



# Adding Chapter 6-20 Regulation of Retail Tobacco Sales

July 23, 2024

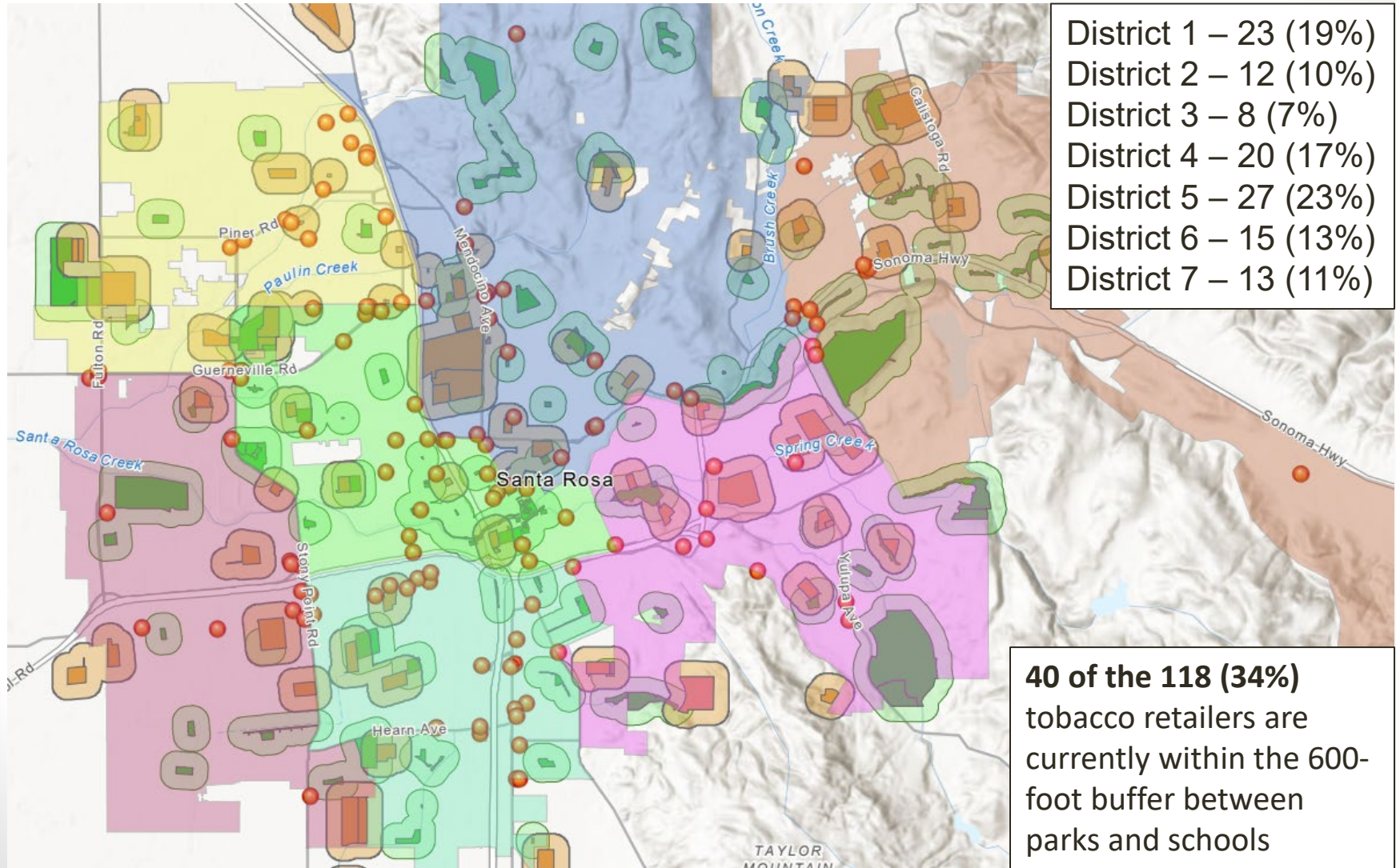
Jason Nutt, Assistant City Manager

# TRL Purpose

Licenses provide important public safeguards in the regulation of hazardous and potentially harmful products and businesses.

- Proactive rather than reactive compliance monitoring
- Improves compliance with business standards and laws
- For tobacco sales, research confirms that TRLs can:
  - Reduce youth access and use of tobacco
  - Reduce illegal sales of banned products
  - Reduce tobacco-related health inequities
- Create a mechanism for policy adoption that is nimble and responsive to our local issues.
- Create an even playing field for tobacco retailers
- Council directed focus to reduce youth sales and use

# Parks & Schools Buffer - 600 ft



# Council Review Timeline

November 14, 2023 - TRL Study session

- Create a strong ordinance based on the Petaluma model
- Limit transfers and maximize penalties

May 21, 2024 - First reading of TRL Ordinance

- General agreement with the proposed ordinance
- Approved with a 4-1 vote with dissenting vote approving the ordinance as a youth deterrent but expressing concerns about impacts to local businesses

# Council Direction

June 4, 2024 - Second reading of TRL Ordinance

- Request to return with modified ordinance approved with a 5-1 vote to align the following with the Sonoma County TRL ordinance:
  - Tempering the transfer restrictions
  - Aligning fine and penalty structure

# Draft Ordinance Summary

The following Section proposed on May 21, 2024, remain unchanged:

- 6-20.030 General Requirements and Prohibitions.
- 6-20.040 Sale of Flavored Tobacco Products
- 6-20.045 Sale of Electronic Tobacco Smoking Devices Prohibited
- 6-20.050 Tobacco Product Pricing and Packaging
- 6-20.080 License Issuance or Denial
- 6-20.090 License Renewal and Expiration
- 6-20.100 Fee for License
- 6-20.130 Compliance Monitoring
- 6-20.200 Other Licenses, Permits, Taxes, Fees, or Charges
- 6-20.210 Successor's and Assignee's Responsibility
- 6-20.260 Appeal Procedure

# Tobacco Retailer Eligibility

## Section 6-20.060

- Proposed Revised Language
  - Remove the specific number and base on the number of state issued TRL licenses on date this ordinance is adopted
- Alternative Proposal (Attachment 2)
  - Remove 1 : 2,500 density provision and set the cap at the number of TRLs issued by the state on the date of ordinance adoption
  - No new permits issued until the number of total retailers is below 71
  - Ultimately resulting in reducing the cap

# Transferability of License

## **Section 6-20.065**

Removed transfer language contained in 6-20.060(D)(3) and created this new Section consistent with the Sonoma County ordinance

- Proposed Language

License transfers only restricted under the following:

- New locations must conform with Chapter conditions, or
- No transfers allowed to a new proprietor that has two (2) violations during prior five years, or
- No transfers allowed to a new proprietor with a TRL license revoked from another agency during the prior five years.



# Transferability of License

## Section 6-20.065

- Alternative Language (Attachment 2)
  - No transfers allowed to a new proprietor that has had a TRL license revoked during prior five years

# Enforcement and Penalties

## Section 6-20.150

- Add penalty language for retailing tobacco products without a valid license as it was inadvertently removed in the 5/21 ordinance version.
- Adding these penalties will provide Code Enforcement with additional tools to address illegal operations
- The following reflect the maximum allowed under the Business and Professions Code Section 22958.
  - Up to \$600 per violation for first instance
  - Up to \$1,000 per violation for second instance
  - Up to \$1,800 per violation for third instance

# Enforcement and Penalties

## **Section 6-20.160**

### Proposed Language

- Revise fine structure to align with the Sonoma County pursuant to Government Code Section 36900.
- The following reflect the maximum allowed under this Code section. There is no minimum.
  - Up to \$100 per violation for first instance
  - Up to \$200 per violation for second instance
  - Up to \$500 per violation for third instance
- Restructure for three strike program

# Enforcement and Penalties

## Section 6-20.160

### Alternative Language (Attachment 2)

- Alternatively, fines could be aligned with the Business and Professions Code Section 22958.
- This Code includes a range noting both a minimum and maximum penalties allowed; staff would recommend aligning with the minimum fine structure.
  - Up to \$400 per violation for first instance
  - Up to \$900 per violation for second instance
  - Up to \$1,200 per violation for third instance
- Add (A)(4) stating “The total fine per instance shall not exceed \$10,000.”

# Additional Language Changes

## **Section 6-20.020**

(L) Remove language that could indicate that FDA authorized devices are allowed.

(O) Clarify how fees and taxes relate to the “full retail price.”

## **Section 6-20.060**

(D)(3) Remove language associated with transfers and reference new Section 6-20.065.

## **Section 6-20.070**

(A) Add language that resets the application deadline to align with the fiscal year beginning on July 1, 2026.

(F) Add language describing use of lottery system for selecting retailers submitting new applications.

## **Section 6-20.140**

(A) Restructure for three strike program

# Recommendation

It is recommended by the City Manager's Office that the Council: 1) hold a public hearing to discuss regulation of retail tobacco sales; 2) introduce an ordinance adding Chapter 6-20 to the Santa Rosa City Code titled "Regulation of Retail Tobacco Sales"; and 3) by motion, authorize the City Manager to negotiate and execute an agreement with the County of Sonoma for license administration and compliance monitoring.