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## LAND USE RESTRICTIONS/CONDITIONAL USE PERMITS

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### Questions And Answers

#### **What are land use restrictions and conditional use permits?**

Local governments use land use tools, such as a zoning ordinance, to control how property is used. For example, zoning laws can keep certain activities together – such as housing and grocery stores – and certain activities apart – such as housing and factories. *Conditional use permits* are a specific type of zoning ordinance that can determine whether certain businesses (such as tobacco stores) are in a particular location.

These land use restrictions generally apply to future businesses, rather than to existing ones. Therefore, it is easier for a community to regulate new tobacco retail locations than it is to shut down existing tobacco retailers, which may require the government to compensate the retailer.

#### **Are there any land use laws in California that regulate the location of tobacco retailers?**

There is no statewide law that regulates the location of tobacco sales in California. However, five communities have ordinances that restrict the location of tobacco retailers – Encinitas, Mountain View, Novato, Oakland, and Vista.

#### **What are the benefits of using land use restrictions?**

- Land use restrictions can limit the number and location of new tobacco retailers in a community, or keep out tobacco-only retailers entirely (e.g., Cigarettes Cheaper!).
- Tobacco retailing can be directed away from child-sensitive locations (e.g., schools, playgrounds, libraries, churches, youth centers, recreational facilities, and residential areas).
- The density of tobacco retailers in a community can be decreased (e.g., tobacco retailers must be located no closer than 500 feet from each other).

#### **What type of arguments might I hear in trying to pass a land use ordinance?**

- 1) *You are hurting the local economy by keeping out certain businesses. You might respond:*
  - Our ordinance only prohibits new tobacco sales; there is no reason why individuals cannot identify other goods to sell.
  - These restrictions are not trying to put existing retailers out of business, but trying to limit a community's exposure to a product that kills 42,000 Californians each year.
- 2) *You are discriminating against tobacco retailers. You might respond:*
  - It is legal to keep tobacco retailers out of a community or to limit the locations where they are allowed.
  - Existing tobacco retailers already sell tobacco illegally to far too many children. Why should a community want more businesses selling tobacco products in such close proximity to our youth?

For more information on Land Use, check out TALC's "[Municipal Authority to Regulate the Location and Operation of Tobacco Retailers.](#)"