed to be sold in the City of Sacramento?**

The following flavored tobacco products and cigarettes may not be sold in the City of Sacramento, including mentholated cigarettes, flavored cigars, cigarillos/little cigars, cigar wraps, chewing tobacco, pipe tobacco, snuff, shisha, hookah tobacco, flavored nicotine products, and electronic devices when flavored nicotine or flavored tobacco are a component or packaged, sold, distributed with the device.

**Can tobacco retail license holders request additional time to deplete flavored tobacco inventory after January 1, 2020?**

No. The law does not allow for extensions or any additional time beyond January 1, 2020 to cease the sale of flavored tobacco products.

**What type of tobacco products can tobacco retailers sell in their store?**

Once the law takes effect tobacco retailers can only sale and distribute the following types of tobacco products:

Tobacco only products	Tobacco products manufactured without any additive flavors
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Electronic smoking devices with tobacco only flavored juices	Tobacco products labelled “unflavored” and “unsweetened”
Flavored juices that do not contain nicotine	Tobacco flavored hookah
Tobacco products labelled “unflavored” and “unsweetened”	Cigars that are not flavored

**Are vape shops required to follow the requirements of the new law?**

Yes. Effective January 1, 2020, vape shops are required to obtain a tobacco retail license from the City of Sacramento and must cease the sale of all flavored tobacco products.

**Are vape shops required to obtain a Tobacco Retail License?**

Yes. All vape shops operating within city limits must obtain a tobacco retail license from the City of Sacramento’s Community Development Department by January 1, 2020 and subject to routine compliance inspections. Please visit <https://www.cityofsacramento.org/Community-Development/Code-Compliance/Business/Tobacco> for additional information and to obtain an application.

**What occurs during a routine compliance inspection conducted by the City of Sacramento’s Community Development Department?**

At a compliance inspection, City staff will introduce themselves, speak to the person-in-charge, and initiate the inspection. A notice is provided to the person-in-charge and/or the permitholder If violations of State and City laws are not followed.

Visit <https://www.cityofsacramento.org/Community-Development/Code-Compliance/Business/Tobacco/inspectionchecklist> to review a copy of the City’s inspection checklist for tobacco retailers.

Please note: Effective January 1, 2020, checking for flavored tobacco products will be part of the compliance inspection process.

**What happens if a tobacco retailer is caught selling flavored tobacco products after January 1, 2020?**

The City will pursue suspension or revocation of the tobacco retail license for establishments that are caught selling flavored tobacco products to consumers after January 1, 2020.

**How long is the suspension period?**

Pursuant to section 5.138.110, the suspension periods after January 1, 2020 shall be:

1. A first license violation within any five-year period, the license shall be suspended for 30 days.
2. A second license violation within any five-year period, the license shall be suspended for 90 days.
3. A third license violation within any five-year period, the license shall be revoked.

**To avoid the suspension/revocation of a tobacco retail license the City recommends the following:**

The City recommends that all retailers take the following steps:

1. Contact vendors and suppliers to determine which tobacco products are without any flavors
2. Stop ordering and restocking flavored tobacco products
3. Remove, secure and dispose of all remaining flavored tobacco products by January 1, 2020

## Proximity Requirements

### **What is the proximity requirement component of the new law?**

Effective January 1, 2020, tobacco retail license shall be issued to authorize tobacco retailing within 1,000 feet of a tobacco retailer already licensed.

### **How does the City measure the distance requirement?**

The distance requirement is 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.

### **Does the distance requirement apply to tobacco retailers that obtained a tobacco retail license and were operating prior to January 1, 2020?**

Yes. However, licensed retailers operating prior January 1, 2020 and within a 1,000 of another retailer would be eligible for renewal of their license for that location so long as all of the following conditions are met:

1. The license is timely obtained and is renewed without lapse or permanent revocation (as opposed to temporary suspension);
2. The tobacco retailer is not closed for business or has not ceased tobacco retailing for more than 60 consecutive days;
3. The tobacco retailer does not substantially change the business premises or business operation for the purpose of increasing the sale or display of tobacco products; and
4. The tobacco retailer retains the right to operate under all other applicable laws.

## Stay Informed!

### **How can I stay informed as a tobacco retail licensee, consumer and/or constituent?**

Stay informed by visiting our website at [www.cityofsacramento.org/flavoredtobaccoban](http://www.cityofsacramento.org/flavoredtobaccoban). We recommend that you read the mailings from the City and pay attention to the website for posting of FAQs and for a copy of the adopted ordinance.

You are encouraged to ask questions and submit suggestions to [BC@cityofsacramento.org](mailto:BC@cityofsacramento.org) or call a representative at 916-808-8038