



# City of San Leandro

Meeting Date: July 16, 2018

## Staff Report

---

**File Number:** 18-340

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.A.

**TO:** City Council

**FROM:** Jeff Kay  
Acting City Manager

**BY:** Jeff Tudor  
Chief of Police

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for a Resolution of the City Council for the City of San Leandro to Approve the Establishment of a Tobacco Retailer's License Fee of Up to \$500 Per Year and Including the Tobacco Retailer's License Fee in the Master Fee Schedule for Fiscal Year 2018-19.

---

### SUMMARY AND RECOMMENDATIONS

Staff recommends that the City Council adopt an annual fee of up to \$500 per Tobacco Retailer's License to be included in the City Fees and Services Charges for 2018-19. Fees for Tobacco Retailer's Licenses will fund the costs associated with administration and enforcement of City of San Leandro Municipal Code Chapter 4-36.

The fee is set to recover the costs associated with the processing and enforcement of a tobacco retailer's license program, including outreach to retailers and periodic compliance checks.

### BACKGROUND

State and federal law currently establish restrictions and regulations on tobacco and electronic cigarette retailing. These restrictions and regulations include, but are not limited to:

- Prohibiting the sale or furnishing of cigarettes (including electronic cigarettes), tobacco products, and smoking paraphernalia to anyone under the age of 21;
- Requiring that retailers post conspicuous notices stating that selling tobacco products to anyone under 21 years of age is illegal;
- Prohibiting the sale of tobacco products and paraphernalia through self-service displays with limited exceptions;
- Prohibiting the sale of "bidis" (filterless cigarettes wrapped in temburni or tendu leaf) except in adults-only establishments;
- Prohibiting the manufacture, distribution, or sale of cigarettes in packages of less than 20 and prohibiting the manufacture, distribution, or sale of "roll-your-own" tobacco in

- packages containing less than 0.60 ounces of tobacco; and
- Prohibiting the sale of flavored cigarettes (except for menthol).

Despite state and federal regulations, studies show that underage individuals are still able to purchase tobacco and electronic cigarette products. Additionally, while regulations exist regarding the sale of flavor and package sizes of cigarettes, similar regulations do not exist regarding the flavor and package sizes of electronic cigarettes and cigars.

State and federal law generally provide local jurisdictions with authority to enact tobacco retailer's ordinances and other regulations that are more restrictive than existing state and federal regulations. As a result, more than 148 cities and counties throughout California have adopted a tobacco retailer's ordinance in an effort to prevent sales of tobacco to youth to help prevent underage tobacco use.

The City Council began considering an ordinance establishing local regulations for tobacco retailing in 2015. Since then, the City Attorney's Office prepared and presented a draft tobacco retailer's ordinance to the City Council Rules Committee on May 25, 2016, November 28, 2016 and April 24, 2017. The City Council considered the draft tobacco retailer's ordinance on June 5, 2017 and referred the draft ordinance to the City Council Rules Committee for further consideration. The City Council Rules Committee considered the draft ordinance on June 26, 2017. On October 16, 2017, the City Council adopted the tobacco retailer's ordinance, as codified in San Leandro Municipal Code Chapter 4-36.

#### Applicability and Prohibitions:

The tobacco retailer's ordinance applies to all tobacco retailers within the City, which includes any person who sells electronic cigarettes, electronic cigarette products, electronic cigarette paraphernalia, tobacco products, or tobacco paraphernalia. Prohibited activities include:

- The sale of tobacco or electronic cigarette products without a valid tobacco retailer's license;
- Tobacco retailing via a self-service display;
- Tobacco retailing by an individual that is younger than 18;
- The non-sale distribution of tobacco and electronic cigarette products in a public place;
- The sale of cigars in a package of less than \$7 per five cigars, except for the sale of single cigars in excess of \$5;
- The sale of flavored cigars; and
- The sale of flavored electronic cigarette products, whether such products contain nicotine or not.

#### Licensing Provisions and Enforcement:

There are approximately 86 known tobacco retailers in the City of San Leandro. The tobacco retailer's ordinance requires that all tobacco retailers within the City obtain a tobacco retailer's license. A tobacco retailer's license requires the payment of an annual fee in order to fund costs of administration and enforcement of the ordinance.

Administrative costs include maintaining a tobacco retailer database, as well as creating and maintaining a program website that includes a dynamic list of banned products and frequently asked questions.

Fees will also fund a compliance monitoring program operated by the Police Department. This will consist of triannual compliance checks of all tobacco retailers, periodic decoy operations and retailer outreach. The fee is recommended to be structured at a rate that is “up to \$500” to allow flexibility in the actual rate that is charged to retailers each year in the event the City is able to receive additional grant funding from the State of California that would help to off-set the City’s costs of implementation (and therefore reduce the amount of the fee that must be collected from retailers). As of the date of this staff report, the City has already received \$9,852 as part of a recent round of state grant funding that is derived from state tobacco taxes, which will be used to off-set some of the over-time costs associated with public outreach by the San Leandro Police Department as well as software updates related to the processing of the permits and fees. The City also expects to submit an application to a subsequent round of grant funding that is expected to be awarded later this year.

#### Annual Tobacco Retail License/Permit Fees

Other cities in the Bay Area that have a tobacco retailers ordinance adopted the following fees to cover the costs of their own enforcement programs:

El Cerrito - \$439  
Hayward - \$400  
Oakland - \$1,500  
San Jose - \$533  
Union City - \$769

As a result, the recommended fee of up to \$500 falls below both the mean and median (average) fee that is charged by other Bay Area jurisdictions.

#### Outreach to Retailers in Advance of Ordinance Implementation

In addition to the public outreach to all known tobacco retailers that took place last year in advance of adopting the Tobacco Retailer’s Ordinance, city staff also met with local retailers earlier this year to discuss the program’s requirements and learn about any outstanding questions retailers had in regards to the ordinance’s implementation. To further bolster these outreach efforts and address outstanding questions, the City will host two retailer information sessions on July 11, 2018 and July 25, 2018, in addition to developing a detailed program website at [www.sanleandro.org/TRL](http://www.sanleandro.org/TRL) <<http://www.sanleandro.org/TRL>> that contains links to various program materials and answers to frequently asked questions. As of the date of this staff report, an invitation letter and outreach flyer were mailed to all known tobacco retailers in the City. San Leandro police officers are also conducting in-person site visits to local retailers in advance of these information sessions to ensure they are aware of the sessions as well as the pending August 15th implementation deadline.

#### Fiscal Impacts

Staff estimates that the tobacco retailer's ordinance fee will generate approximately \$43,000 annually, which will cover the cost of the annual license software fee and other administrative costs.

**PREPARED BY:**

Luis Torres, Police Captain, San Leandro Police Department

# City of San Leandro

Civic Center, 835 E. 14th Street  
San Leandro, California 94577  
[www.sanleandro.org](http://www.sanleandro.org)



June 27, 2018

Dear Licensee:

On October 6, 2017, the San Leandro City Council approved Chapter 4-36 of the San Leandro Municipal Code, which is specific to tobacco retailing within San Leandro's city limits. This new ordinance will become effective on August 15, 2018, and provisions within the Chapter may impact your San Leandro-based business.

One requirement states that all retailers selling tobacco and related products in San Leandro are required to obtain a Tobacco Retailer's License (TRL) from the City of San Leandro. The ordinance also establishes various regulations related to the retail sale of tobacco products and electronic cigarettes, including new requirements related to package sizes, pricing, and restrictions on the sale of flavored products.

SLMC section 4-36-500 allows a fee to be imposed to recover the cost of administration and enforcement of Chapter 4-36, including for education programs, issuance of tobacco retailing licenses, retailer inspections, compliance checks, and the documentation and prosecution of violations. A resolution recommending a fee of up-to \$500 per license will be discussed and likely voted on at the July 16, 2018 City Council meeting. We invite you to attend this public Council session where you can listen to the discussions and give your input.

San Leandro's goal, through education and partnership, is to have all tobacco retailers in San Leandro in compliance with this new ordinance before its effective date of August 15, 2018. The first step in this partnership is to offer free information sessions around the tobacco retail ordinance for you and your employees. Please consider attending at least one of the scheduled sessions at City Hall, located at 835 E 14<sup>th</sup> Street on:

- Wednesday, July 11, 2018 from 11:00 a.m. to 12:30 p.m.
- Wednesday, July 25, 2018 from 5:00 p.m. to 6:30 p.m.

The information sessions taught by City staff members is intended to provide an opportunity to:

1. learn about the requirements of the tobacco retailers ordinance and how the proposed TRL fees will be used,
2. understand the definition of "flavored tobacco" products as described,
3. receive information on acceptable forms of identification; how to best check a patron's ID for validity; how to refuse service; signs and prevention of illicit drug/criminal activity,
4. obtain updated information on California's tobacco-related laws,
5. ask questions of City and SLPD staff about the program.

We recommend attendees bring a copy of their State Board of Equalization Tobacco Retail License. If you have any questions regarding the scheduled information sessions, or have concerns about tobacco retail licensing, please do not hesitate to contact me at 510-577-3372 or email [akim@sanleandro.org](mailto:akim@sanleandro.org).

We look forward to seeing you there and working together as this ordinance is implemented in our city.

Sincerely,

Alice Kim  
Communications Manager  
City of San Leandro

Pauline Russo Cutter, Mayor

City Council:

Pete Ballew

Deborah Cox

Ed Hernandez

Benny Lee

Corina N. López

Lee Thomas



# **TOBACCO RETAILERS LICENSE INFORMATION SESSIONS**

## **WHEN**

**July 11.** 11:00 a.m. – 12:30 p.m.

**July 25.** 5:00 p.m. – 6:30 p.m.

## **WHERE**

**San Leandro City Hall**

**835 East 14<sup>th</sup> Street, San Leandro, CA 94577**

## **FOR MORE INFORMATION**

**[WWW.SANLEANDRO.ORG/TRL](http://WWW.SANLEANDRO.ORG/TRL)**

## **MUNICIPAL CODE 4-36**

**Tobacco Retailing in  
San Leandro**

## **AT THE EVENT:**

**Learn about the requirements of the tobacco retailers ordinance and how the proposed TRL fees will be used**

**Understand the definition of “flavored tobacco” products as described**

**Receive information on acceptable forms of identification; how to best check a patron’s ID for validity; how to refuse service; signs and prevention of illicit drug/criminal activity**

**Obtain updated information on California’s tobacco-related laws**

**Ask questions of City and SLPD staff**



# City of San Leandro

Meeting Date: July 16, 2018

## Resolution - Council

---

**File Number:** 18-341

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Jeff Kay  
Acting City Manager

**BY:** Jeff Tudor  
Chief of Police

**FINANCE REVIEW:** Not Applicable

**TITLE:** RESOLUTION of the City Council for the City of San Leandro to Approve the Establishment of a Tobacco Retailer's License Fee of Up to \$500 Per Year and Including the Tobacco Retailer's License Fee in the Master Fee Schedule for Fiscal Year 2018-19

---

**WHEREAS**, on October 16, 2017, the City Council adopted the tobacco retailers ordinance, codified in San Leandro Municipal Code Chapter 4-36, that requires tobacco retailers to obtain a tobacco retailer's license; and

**WHEREAS**, pursuant to San Leandro Municipal Code Section 4-36-500, the City is authorized to establish a fee to recover the cost of administration and enforcement of San Leandro Municipal Chapter 4-36; and

**WHEREAS**, enforcement of San Leandro Municipal Code Chapter 4-36 will require City staff to conduct compliance checks to determine if local tobacco retailers are conducting business in a manner that complies with laws regulating youth access to electronic cigarettes, electronic cigarette paraphernalia, electronic cigarette products or flavored tobacco products; and

**WHEREAS**, enforcement of San Leandro Municipal Code Chapter 4-36 will also include, but not be limited to, developing and maintaining a database of local tobacco retailers, providing information to tobacco retailers regarding the provisions of San Leandro Municipal Code Chapter 4-36, developing and maintaining information regarding products that are disallowed for retail sale, and conducting periodic in-person compliance checks and decoy operations; and

**WHEREAS**, the City has conducted an analysis and recommends an annual fee of up to five hundred dollars (\$500) per tobacco retailer for the reasonably-related costs of the above referenced enforcement efforts.

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of San Leandro hereby:

1. Approves the Tobacco Retailer's License Fee following notice and hearing as may be required by law, and amends Title 6, Chapter 4, Section 6.4.100 of the San Leandro Administrative Code ("Fee Schedule"); and
2. That the adopted Fee Schedule shall be attached to and made a part of this resolution;  
and
3. That the provisions of the Fee Schedule shall take effect retroactively to July 1, 2018.



Description	Current Fee	Reference
<b>POLICE DEPARTMENT</b>		
1 Fingerprint (Livescan) Fee	\$25 for residents \$50.00 for non-resident	SLAC 6.4.100
2 Concealed Weapon Permit		SLAC 6.4.100
A. Background Investigation Fee:		
Upon application for license	\$150	
Upon issuance of license	\$90.00 plus State Fee (1)	
B. Renewal Fee	\$50	
3 Gun Dealer's Permit:		SLAC 6.4.100
A. New	\$150 Plus State Fee (1)	
B. Renewal	\$100	
4 Firearms Storage Fee	\$40 per firearm	SLAC 6.4.100
5 Massage/Acupuncture Permits:		SLAC 6.4.100
A. New Establishment	\$100.00 plus State fee (1)	
B. Renewal Establishment	\$50.00	
C. Masseur/Masseuse/Acupuncturist Permit	\$25.00 – Permit Fee, plus \$32.00 – Fingerprint (Livescan) & Background Check, plus \$20.00 – Police Dept. Administrative Fee	SLMC 4-23-400
6 Secondhand Dealers/Junk Dealers/Pawnbrokers:		SLMC 4.9.230
A. New	\$100.00 plus State fee (1)	
B. Renewal	\$60.00	
7 Fortunetelling:		SLMC 4.15.210
A. New	\$25.00 plus State fee	
B. Renewal	\$25.00 plus State fee	
8 Taxicab:		
A. Owner Fingerprint & Background Check	\$175.00 plus \$20.00 Police Dept. Admin Fee	SLMC 6-6-215
B. Driver Permit Application, Annual	\$50.00 Permit Fee, plus (2) and (3) \$32.00 – Fingerprint & Background Check, plus \$20.00 – Police Dept. Administrative Fee	SLMC 6-6-310
C. Driver Permit Re-issuance (within 6 mos.)	\$20.00	SLMC 6-6-340
<b>9 Tobacco Retailer's Annual Permit Fee</b>	<b>\$500.00</b>	<b>SLMC 4-36-500</b> <b>NEW FEE PROPOSED TO CITY COUNCIL 6/18/18</b>
10 Police Reports:		SLAC 11.2.110
A. Letter of clearance, verification, lost property, etc.	\$25.00	
B. Crime Analysis	\$50.00	
C. Accident Reports	\$10.00 (1-10 page report); \$.10 per additional page	
D. Police Reports/Arrest Reports	\$2.00 (1-10 page report); \$.10 per additional page	
11 Animal Service Fees:		SLAC 6.4.100
A. Animal pickup	\$50.00/pickup	
B. Veterinarian pickup:		
-- For 1 – 10	\$125.00	
-- Over 10	\$12.50 ea. to max. of \$300.00	
C. Animal Redemption	\$40.00	
D. Animal Permits		SLAC 6.4.100
1. Animal Permit (New-Includes changes to permit)	\$15.00	
2. Animal Permit (Renewal)	\$15.00	
3. Beekeeping Permit (New)	\$15.00	
4. Beekeeping Permit (Renewal)	\$15.00	
12 Tape recordings of telephone and/or radio communications -- incident related records for public release	\$50.00	SLAC 6.4.100
13 Intoxicated Driver:		SLAC 6.4.100
A. Property Damage	Actual cost of damage to City property	
B. Emergency Response	\$77.00/hr.	
14 Vehicle Release	\$200.00	SLAC 6.6.100
15 Vehicle Repossession	\$15.00	
16 Vehicle Verification:		
-- At City Hall	\$13.00	
-- At Home or Business	\$25.00	
17 False Alarm Response:		SLMC 4-6-400
A. Third response within 90 days	\$75.00	
B. Fourth and subsequent responses	\$175.00	

(1) As part of the application process, applicants must undergo a psychological evaluation at a cost of \$150, which shall be borne by the applicant.

(2) As part of the application process, applicants must submit proof of a current drug test showing negative results and two identical and current passport size color photographs.

(3) As part of the Police Department's inspection of taxi cabs, verification of the City Council approved (5/2/11) flag drop rate of \$3.00, \$2.60 mileage rate and \$26.00 wait fee/hour will be conducted to ensure compliance with SLMC 6-6-400, effective June 1, 2011.

Description	Current Fee	Reference
<b>POLICE DEPARTMENT (continued)</b>		
<b>18</b> Photographs:		SLAC 6-4-100
A. Color photographs		
-- 8 x 10	\$5	
-- 4 x 6	\$4 (per print)	
B. Black and white photographs		
-- 8 x 10	\$16.00	
C. Duplication of CD's & DVD's	\$25.00 per CD or DVD	
<b>19</b> Parade Permits (Special Events):		
A. Permit	\$50	SLAC 1.4.100 (a)
B. City service support (i.e. personnel assistance, barricade services or special refuse services), excluding City sponsored civic functions.	Direct costs in excess of \$500.00, per event	SLAC 1.4.100 (b)
<b>20</b> Carnival Permit	\$100.00	SLAC 6.4.100
<b>21</b> Block Party Permit	\$30.00	
<b>22</b> Background investigation for certification of employee of firearm dealer	\$40.00	SLMC 4.14.420
<b>23</b> Vehicle Registration Violation	\$13 - at City Hall	
Correction Verifications	\$25 - at home or business	
<b>24</b> Parking Citation Fines:		
-- CPO Parking Violation	\$65.00	SLMC 3.1.200(h)
-- Parking on Street for Repairs	\$50.00	SLMC 6.1.270
-- Posted Private Property	\$45.00	SLMC 6.1.400
-- Not Curbing Wheels on Hill	\$40.00	SLMC 6.1.425
-- Oversize Vehicle (Commercial in Residential)	\$60.00	SLMC 6.1.430(d)
-- Off-Street Oversize Vehicle	\$46.00	SLMC 6.1.430(b)
-- Non-Motorized Vehicle	\$60.00	SLMC 6.1.430(c)
-- Parking Within Designated Stall	\$45.00	SLMC 6.1.435
-- No Parking Area	\$45.00	SLMC 6.1.500(a)
-- Designated Street or Park by Time or Day	\$45.00	SLMC 6.1.500(b)
-- Parking Limitations/Restrictions	\$45.00	SLMC 6.1.500(c)
-- Curb Markings/Red-A/Yel-B/Whi-C/Grn-D	\$45.00	SLMC 6.1.505
-- Handicapped Stall	\$280.00	SLMC 6.1.505(e)
-- Truck-No Parking	\$46.00	SLMC 6.1.600
-- Truck-No Parking Truck Route	\$46.00	SLMC 6.1.605
-- Truck Parking Prohibited	\$46.00	SLMC 6.1.610
-- Truck Over 25 Tons Prohibited	\$46.00	SLMC 6.1.615
-- Municipal Parking Lots-Restrictions	\$45.00	SLMC 6.1.800
-- Designated Reserved Parking Spaces	\$45.00	SLMC 6.1.805
-- Obstructing Enf.-Removing Chalk Marks	\$45.00	SLMC 6.1.810(a)
-- Obstructing Enf.-Moving Vehicle to Evade	\$45.00	SLMC 6.1.810(b)
-- Parking in Excess of 72 Hours	\$66.00	SLMC 6.1.820
-- Passenger Loading Zone	\$36.00	SLMC 6.1.835
-- Parking Limitations/Golf Course	\$36.00	SLMC 6.1.850
-- Meter Expired	\$31.00	SLMC 6.2.115
-- Meter Zone Time Limit	\$36.00	SLMC 6.2.120
-- Private Property Storage	\$116.00	SLMC 6.4.400
-- Failure to Abate from Private Property	\$116.00	SLMC 6.4.405
--Truck Route Violation for parked and moving trucks	\$100.00	SLMC 6.7.210
-- Parking on or blocking a Crosswalk	\$60.00	CVC 22500(b)
-- Parking in front of a driveway	\$60.00	CVC 22500(e)
-- Parking on a sidewalk	\$60.00	CVC 22500(f)
-- Double Parking	\$60.00	CVC 22500(h)
-- Parking over 18" from curb	\$60.00	CVC 22502(a)
-- Parking within 15 feet of fire hydrant	\$60.00	CVC 22514
-- Parking within 7-1/2 feet of railroad track	\$60.00	CVC 22521
-- Abandoned vehicle	\$300.00	CVC 22523(a)
--Electric Vehicle Charging Station (EVCS) Parking Stall	\$45.00	SLMC 6.2.405
<b>25</b> Traffic Control:		
-- Driving over or across newly laid pavement, surfacing, painting	\$75.00	SLMC 6.1.240
-- Driving over any street barrier, sign, marker for closed street	\$75.00	SLMC 6.1.245
-- Unauthorized placement of barrier or sign	\$50.00	SLMC 6.1.255
-- Unlawful riding of skateboard, roller-skates, coasters, toy vehicles or similar device on undesignated City Property	\$50.00	SLMC 6.1.265
-- Unlawful for operator to drive across property not intended for use as a public right of way as means of effecting shortened route	\$50.00	SLMC 6.1.285
-- Refusal or failure to comply with Police Officer/Parking Aide's traffic control instructions	\$100.00	SLMC 6.1.300
-- Failure to remove ignition key from unattended vehicle	\$50.00	SLMC 6.1.830

Description	Current Fee	Reference
<b>POLICE DEPARTMENT (continued)</b>		
<b>26</b> Commercial Enforcement:		
a. Transportation Permit Violation - No Permit	\$100.00	SLMC 6-8-110
b. Transportation Permit - Annual	\$90.00	SLMC 6-8-110 & 6-8-115
c. Transportation Permit - Repetitive	\$90.00	SLMC 6-8-110 & 6-8-115
d. Transportation Permit - Single Trip Only	\$16.00	SLMC 6-8-110 & 6-8-115
e. Overweight Vehicle Permit Violation - No Permit	\$100.00	SLMC 6-9-110
f. Overweight Vehicle Permit - Annual	\$90.00	SLMC 6-9-110 & 6-9-125
<b>27</b> Special Event/Oversized Loads requiring Police special services	Direct costs (4)	
<b>28</b> Municipal Code Violations:		SLMC 1-12-200 ( c )
a. 1st Violation	\$100.00	
b. 2nd Violation	\$200.00	
c. 3rd Violation (treated as a misdemeanor)	\$1,000.00	
<b>29</b> Peddler/ Solicitor/ Itinerant Merchant	\$32.00 - fingerprint & background check \$20.00 - Police Dept. Administrative Fee	SLAC 6-4-100
<b>30</b> Curfew Violations:		SLMC 1.12.140, 4.1.305, 4.1.310, 4.1.320
a. 1st Violation	\$50.00	
b. 2nd Violation within 12months of first violation	\$100.00	
c. 3rd Violation and additional offenses within 12 months of the 2nd violation	\$200.00	
<b>POLICE DEPARTMENT - Community Standards Division</b>		
1 Second Inspection/Notice of Violation	\$110.00 plus Direct Costs (4)	SLMC 3.1.100-210
2 Third Inspection/Notice to Abate or Notice of Pending Citation	\$110.00 plus Direct Costs (4)	
3 Citation or Administrative Hearing	\$325.00 plus Direct Costs (4)	
4 Each Additional Hour	\$50.00/hr. plus Direct Costs (4)	
5 Legal Fees for Administrative Hearings and Judicial Actions	\$110.00/hr. plus Direct Costs (4)	
6 Storage of Illegal signs	\$100 for up to 4 months	SLMC 4.13.110
<b>(4) Direct Costs: Hourly personnel charge plus a factor of 33% for benefits, 14.8% for indirect overhead charges and 52.2% for staff support charges.</b>		