



# TOBACCO RETAILER LICENSING PROPOSED ORDINANCE



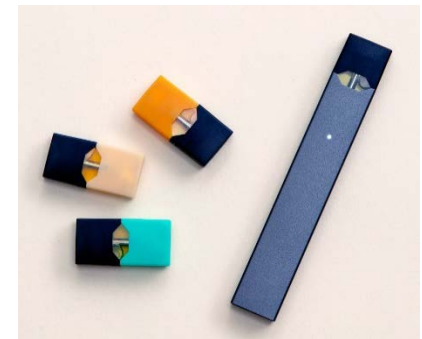
NOVEMBER 4, 2019

TRANSPORTATION / PLANNING COMMITTEE

Alameda County Tobacco Control Program

# Presenting Problem

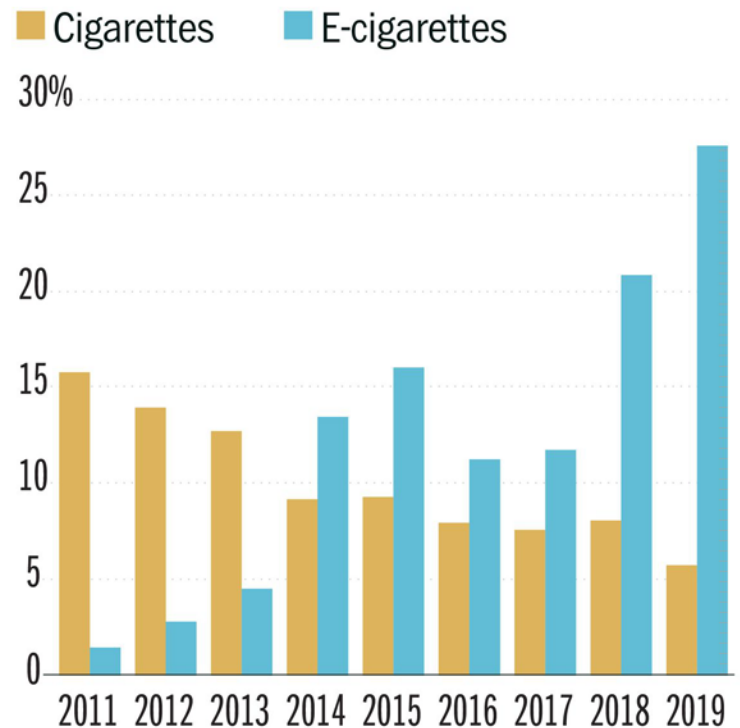
- Over 90% of adult smokers started before age 18
- Flavored tobacco initiates youth tobacco use
  - ▣ 4 out of 5 youth smokers started with a flavored product
  - ▣ Adolescents are more likely than adults to use flavored e-cigs
- Fruit and candy flavors are designed to appeal to youth users by masking the harsh taste of tobacco



# Presenting Problem

- Flavored products threaten to undermine efforts to reduce youth tobacco use, putting a new generation of kids at risk of nicotine addiction and serious health harms that result from tobacco use.

## Teen e-cigarette use increases

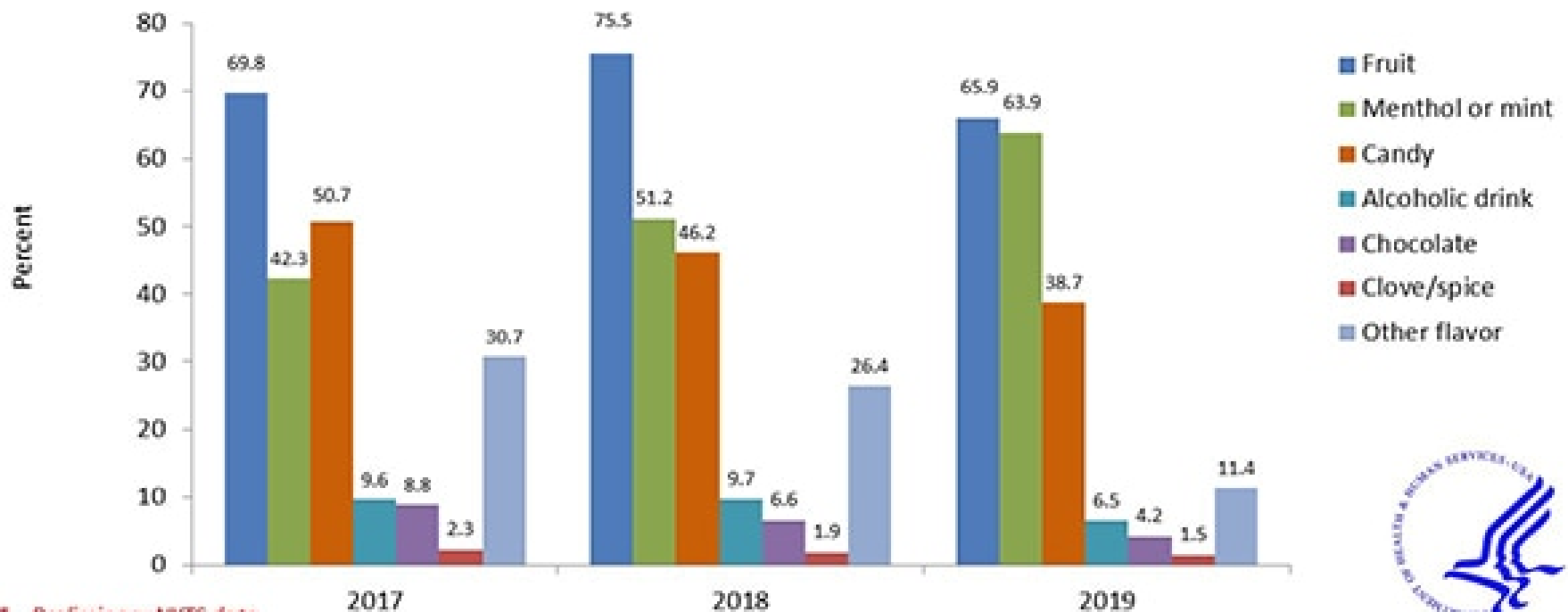


Note: Data from the 2019 National Youth Tobacco Survey conducted of students in grades six through 12. Responses are from within 30 days preceding the administration of the survey.

SOURCES: U.S. Food and Drug Administration, Associated Press

# Presenting Problem

## FLAVORS POPULAR AMONG HIGH SCHOOL USERS OF E-CIGARETTES\*



\* Preliminary NYTS data



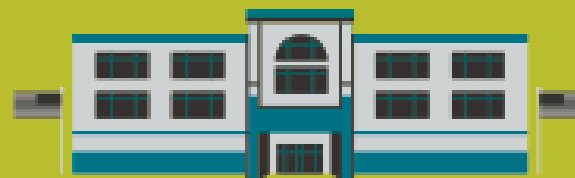
# MENTHOLS

## MENTHOL CIGARETTES ARE POPULAR WITH TEEN SMOKERS.

54% of current smokers in high school and 48.4% of current smokers in middle school smoked menthols.

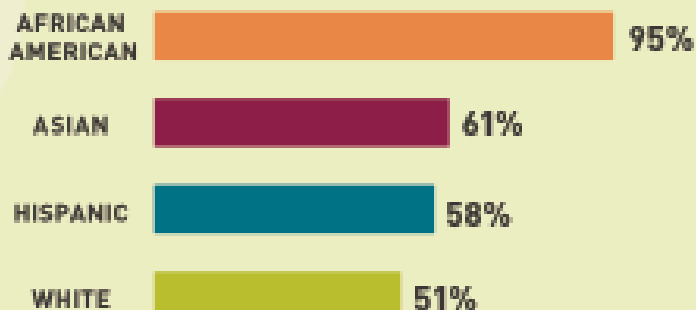


**48.4%** OF CURRENT SMOKERS IN MIDDLE SCHOOL SMOKE MENTHOL



**54%** OF CURRENT SMOKERS IN HIGH SCHOOL SMOKE MENTHOL

### MENTHOL SMOKING RATES AMONG TEEN SMOKERS



## NEARLY ALL AFRICAN AMERICAN TEEN SMOKERS SMOKE MENTHOLS.

95% of African American teens who are current smokers smoke menthols.



# Presenting Problem

- ❑ Cheap tobacco products are affordable and attractive to youth
- ❑ More available in low-income communities of color



# IT'S **NOT** JUST "HARMLESS WATER VAPOR"

E-cigarette aerosol contains  
at least **10 chemicals** on  
California's Prop 65 list of  
chemicals known to cause  
**cancer, birth defects or other  
reproductive harm.**



TOLUENE  
ACETALDEHYDE  
CADMIUM BENZENENE  
FORMALDEHYDE  
ISOPRENE  
LEAD NICKEL  
NICOTINE  
N-NITROSONORNICOTINE



# Presenting Problem

- 2017-2018 California Healthy Kids Survey Results for Castro Valley and San Lorenzo Unified School Districts:
  - **Over 1 in 4 (28%) SLUSD 11<sup>th</sup> graders and over 1 in 5 (21%) CVUSD 11<sup>th</sup> graders have used e-cigarettes.**
  - **58% of CVUSD 11<sup>th</sup> graders & 57% of SLUSD 11<sup>th</sup> graders believe it's very or fairly easy to obtain e-cigarettes.**
  - 44% of SLUSD 11<sup>th</sup> graders and 42% CVUSD 11<sup>th</sup> graders perceive little to no harm in using e-cigarettes compared to smoking cigarettes.



# Presenting Problem

- 2017-2018 California Student Tobacco Survey  
Results for Alameda County:
  - 1 in 4 teens have used e-cigarettes.
  - **87.6% of current youth tobacco users report using a flavored tobacco product.**
  - Flavored tobacco product use was high across all genders, race/ethnicities and grades.
  - **69% of high school students who purchased e-cigs reported buying them from the store themselves or from someone else; only 6.5% purchased online.**
  - Fruit or sweet was the most popular flavor.

# YOUTH WHO USED JUUL FLAVOR PODS IN THE PAST 30 DAYS SAID THEY OBTAINED THE DEVICE IN THE FOLLOWING WAYS.

74%

PHYSICAL RETAIL LOCATION



52%

SOCIAL SOURCE



6%

INTERNET

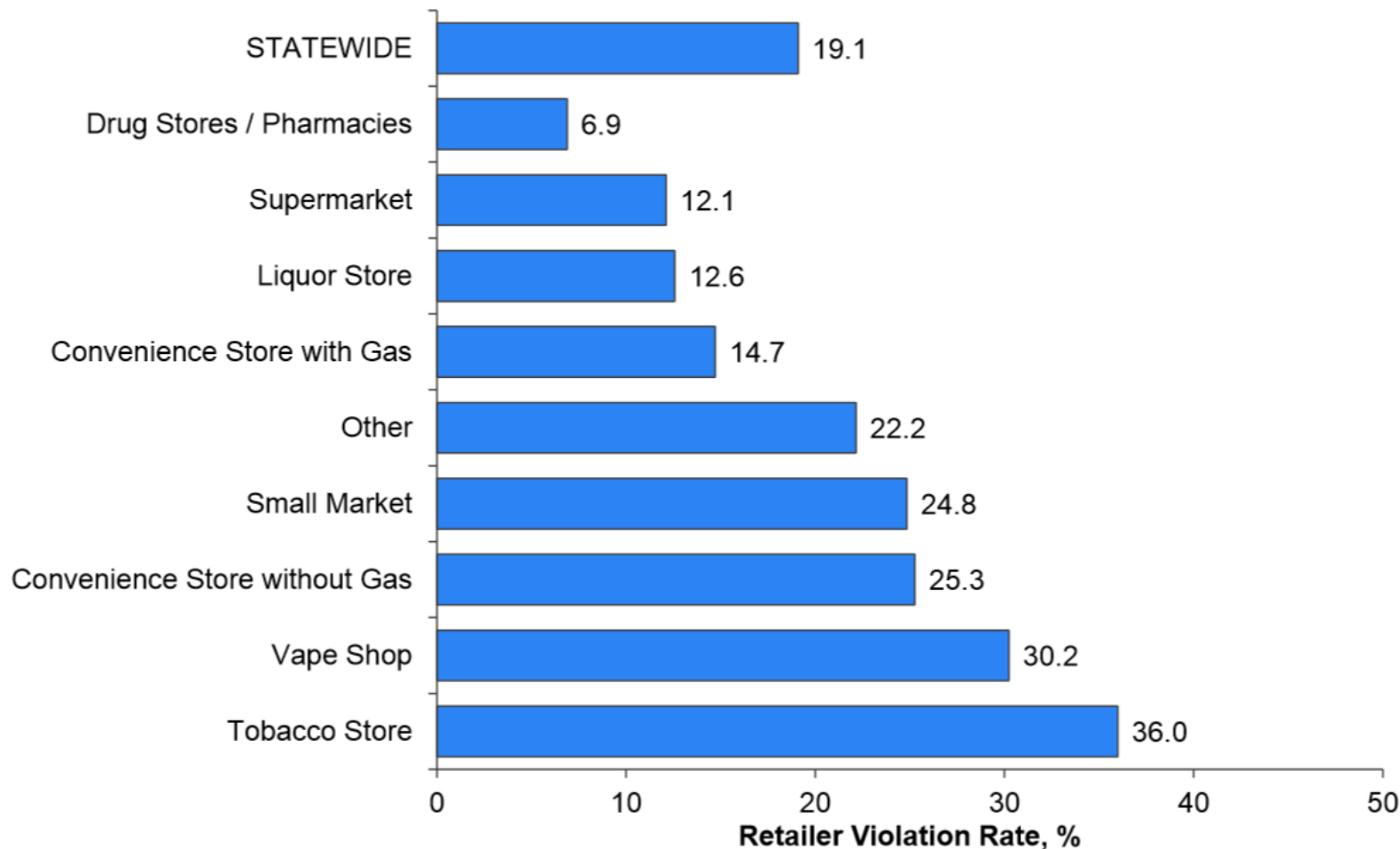


\*youth could select multiple answers





## Percent of Retailers Selling Tobacco to Underage Young Adults by Store Type, 2018



Note: Tobacco stores include vape shops/lounges. Store types with small sample sizes were grouped together with the "other" category (e.g. delis, discount stores, gift stores, hotels, car washes, restaurants, cafes, donut shops). Young adults are defined as 18-19 years old. Source: California Department of Public Health, California Tobacco Control Program. Young Adult Tobacco Purchase Survey, 2018. Sacramento, CA: California Department of Public Health; October 2018.

# Unincorporated Alameda County Tobacco Retailer Store Observation Survey Results

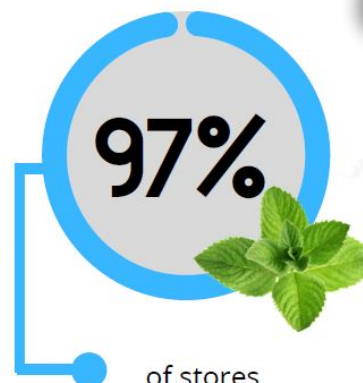
In September 2019, La Familia and the Alameda County Public Health Department conducted observation surveys in 72 stores within Alameda County Unincorporated that sell tobacco products.



## FLAVORED TOBACCO PRODUCTS ...



of stores surveyed  
sell flavored tobacco  
products including  
**fruit, candy, alcohol,**  
and **mint/menthol**  
flavors



of stores  
surveyed sell  
**menthol**  
cigarettes



**50%** of stores surveyed  
sell **flavored** electronic smoking devices



# Unincorporated Alameda County Tobacco Retailer Store Observation Survey Results



In September 2019, La Familia and the Alameda County Public Health Department conducted observation surveys in 72 stores within Alameda County Unincorporated that sell tobacco products.

## PRICE & PACK SIZE

**83%**

of stores surveyed that sell little cigars / cigarillos...

...sell them in pack sizes as

**small as  
1 or 2**



...for prices

**less than  
\$2**  
(before taxes)

The lowest price for a **single flavored cigarillo** is

**\$0.49**



# Tobacco Retailer Density



Places with greater density of tobacco retailers have higher tobacco use rates, leading to greater health inequities.

**Up to 71% of homes in the Eden Area have walking access (0.5 miles or less) to tobacco stores; up to 61% of these stores are close to schools.**

# Overview of Proposed TRL Ordinance

- **Purpose is to reduce youth access to tobacco**, and to limit negative public health effects of tobacco use.
- Would require businesses in Unincorporated Alameda County that sell tobacco to **obtain a local license annually** in order to sell tobacco.
- **Provides enforcement mechanism**; holds retailers accountable to comply with local requirements, as well as state and federal tobacco laws.



# Why a Tobacco Retail Licensing Program?

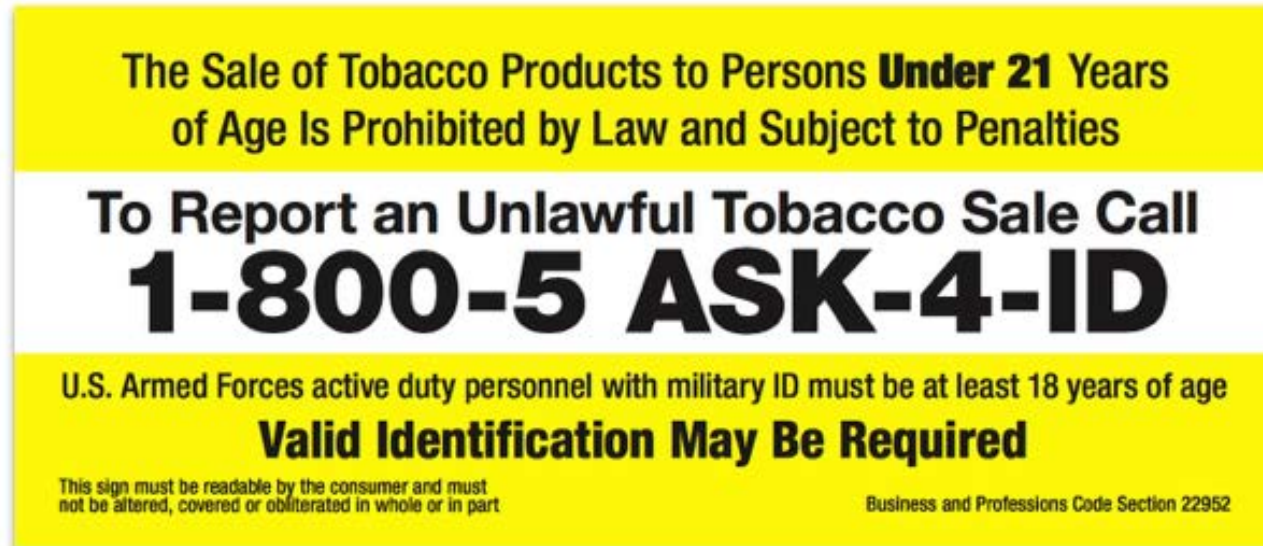
- ❑ Established model to reduce youth access to tobacco products.
- ❑ 10 Cities in Alameda County have adopted TRLs:  
Alameda, Albany, Berkeley, Dublin, Fremont, Hayward, Livermore, Oakland, San Leandro & Union City
- ❑ Allows for local jurisdictions to set meaningful penalties for non-compliance.





# Why a Tobacco Retail Licensing Program?

- Holds businesses accountable for behavior of clerks.
- Provides ongoing consistent enforcement to prevent tobacco sales to minors.



# TRL Requirements for Retailers

- Comply with all federal and state tobacco laws
- Obtain license annually in order to sell tobacco
- Follow local requirements set forth in the ordinance



# Federal and California Laws

- No sale of tobacco to persons under age 21 (CA)
- All appropriate taxes must be paid on tobacco products sold in California [ATF and CDTFA]. (Fed + CA)
- No self-service displays or vending machines for tobacco (CA)
- No sale of single cigarettes or in packs less than 20 (Fed + CA)
- No sale of flavored cigarettes except menthol cigarettes (Fed)



# Proposed Local TRL Requirements \*



- No selling tobacco without a valid local TRL
- Prohibits the sale of all flavored tobacco products
  - ▣ Includes menthol cigarettes & flavored electronic smoking devices
- Creates pricing requirements for the sale of tobacco:
  - ▣ Establishes a minimum sales price of \$8.00 per package of cigarettes, little cigars and single large cigars
  - ▣ Establishes a minimum package size of at least 20 little cigars
  - ▣ Prohibits the redemption of tobacco discounts and coupons

\* Would apply to areas of Unincorporated Alameda County

# Proposed Local TRL Requirements \*

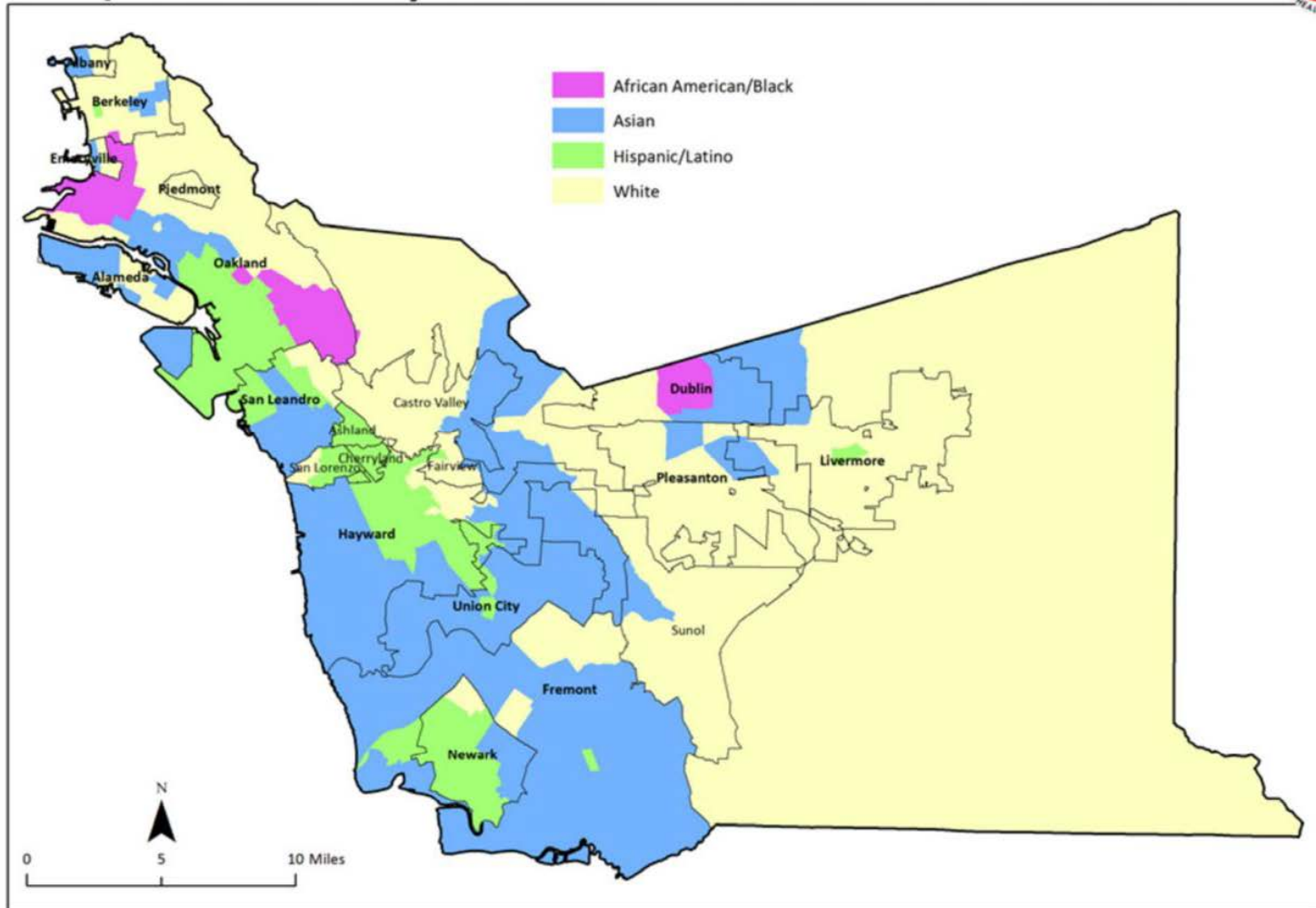


- Creates tobacco retailing density requirements:
  - ▣ Limits the total number of tobacco retail licenses to one per 2,500 residents
  - ▣ Prohibits the sale of tobacco (new retailers) within 1,000 feet of youth populated areas and within 500 feet of existing tobacco retailers
  
- Prohibits pharmacies from obtaining a TRL

\* Would apply to areas of Unincorporated Alameda County

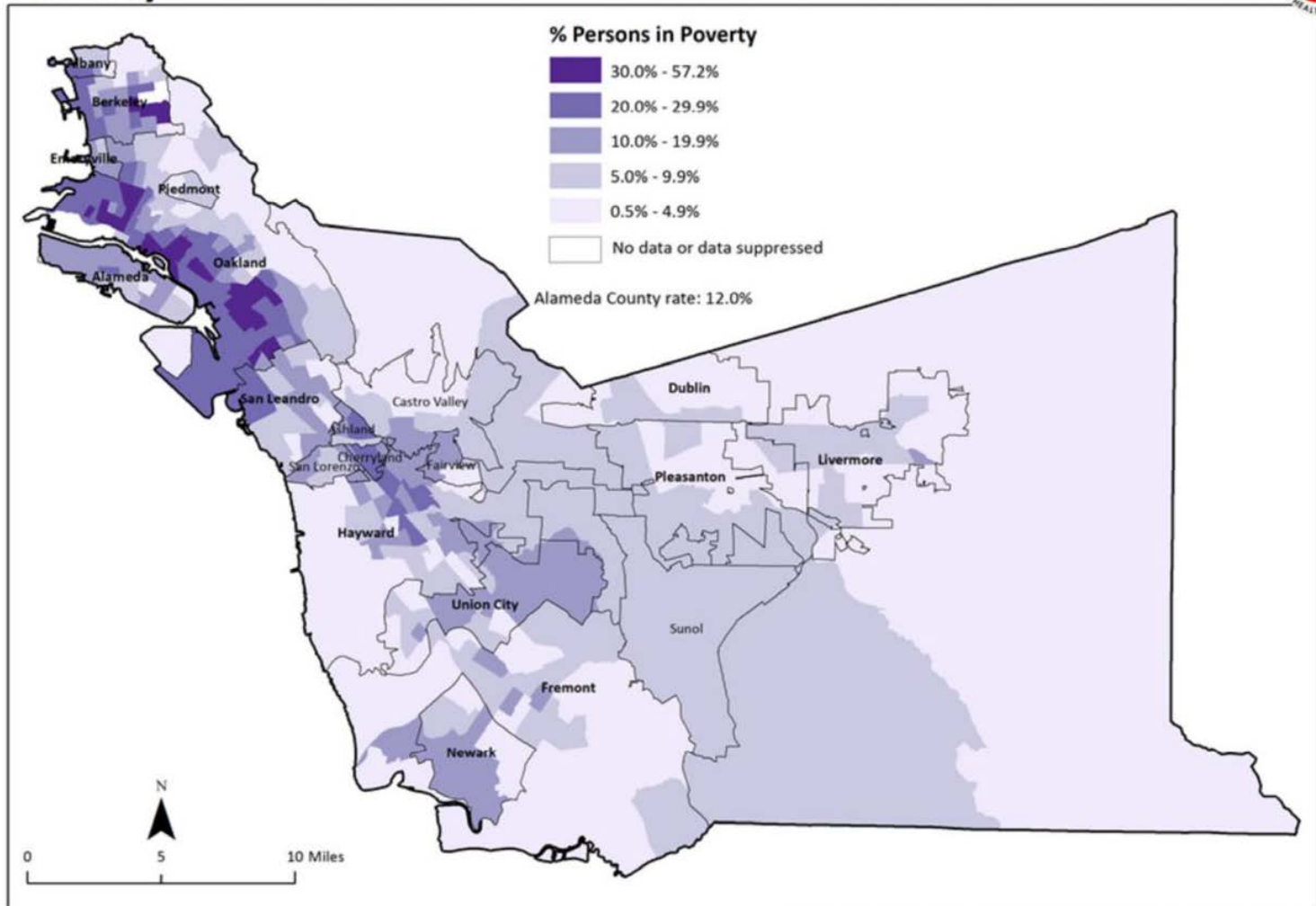
# Alameda County Census Tracts by Race/Ethnicity

## Race/Ethnic Plurality



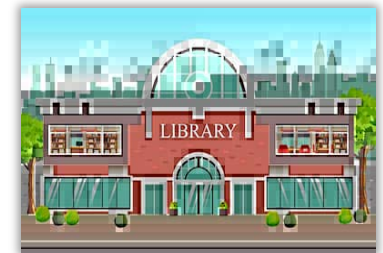
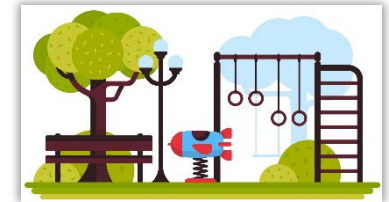
# Alameda County Census Tracts by SES

## Poverty



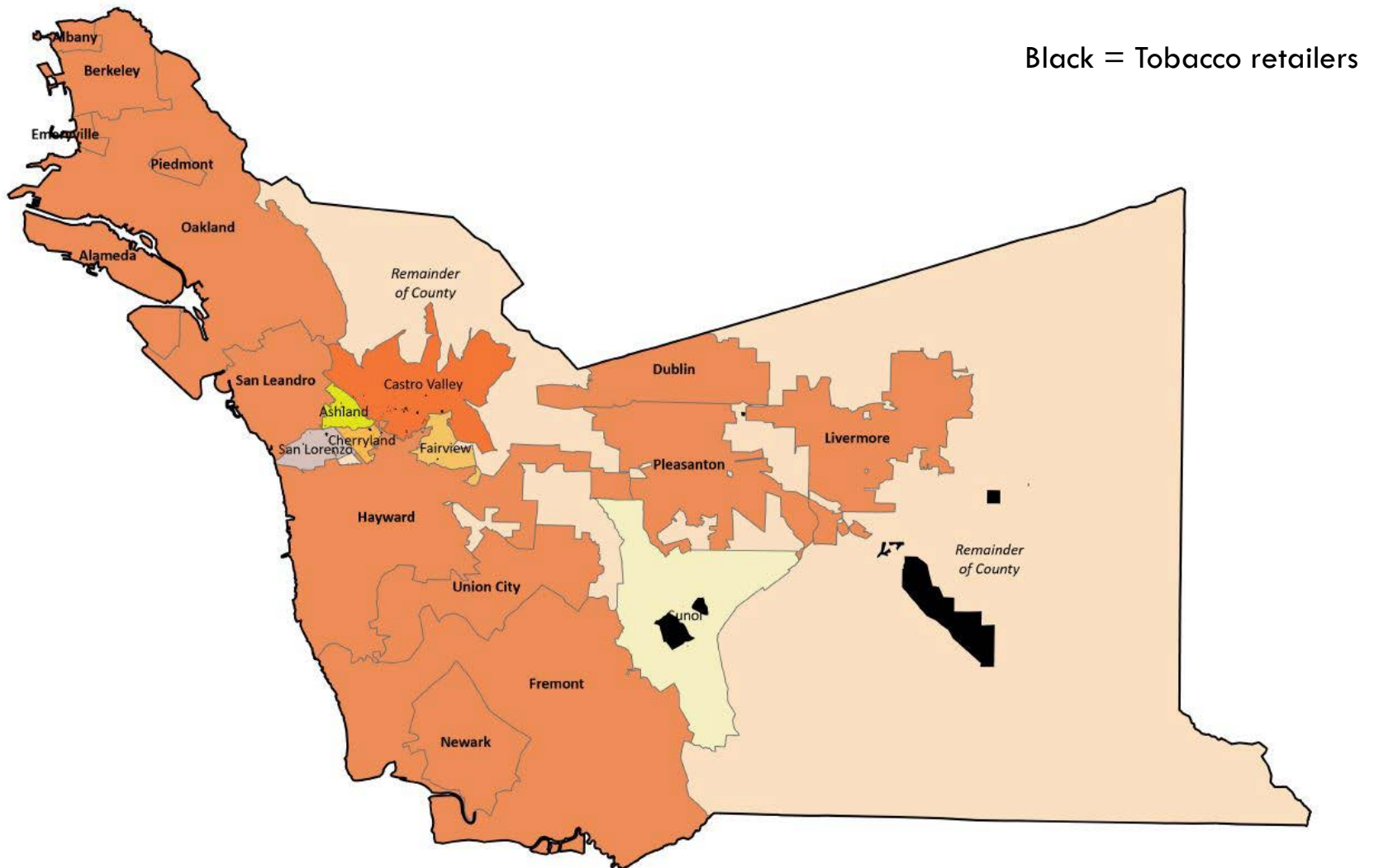
# Retailer Proximity to Youth-Populated Areas

- Youth-Populated Areas include:
  - Schools (private or public K-12)
  - Libraries
  - Parks
  - Playgrounds
  - Youth centers
  - Recreation facilities
  - Licensed child-care facilities or preschools

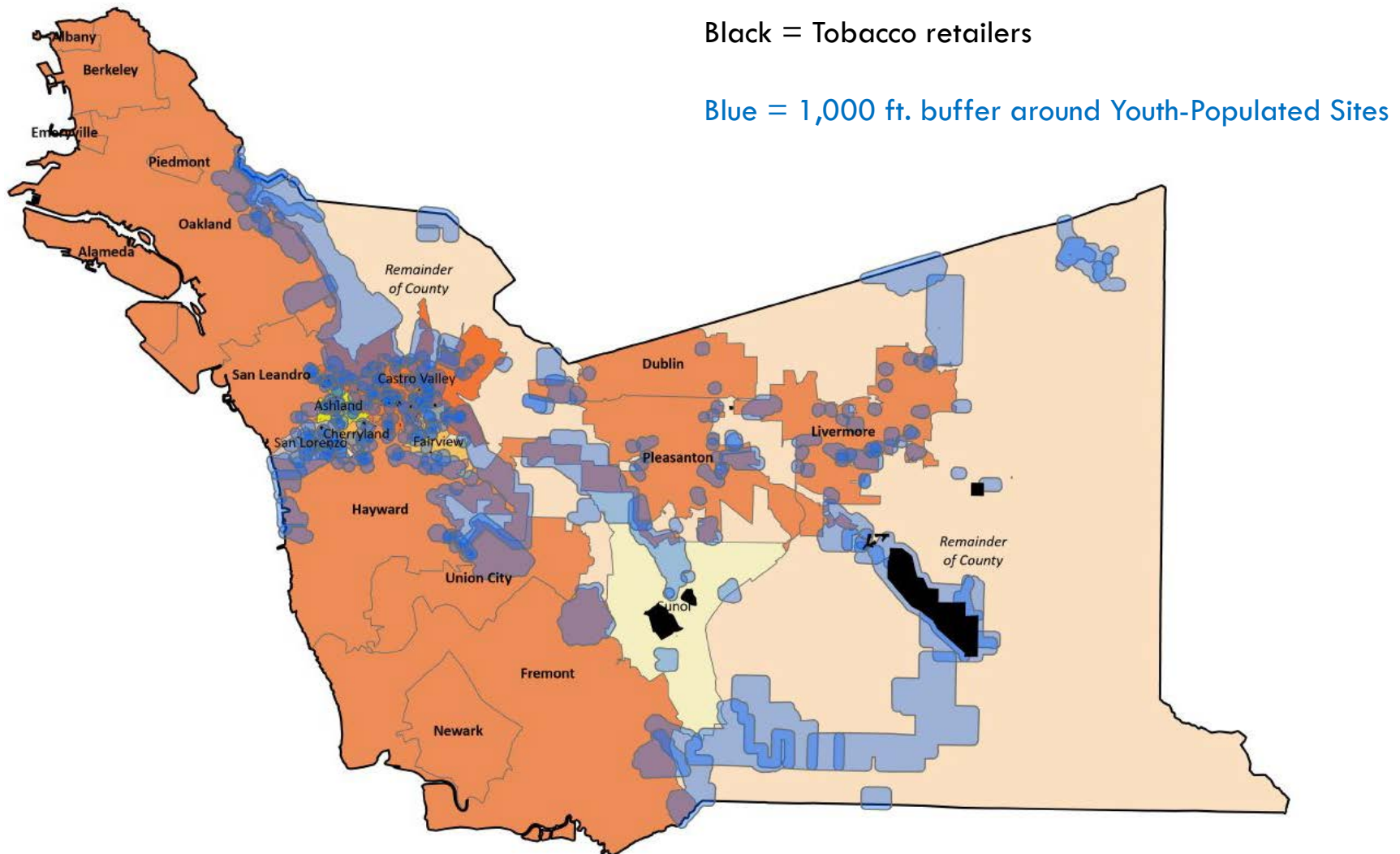




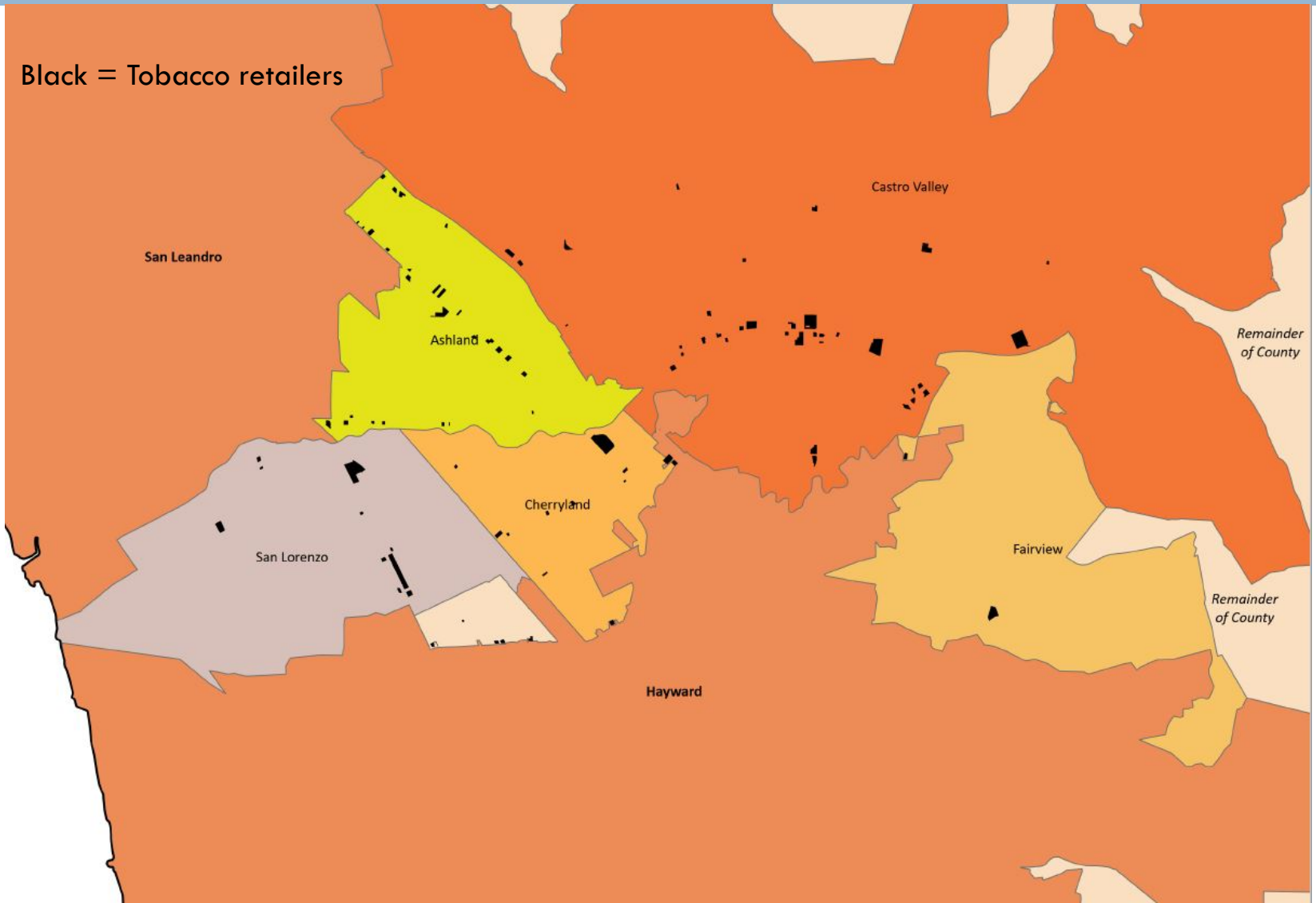
# Locations of Tobacco Retailers in Unincorporated Alameda County (n=115)



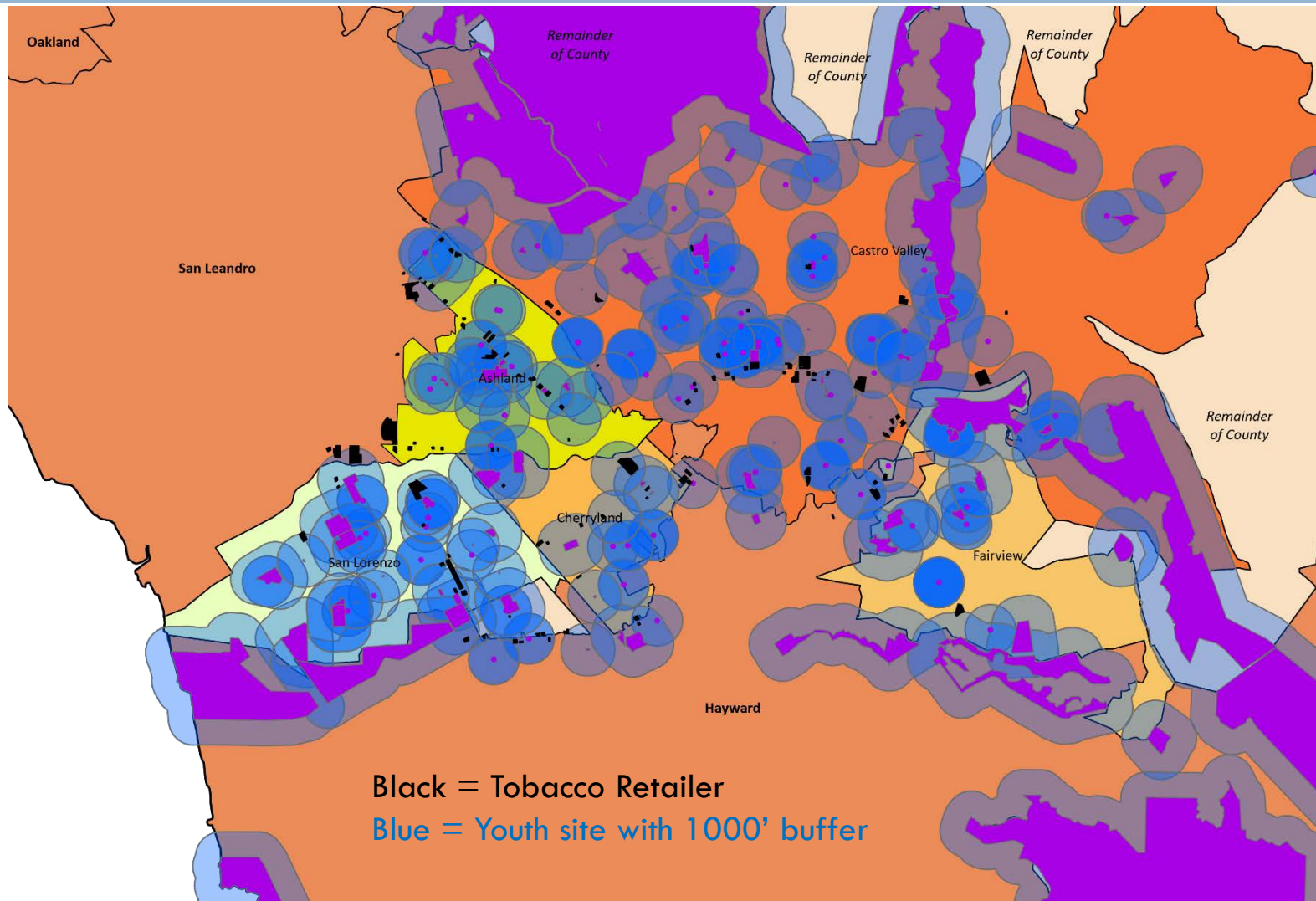
# Retailer Proximity to Youth-Populated Sites



# Locations of Tobacco Retailers in Central County Unincorporated Areas



# Retailer Proximity to Youth-Populated Sites in Central County Unincorporated Areas



# Penalties: Suspensions or Revocation

During a 5-Year Period

- 1<sup>st</sup> violation – 30 day license suspension
- 2<sup>nd</sup> violation - 90 day license suspension
- 3<sup>rd</sup> violation – 1 year license suspension
- 4<sup>th</sup> violation – license revocation



# Penalties: Suspensions or Revocation

During a 5-Year Period

- Retailers alleged to have violated the ordinance may request a hearing before the Board of Zoning Adjustments.
- Violations stay on a retailer's record for 5 years.

A red, rectangular stamp with a distressed, ink-like texture. The word "VIOLATION" is written in bold, uppercase letters across the center of the stamp. The stamp is tilted slightly to the right.

# Comparison to Other Cities Min. Price

	Pack size	Minimum Price
<b>Proposed</b>	<b>20</b>	<b>\$8 cigarettes, little cigars, premium cigars</b>
Alameda City	5	\$7 cigarettes \$5 little cigars or \$5 premium cigar
Albany	20	\$8 cigarettes \$8 little cigars
Berkeley	20	\$8 cigarettes \$8 little cigars or \$7 premium cigar
Dublin	no	no
Fremont	5	\$8 cigarettes \$8 little cigars or \$5 premium cigar
Hayward	5	no
Livermore	no	no
Oakland	no	no
San Leandro	5	\$7 little cigars or \$5 premium cigar
Union City	5	\$5 premium cigar

# Comparison to Other Cities Fees & Fines

			Violations				
	Period	1st	2nd	3rd	4th	Annual Fee	
<b>PROPOSED</b>	<b>5 years</b>	<b>30 days</b>	<b>90 days</b>	<b>1 year</b>	<b>revocation</b>	<b>TBD</b>	
Alameda City	5 years	\$1,500	15 days	30 days	revocation	\$750?	
Albany	5 years	10 days	30 days +\$250	90 days + \$500	Revocation + \$1,000	\$250	
Berkeley	5 years	30 days	90 days	1 year	revocation	\$427	
Dublin	3 years	warning	\$750	7 days + \$1000	revocation	\$237	
Fremont	5 years	30 days	90 days	1 year	revocation	None set yet	
Hayward	3 years	\$1,500 or 30 days	\$3,000 or 30 days	\$5,000 or 30 days	revocation	\$400	
Livermore	5 years	30 days	1 year	revocation	n/a	none set yet	
Oakland	5 years	10 days	30 days	90 days	revocation	\$1,500 + \$50	
San Leandro	3 years	warning	\$2,500	20 days	revocation	\$500	
Union City	5 years	warning	30 days	90	revocation	\$665	



# Questions?



# Thank You

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