

ORDINANCE NO. 1878 N.C. (2d)

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF VALLEJO AMENDING
ORDINANCE 1875, SECTION 5, EXHIBIT A- CHAPTER 5.10 OF THE VALLEJO
MUNICIPAL CODE RELATING TO TOBACCO RETAIL LICENSING**

WHEREAS, at the City Council meeting of November 17, 2024, the City Council made changes to and introduced an Ordinance of the City Council of the City of Vallejo Adding Chapter 5.10 of the Vallejo Municipal Code relating to Tobacco Retail Licensing and Amending Chapters 7.68, 16.301, 16.340, and 16.701 and Repealing Chapter 7.69 Regarding Other Regulations Related to Tobacco Related Products (TRL Ordinance); and

WHEREAS, on December 10, 2024, the Council considered the adoption of the TRL Ordinance and upon first vote, the adoption of the TRL Ordinance failed to pass. However, a councilmember who voted on the prevailing side of the previous vote, moved to reconsider the vote. The motion for reconsideration passed and the Council again took up the matter. After some additional discussion, the Council voted to adopt the TRL Ordinance, but directed staff to bring back for consideration possible amendments to the section of Chapter 5.10 dealing with exemptions from location/separation and density requirements. The Council's discussions addressed three general topics: (1) transfers of an existing retail business; (2) location requirements; and (3) conformance of violation and penalty provisions; and

WHEREAS, staff prepared options for amendment to Chapter 5.10 at the City Council meeting of December 30, 2024 and wishes to adopt amendments.

**NOW THEREFORE THE CITY COUNCIL OF THE CITY OF VALLEJO DOES
ORDAIN AS FOLLOWS:**

- Section 1.** All of the facts set forth in the Recitals are true and correct and are hereby incorporated and adopted as findings of the City Council as if fully set forth herein.
- Section 2.** Prior to taking action on the TRL Ordinance, the City Council considered the Record of Studies in Support of Adoption of Tobacco Retail Licensing Ordinance on file with the City Clerk, and the Record of Proceedings as a whole and the amendments do not change such studies or render them inapplicable.
- Section 3.** Pursuant to the California Environmental Quality Act of 1970, Public Resources Code 21000, et seq., as amended and implementing State CEQA Guidelines, Title 14, Chapter 3 of the California Code of Regulations (collectively, "CEQA"), the Ordinance does not constitute a "project" within the meaning of CEQA Guidelines Section 15060(c)(2) because there is no potential that it will result in a direct or reasonably foreseeable indirect physical change in the environment and pursuant to Section 15378 and because the Ordinance has no potential for either a direct physical change to the environment, or a reasonably foreseeable indirect physical change in the environment.

Further, the adoption of this Ordinance falls within the "common sense" CEQA exemption set forth in CEQA Guidelines Section 15061 (b)(3) in that it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. The Ordinance results in no physical changes whatsoever, it merely sets forth a licensing requirement for tobacco within the City and adopts consistency amendments across other sections of the Vallejo Municipal Code. This determination reflects the City's independent judgment and analysis.

Section 4. The Record of Proceedings includes but is not limited to: (1) the environmental determination for the project; (2) the staff reports, City files and records and other documents prepared for and/or submitted to the City relating to the project; (3) the Record of Studies in Support of Adoption of Tobacco Retail Licensing Ordinance on file with the City Clerk; (4) the City of Vallejo General Plan and its related EIR; (5) the Vallejo Municipal Code and its related environmental documents; (6) all studies, data, and correspondence submitted to the City in connection with the project; (7) all documentary and oral evidence received at public workshops, meetings, and hearing regarding the project; and (8) all other matters of common knowledge to the City Council including, but not limited to, City state, and federal laws, policies, rules, regulations, reports, records and projections related to development within the City of Vallejo and its surrounding environs. The City Clerk is the custodian of records for this Project.

Section 5. Ordinance 1875, Section 5, adding Chapter 5.10, as set forth in **Exhibit A**, - Section 5.10.050.H of the Vallejo Municipal Code is hereby amended as set forth in **Exhibit A**, attached hereto and incorporated herein by reference.

Section 6. All other sections, recitals, and provisions of Ordinance 1875 not herein amended shall remain in full force and effect.

Section 7. **CONSTRUCTION & SEVERABILITY.** It is the intent of the Vallejo City Council to supplement applicable state and federal law and not to duplicate or contradict such law and this ordinance shall be construed consistently with that intention. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this chapter, or its application to any other person or circumstance. The Vallejo City Council hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

Section 8. **EFFECTIVE DATE.** This Ordinance shall take effect and be in force from and after 30 days after the date of enactment.

First read at a regular meeting of the Council of the City of Vallejo held on the 30th day of December, 2024 and finally adopted at a regular meeting of the Council of the City of Vallejo on the 7th day of January, 2025 by the following vote:

AYES: Mayor McConnell, Vice Mayor Loera-Diaz, Councilmembers Arriola, Bregenzer, Loera-Diaz, Matulac, Palmares and Verder-Aliga
NOES: None
ABSENT: None
ABSTAIN: None

DocuSigned by:

Robert McConnell

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ROBERT H. MCCONNELL, MAYOR

ATTEST:

DocuSigned by:

Dawn G. Abrahamson

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DAWN G. ABRAHAMSON, CITY CLERK

Exhibit A

Chapter 5.10 TOBACCO RETAIL LICENSING ORDINANCE

Amend Chapter 5.10 Section, 5.10.050.H as follows:

H. EXISTING RETAILERS EXEMPTED FROM DENSITY AND PROXIMITY REQUIREMENTS. Notwithstanding subsections D. through G. of this section, a tobacco retailer operating lawfully on the date the ordinance codified in this chapter is introduced that would otherwise be ineligible for a tobacco retailer license for the location for which a license is sought may receive or renew a license for that location so long as all of the following conditions are met:

1. A complete application for the first license for the location is submitted and accepted as complete within 90 calendar days of the effective date of this ordinance and is issued based upon said application and renewed without lapse or permanent revocation (as opposed to temporary suspension);
2. The tobacco retail store is not closed for business or has not otherwise suspended tobacco retailing for more than ~~60~~90 consecutive days; however, such tobacco retailer may receive or renew a license, provided such retailer complies with the location and separation requirements set forth in Sections 5.10.050 (D) through (F) above.
3. The tobacco retailer does not substantially change the business operation. A substantial change to the business operation includes, but is not limited to, the transferring of a business:
 - ~~a. To a new proprietor any time after January 1, 2032 in an arm's length transaction; or~~
 - a.b To a new location that does not comply with the location requirements of Section 5.10.050(D), (E), and/or (F).
 - ~~c. ——— Where the location or Tobacco Retailer License holder has committed 3 or more violations of this chapter within a 1 year time period.~~
 - b. A substantial change in the business operations also includes a circumstance in which the location or Tobacco Retailer License holder has received 3 or more violations of this chapter within any 5-year time period.
4. The tobacco retailer retains the right to operate under all other applicable laws.

In the event that a tobacco retailer fails to obtain a tobacco retailer license on or before 180 calendar days after the effective date of this chapter, such tobacco retailer shall be required to comply with all density and location requirements set forth in subsections D. through G. of this section. In the event that the location of the tobacco retail store does not comply with such location and density requirements and has not obtained such tobacco retail license on or before the 180-calendar day period, such retailer shall immediately cease the sale of any and all tobacco products.

For the purposes of this chapter “operating lawfully” means:

1. that the Tobacco Retailer was in possession of all licenses and permits required to be a Tobacco Retailer; and
2. that the location for which the Tobacco Retailer License is sought was a permitted use or conditionally permitted use (with a valid permit having been issued and maintained) at such location, met all locational requirements pursuant to the Vallejo Municipal Code at the time the Tobacco Retail Store was established.