TOBACCO RETAILER’S LICENSE
FREQUENTLY ASKED QUESTIONS

1. WHAT IS A TOBACCO RETAILER’S LICENSE (TRL)? A TRL is a license issued pursuant to San Leandro Municipal Code section 4-36-300 that authorizes electronic-cigarette or tobacco retailing at a certain location and by a certain tobacco retailer.

2. WHEN DOES SAN LEANDRO’S ORDINANCE REGARDING TOBACCO RETAIL LICENSING GO INTO EFFECT? San Leandro’s TRL ordinance listed under Chapter 4-36 of the San Leandro Municipal Code will be effective August 15, 2018.

3. HOW DO I OBTAIN A TOBACCO RETAILER’S LICENSE? Information will be sent to currently licensed tobacco retailers (as determined by the City or the CA Stated Board of Equalization) and electronic cigarette retailers. Tobacco retailers will obtain a TRL by visiting the City’s on-line registration program, or applying through the Finance Department’s Business Licensing Division. Additional information may be found at www.sanleandro.org/TRL.

4. HOW MUCH WILL IT COST TO OBTAIN A TRL? The application fee for a TRL in the City of San Leandro will be considered for adoption by the City Council, tentatively scheduled for the July 16, 2018 Council meeting at 7:00 pm. Staff anticipates that the recommended fee will be $500 per year. Please contact the City prior to this meeting date to confirm details.

5. DO I ALSO HAVE TO MAINTAIN A VALID LICENSE FROM THE CA STATE BOARD OF EQUILAZATION? Yes. Before applying for a City of San Leandro TRL, you must first obtain any necessary licenses from California’s State Board of Equalization.

6. ARE THESE LICENSES REQUIRED IN ADDITION TO MY CITY OF SAN LEANDRO BUSINESS LICENSE? Yes. To be in compliance and sell tobacco products, you must maintain a valid City of San Leandro business license, a TRL and any necessary licenses from the California’s State Board of Equalization.

7. HOW LONG IS A TRL VALID FOR? A TRL is valid for 1 calendar year between January 1 – December 31 and must be renewed no less than 30 days before the date of expiration.

8. IS MY TRL TRANSFERRABLE? No. A TRL may not be transferred from one person to another or one location to another. A new TRL is required whenever a tobacco retailing location has a change in proprietor(s).
9. **WHAT IF MY TRL EXPIRES BEFORE I RENEW IT?** You may not sell any tobacco or related products without a valid TRL. Applicants must submit the license fee, renewal form and signed affidavit affirming the proprietor and have a new license issued before they may continue to sell tobacco or related products.

10. **IF I OWN MORE THAN 1 BUSINESS IN SAN LEANDRO AND WANT TO SELL TOBACCO PRODUCTS, DO I NEED SEPARATE TRLs FOR EACH LOCATION?** Yes. A separate TRL is required for each location where tobacco and related products are sold.

11. **WHAT WILL THE $500 TRL FEE BE USED FOR?** The $500 TRL fee will be used to recover the cost of administration and enforcement of Chapter 4-36 of the San Leandro Municipal Code, to include issuing a license, retailer inspections, compliance checks, and documentation and enforcement.

12. **ARE “FLAVORED TOBACCO PRODUCTS” PROHIBITED FOR SALE IN SAN LEANDRO?** Yes, tobacco and tobacco products with a distinguishable taste or aroma are prohibited for sale in the City of San Leandro, with the exception of flavored cigarettes, which may continue to be sold.

13. **WHAT ARE “FLAVORED TOBACCO PRODUCTS?”** Flavored tobacco products are defined as any tobacco product (other than cigarettes as defined by the U.S. Food and Drug Administration), any electronic cigarette product, or any product or formulation of matter containing biologically active amounts of nicotine, that contain a constituent that imparts a characterizing flavor. This includes cigars, little cigars, pipe tobacco, hookah tobacco, snuff, chewing tobacco, dipping tobacco, bidis, blunts, electronic cigarettes and electronic smoking devices. Rolling papers, blunt wraps, hemp wraps or other products used to smoke tobacco products, but which themselves do not contain tobacco, are not considered a tobacco product.

Characterizing flavor means a distinguishable taste or aroma, other than the taste or aroma of tobacco, imparted by a tobacco product or any byproduct produced by the tobacco product, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, menthol, mint, wintergreen, herb, or spice. Menthol-flavored cigarettes are exempted from the provisions of the ordinance.

A tobacco product is also presumed to be flavored if a manufacturer or any of their agents or employees have made a public statement or claim that the tobacco product has or produces a characterizing flavor. This may include text and/or images on the products labeling or packaging that are used explicitly or implicitly to communicate information about the flavor, taste, or aroma of a tobacco product, or has taken actions directed to consumers that would be reasonably
expected to result in consumers believing that the tobacco product imparts a characterizing flavor.

14. WHAT ABOUT PRODUCTS WITH DESCRIPTIVE PHRASES LIKE “SWEET” OR “AROMATIC” – ARE THOSE PROHIBITED?
The words “sweet” or “aromatic” or other similar terms by themselves are not necessarily considered to be a flavored tobacco product, in the absence of a constituent that actually imparts a characterizing flavor. For example, “Swisher Sweet” brand cigars are not prohibited for sale by the ordinance, so long as such products do not actually impart an additional characterizing flavor.

15. ARE VENDING MACHINES OR SELF-SERVICE DISPLAYS ALLOWED TO SELL TOBACCO PRODUCTS? No. Tobacco products may only be sold during direct person-to-person transfer at a licensed tobacco retailer.

16. WHAT IS THE REQUIRED MINIMUM AGE OF SOMEONE WANTING TO PURCHASE TOBACCO-RELATED PRODUCTS? California state law requires that persons purchasing tobacco and related products must be at least 21 years of age.

17. AM I REQUIRED TO VERIFY A PURCHASER’S AGE? Yes. Retailers are required to verify the age of anyone attempting to purchase tobacco or related products if they appear to be less than twenty-seven (27) years of age. It is strongly recommended that you verify the age of any person purchasing tobacco and related products.

18. CAN A LICENSED TOBACCO RETAILER SELL INDIVIDUALLY-PACKAGED CIGARS? Yes. However, only cigars with a retail price that exceeds five dollars ($5.00) may be sold individually.

All other cigars must be sold in their original, manufacturer packaging. Any package of cigars that is less than seven dollars ($7.00) per five (5) cigars including applicable taxes and fees are prohibited from being sold.

19. CAN WE BUNDLE PACKAGES OF CIGARS TOGETHER AND SELL THEM FOR $7.00 OR MORE? Yes. So long as the bundled packages remain in their original, manufactured packaging, a retailer may bundle several packages together (for example, with a rubber band or in an additional package) and sell them together at a price of $7.00 or greater.

20. WILL TOBACCO RETAILERS BE OFFERED TRAINING REGARDING SAN LEANDRO’S NEW LAWS? Yes. Free training classes will be offered to all tobacco retailers at least once a year. Licensed retailers will be notified in advance of upcoming classes. The SLPD will also be available throughout the year to answer questions that tobacco retailers may have about the sale of tobacco and related products in San Leandro.
21. HOW MANY COMPLIANCE CHECKS WILL THE POLICE DO EACH YEAR? The San Leandro Police Department will conduct at least three compliance checks per licensed tobacco retailer per year. These may include undercover decoy operations.

22. CAN THE POLICE USE UNDERAGE, YOUTH DECOYS TO PARTICIPATE IN COMPLIANCE MONITORING? Yes. Youth decoys supervised by a peace officer or code enforcement official of the City may be used to perform compliance monitoring.

23. WHAT HAPPENS IF I AM FOUND TO BE IN VIOLATION OF ANY PART OF CHAPTER 4-36 OF THE SAN LEANDRO MUNICIPAL CODE? First Violation: The retailer shall receive a written warning and will be provided thirty (30) days to correct the violation and advise employees of applicable regulations, or challenge the finding of a violation.

Second Violation: After a second violation within any thirty-six month period, the licensee shall be fined two thousand five hundred dollars ($2,500).

Third Violation: After a third violation within any thirty-six month period, the license shall be suspended for twenty (20) days.

Fourth Violation and Additional Violations: After four or more violations within any thirty-six month period, the license shall be revoked and no new license may be issued for the location or tobacco retailer until three years have passed from the date of revocation.

24. MY TRL BE SUSPENDED OR REVOKED? IF THIS HAPPENS, DO I HAVE APPEAL RIGHTS? Yes, TRLs may be suspended or revoked and the license holder retains appeal rights. If the licensee contacts the City to challenge the finding of a violation, the City shall provide written notice of a hearing at which the tobacco retailer may show cause why a violation does not exist. Should the tobacco retailer fail to present evidence at such hearing establishing, in the reasonable determination of the hearing officer, that a violation does not exist, written notice will be provided to the tobacco retailer that the notice of violation is upheld.