

Licensing Ordinance Checklist

A local licensing ordinance can be used to effectively enforce all laws that apply to tobacco sales.

A licensing ordinance not only requires retailers to obtain a license to sell tobacco products but also provides meaningful penalties if the merchant sells tobacco to minors or violates any other law related to tobacco sales. For

retailers who continue to violate these laws, licensing offers a means to eliminate them from the tobacco product marketplace.

ChangeLab Solutions' *Model California Ordinance Requiring a Tobacco Retailer License* and its accompanying "plug-in" provisions provide a range of policy options to consider when designing a local

licensing ordinance. The ordinance language you select should be part of a larger strategy to have the ordinance adopted in your community.

To guide your planning, the American Lung Association in California's Center for Tobacco Policy & Organizing has developed the five phase model below.

**Campaign Trail
START**

Contact "The Center" for help planning your campaign steps and working through the phases.



Investigation & Assessment

Assess the political environment and decision makers. Identify local issues and resources to build an understanding of what might influence decision makers. Determine your issue, a location (city or county), and a goal.



American Lung Association in California's Center for Tobacco Policy & Organizing (**The Center**) helps local coalitions wage effective tobacco control policy campaigns. The Center can provide you with resources, trainings, and effective strategies to help you narrow down your issue, do a political assessment, complete a strategy chart, recruit new members, and re-energize your coalition.

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www.center4tobaccopolicy.org

Strategy & Planning

Develop a strategy chart and establish a rough timeline.



The checklist on page 2 is designed to help you begin drafting an ordinance based on your community's choices – this is the time to contact ChangeLab Solutions.

Recruitment

Now that you've prepared the groundwork, it's time to involve more people. Train campaign members in outreach and recruitment strategies. Meet with key opinion leaders and recruit community residents who are influential with local officials.



The Campaign

Finalize and then implement the timeline, strategy, and tactics with your newly recruited members. Form action teams: e.g., ordinance-drafting, media, tactic team, speakers' bureau. A key tactic will be meeting with decision makers.



Implementation & Evaluation

Research how the policy should be implemented. Determine effectiveness of the campaign and tactics.



WIN!



ChangeLab Solutions

Law & policy innovation for the common good.

ChangeLab Solutions is a nonprofit organization that helps advocates, city and county attorneys, and elected officials by providing and reviewing ordinance language, researching and analyzing state and federal legal issues, and providing training and consulting on legal strategies for tobacco control. The legal information in this document does not constitute legal advice or legal representation. For legal advice, readers should consult a lawyer in their state.

(510) 302-3380

www.changelabsolutions.org/tobacco-control

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Your community has a range of policy choices to consider when designing a local tobacco retailer licensing ordinance. The options below are included in ChangeLab Solutions' *Model California Ordinance Requiring a Tobacco Retailer License* and accompanying "plug-ins," all of which are available at www.changelabsolutions.org/publications/model-TRL-Ordinance. The provisions that ChangeLab Solutions considers essential already include a check mark. Contact us for help drafting an ordinance based on your community's choices.

POLICY OPTIONS IN MODEL ORDINANCE

Who Must Obtain License

- All tobacco product retailers must obtain a nontransferable license
- Define "tobacco product" to include all nicotine and nontraditional products (e.g., e-cigarettes, snus)
- Retailers of "tobacco paraphernalia" (e.g., rolling papers, pipes) must also obtain license
- No license may be issued to mobile vendors

Requirements and Prohibitions for Licenses

- Pay an *annual* licensing fee that *fully covers all program costs*, including administration and enforcement
- Violating *any* tobacco law is also a violation of the license
- Require license to be displayed in a prominent location
- Require clerks to check ID if purchaser appears under age 27
- Prohibit all self-service displays (including e-cigarettes)
- Clerks selling tobacco must be old enough to purchase tobacco under state law (e.g., 18 years old)

Enforcement of License Requirements

- Licensing program will be administered by (e.g., who issues the license?): _____
- Licensing program will be enforced by _____ but also enforceable by *any* agency
- Youth decoy operations will be conducted by (if different from enforcement agency): _____
- Number of mandatory inspections is (e.g., times each store is checked per year): _____
- The hearing process will be an *administrative process* (attorneys and court system need not be involved)
- Grant youth decoys partial immunity

Consequences of License Violation

- Each violation results in a *suspension* of the privilege to sell tobacco products (and paraphernalia, if applicable) for ___ days for a 1st licensing violation; ___ days for a 2nd violation; ___ days for a 3rd violation; and ___ days for a 4th violation
- Number of years past violations will be tracked (the "look-back period"): _____ (minimum of 5 years)
- Prohibit display of tobacco products during suspension period
- Prohibit display of tobacco product advertising during suspension period
- Increase suspension periods and penalties for retailers who sell tobacco without a license
- Seize and destroy tobacco products offered for sale without a license

"PLUG-IN" POLICY PROVISIONS

Restrictions on Eligibility for a License

- No license for a business that contains a pharmacy
- No licenses near schools and youth-populated areas
- New tobacco retailers must be located a specified minimum distance from existing retailers
- Number of available licenses is limited based on population
- No license for a retailer that primarily sells tobacco (e.g., head shop, discount cigarette store)
- No license for a restaurant or bar
- Only businesses that sell alcohol for off-site consumption may obtain licenses
- No license for a business that allows smoking anywhere on the premises

Additional Requirements for Retailers

- No sales of individual cigars or cigars in small packages
- No sales of drug paraphernalia
- Retailers may not cover more than 15% of windows with signs

Enforcement Options

- Allow the retailer to pay a fine in lieu of license suspension