Presentations for the

May 18, 2020

City Council Meeting

CITY PALO ALTO

SB743 Implementation

May 18, 2020

www.cityofpaloalto.org

CITY OF PALO ALTO

Presentation Goal

Our focus tonight will be on the decisions that the City must make in June to ***set local CEQA VMT baseline thresholds and project screening criteria.***

Proposed Approach to SB 743 Implementation

- Adopt State OPR Guidance as **initial VMT framework** for City's CEQA documents starting July 1, 2020
- Consider updating initial CEQA VMT thresholds to better align with S/CAP reduction goals in 2021
- Retain Level of Service (LOS) per Comp Plan Policy T-2.3.

September 2013 – Governor Signed SB 743

December 2018 – OPR Finalized State CEQA Guidelines

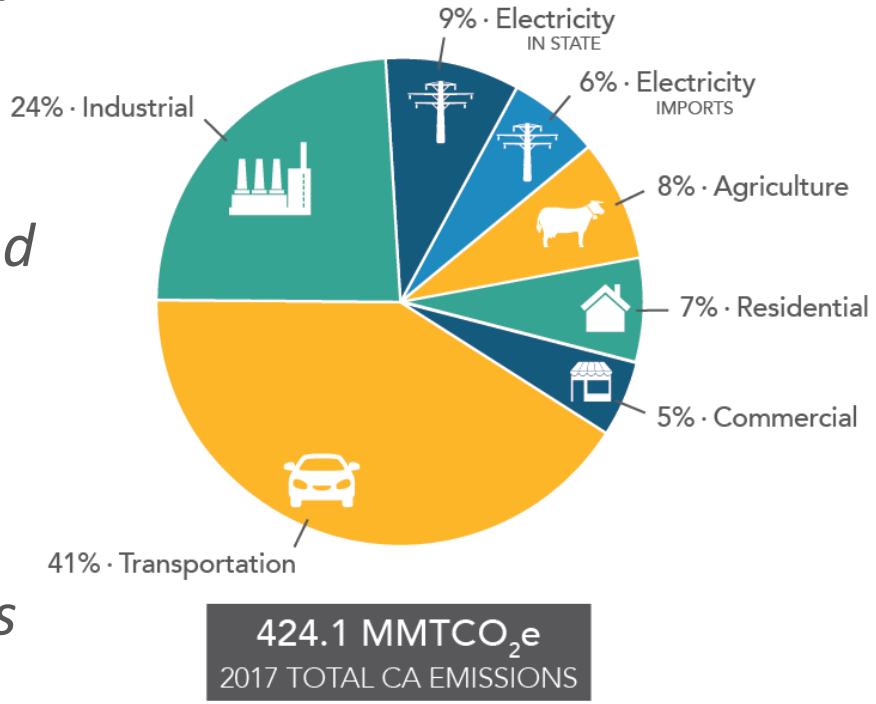
December 2018 – Natural Resources Agency Updated CEQA Guidelines

Agencies have until **July 1, 2020** to implement VMT thresholds

SB743 Legislative Intent and Lead Agency's Decisions

Legislative Intent

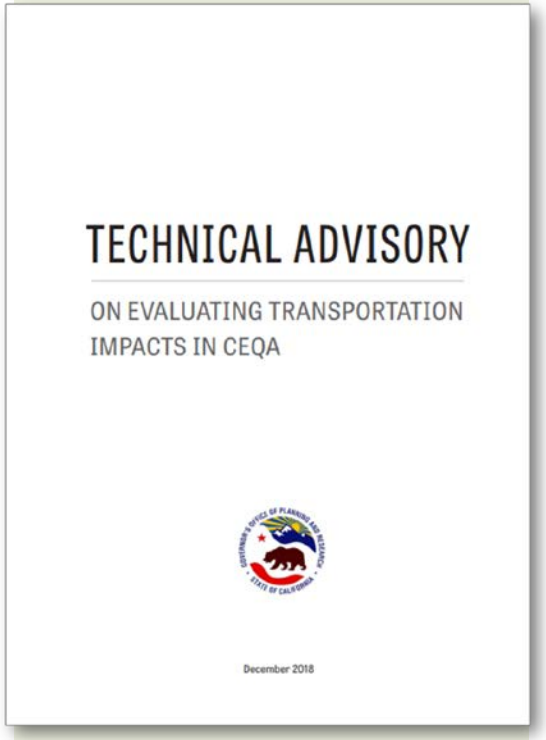
Reform the process of the California Environmental Quality Act (CEQA) to use new methodologies ***for evaluating transportation impacts*** *that are better able to promote the state's goals of reducing greenhouse gas emissions and traffic-related air pollution –* ***vehicle miles traveled***



Lead Agency's Decisions

To develop ***thresholds of significance*** *that the agency uses in the determination of the significance of environmental effects.*

OPR Technical Advisory – Thresholds



- VMT Screening Criteria
- VMT Thresholds for Quantitative Assessments

VMT Threshold Options

- **Rely on OPR Technical Advisory for initial thresholds**
- Use a threshold adopted or recommended by another public agency (CARB)
- Set jurisdiction-specific threshold consistent with Comprehensive Plan and S/CAP

OPR Technical Advisory – Screening

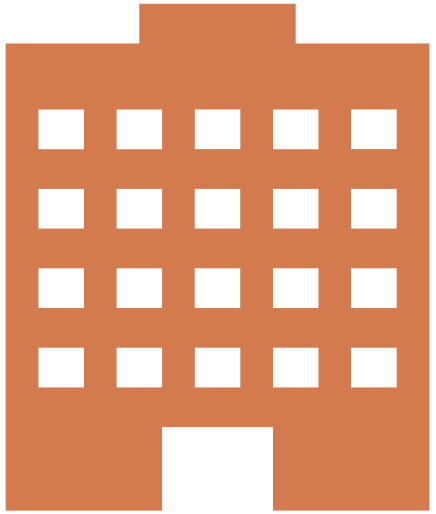
- Small Project (<10,000 square feet)
- Residential and office projects in Low VMT Zones (map based)
- Low VMT projects within ½ mile of major transit station or bus stop on a high-quality transit corridor
- Affordable housing
- Local-serving retail of a certain size
- Transit, bicycle and pedestrian infrastructure projects

What types of projects need a VMT threshold?

- **Land Use Projects,** including development projects for a variety of land uses
- **Land Use Plans,** including Comprehensive Plan updates and Specific Plans, Area Plans, or Precise Plans
- **Transportation Projects,** including lane additions, capacity-increasing infrastructure changes, etc.

OPR VMT Thresholds for 3 Land Use Types

Residential



Office

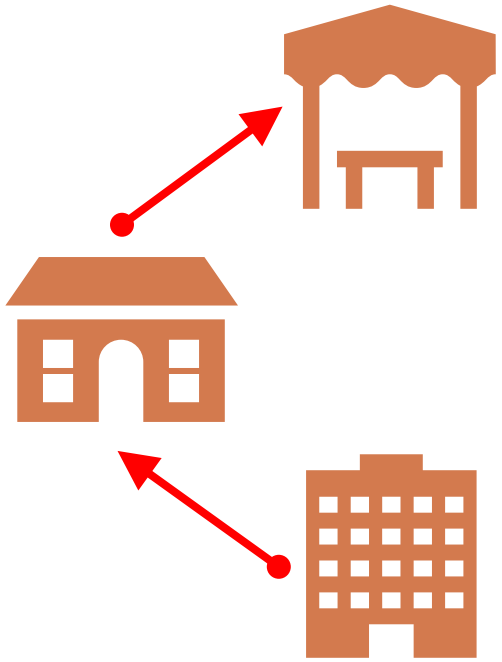
Retail

Existing VMT Baseline Options

2015 Baseline VMT	Palo Alto	Santa Clara County
Home-Based VMT Per Capita	9.48	**13.33**
Employment-Based VMT Per Employee	16.71	**16.64**

OPR VMT Threshold – Residential Projects

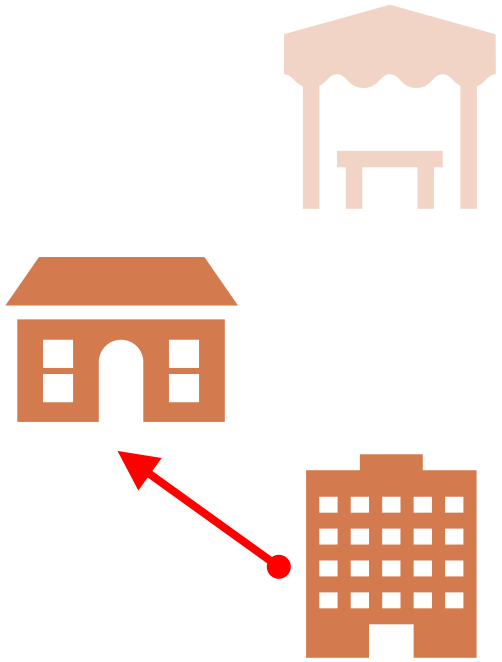
- **Metric** – VMT per capita (light duty only)
- **OPR Threshold/City Likely Recommendation** – Project VMT per capita must be 15% less than existing regional average VMT per resident



2015 Baseline VMT	Palo Alto	Santa Clara County
Home-Based VMT Per Capita	9.48	**13.33**
Employment-Based VMT Per Employee	16.71	**16.64**

OPR VMT Threshold – Office Projects

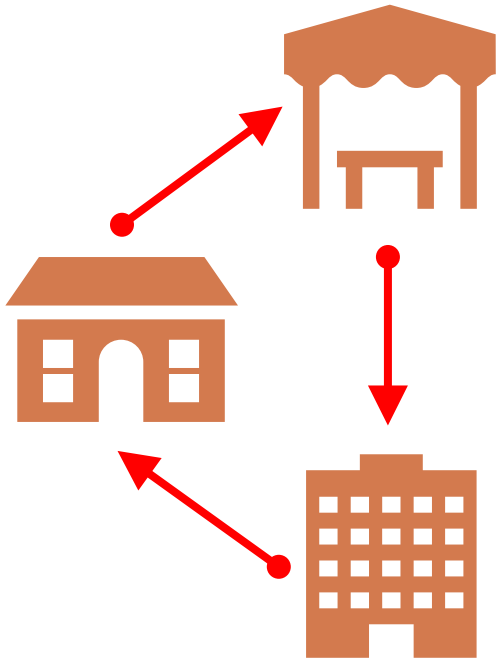
- **Metric** – VMT per employee (light duty only)
- **OPR Threshold/City Likely Recommendation** – Project VMT per capita must be 15% less than existing regional average VMT per employee



2015 Baseline VMT	Palo Alto	Santa Clara County
Home-Based VMT Per Capita	9.48	**13.33**
Employment-Based VMT Per Employee	16.71	**16.64**

OPR VMT Threshold – Retail Projects

- **Metric** – Total VMT
- **OPR Threshold/City Likely Recommendation** – No Net increase in VMT



2015 Baseline VMT	Palo Alto	Santa Clara County
Home-Based VMT Per Capita	9.48	**13.33**
Employment-Based VMT Per Employee	16.71	**16.64**

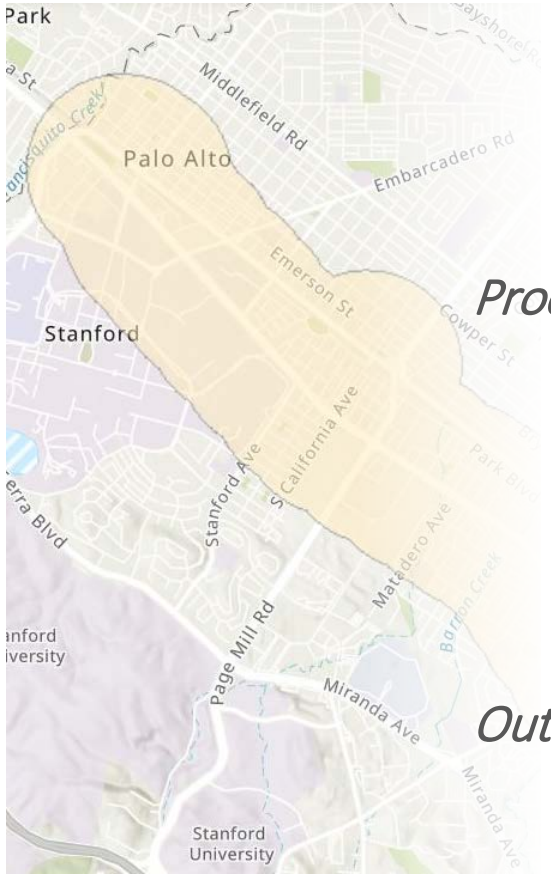
Land Use Project – Case Study A

PROJECT TYPE Redevelopment/reuse **LAND USE** Strip Commercial Replaced With Multifamily Res.

	Scenario A	Scenario B
Process	• If 100% affordable housing or project located **within** a low-VMT area, project meets screening criteria	• If located **outside** low-VMT area, project conducts quantitative VMT analysis
Outcome	• Project presumed to have less-than-significant VMT impact, no mitigation required	• Many multifamily projects will likely have less-than-significant impacts after quantitative VMT analysis is conducted • If significant impact occurs, achievable VMT mitigation required resulting in less-than-significant impact in most cases

Land Use Project – Case Study B

PROJECT TYPE Redevelopment/reuse **LAND USE** Intensification of Office Uses



	Scenario A	Scenario B
Process	• Within ½ mile of high-quality transit corridor or Caltrain station • Project is dense (FAR > .75), has reduced parking • Consistent with Comp Plan/Plan Bay Area, cumulative VMT is trending downward	• If not in transit priority area, project conducts quantitative VMT analysis
Outcome	• Project presumed to have less-than-significant VMT impact, no VMT mitigation required	• Significant VMT impact likely. If impact occurs, VMT mitigation required which may or may not reduce to less-than-significant

Next Steps

June 2020 – Council Action:

- VMT Resolution
- LOS Policy

Subsequent Actions:

- TDM Ordinance Update
- VMT Updates for S/CAP Consistency

Council Questions

Thank you!

CITY OF PALO ALTO

FEHR PEERS

Bob Grandy
Principal
b.grandy@fehrandpeers.com
(415) 348-0300

EXTRA SLIDES

VMT Forecast - California Air Resources Board (CARB)

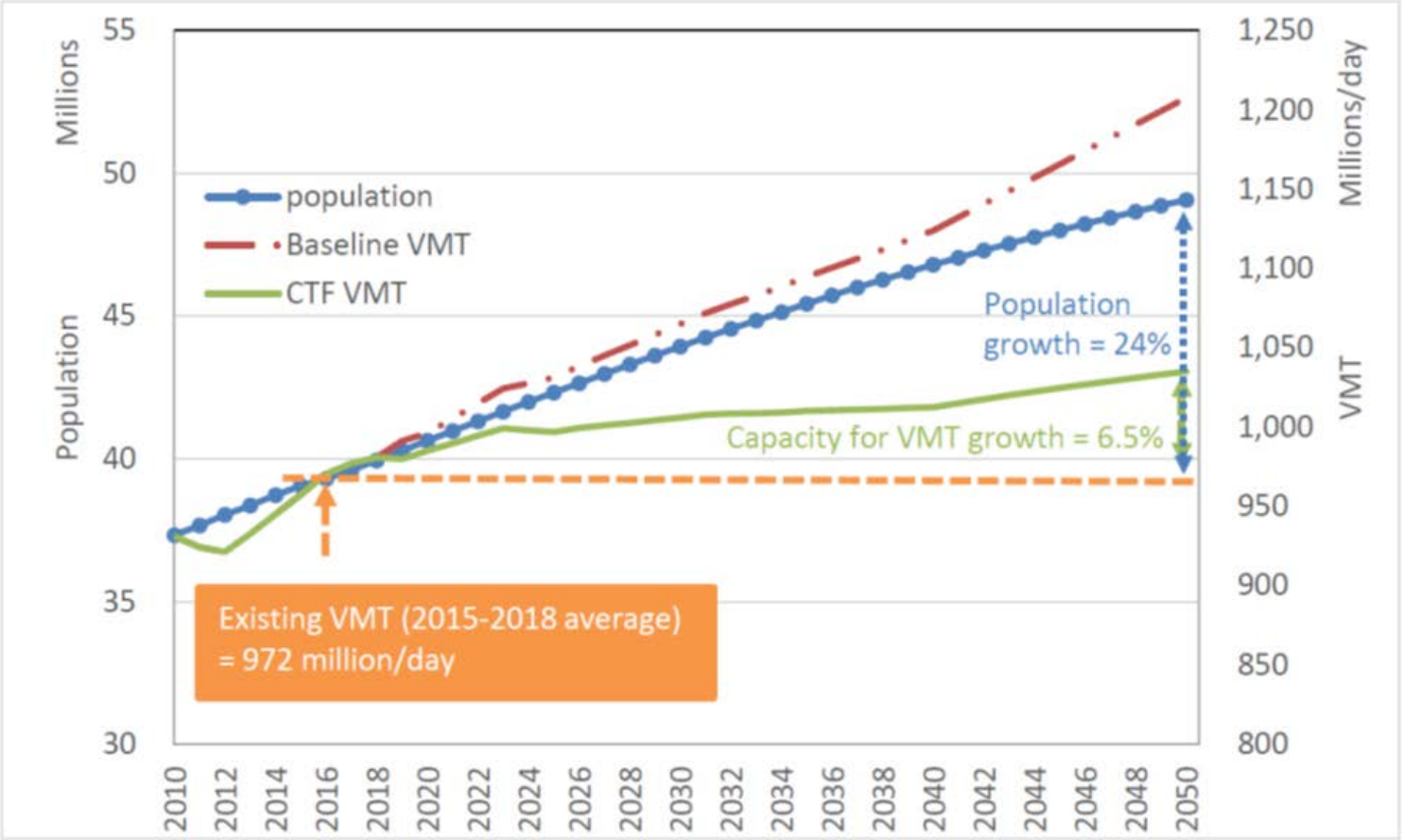


Figure 1: California Total Projected Population Growth and VMT Growth

Source: *2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, CARB (pg. 7) https://ww2.arb.ca.gov/sites/default/files/2019-01/2017_sp_vmt_reductions_jan19.pdf

VMT Reduction Level Needed – CARB

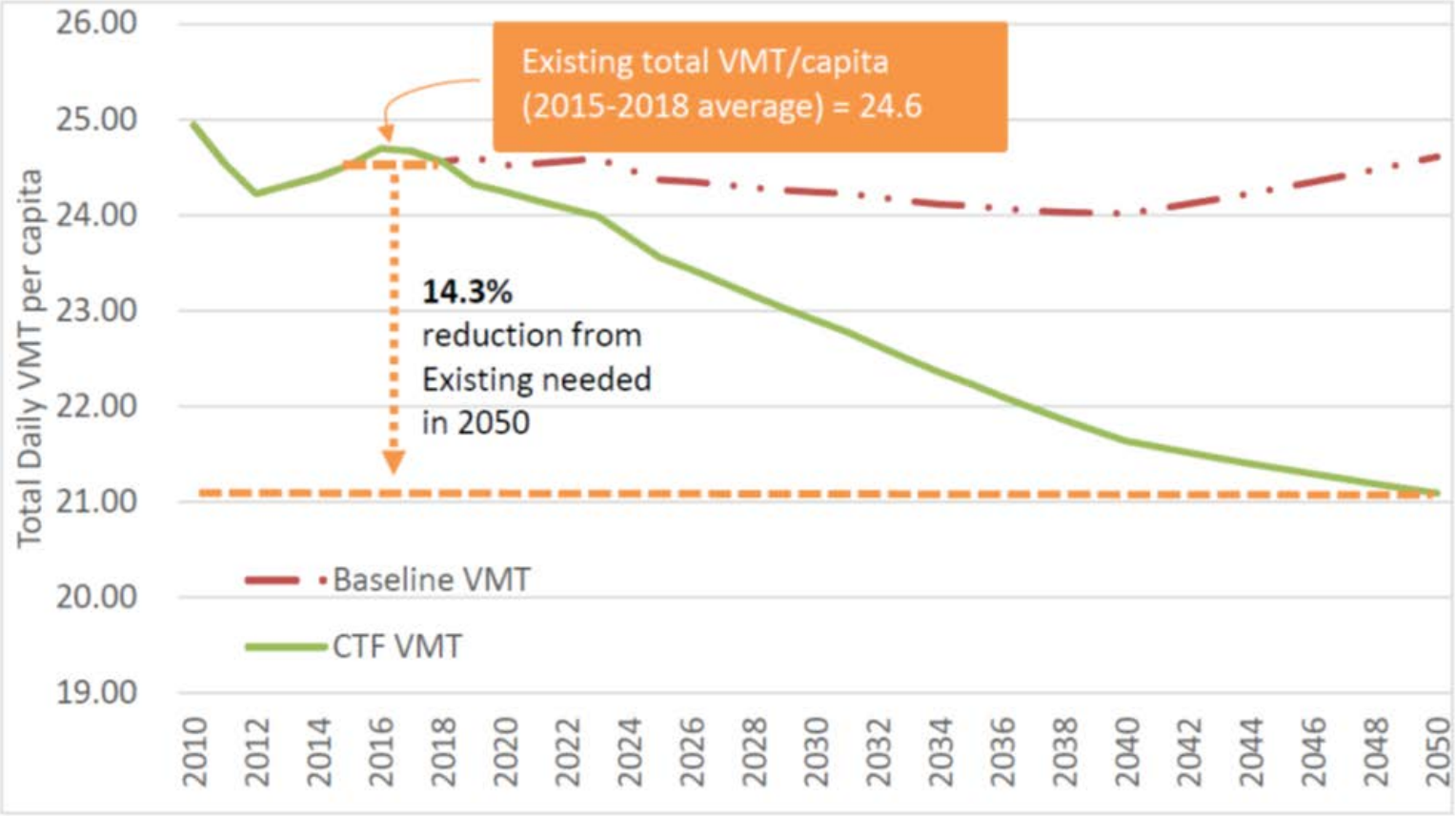
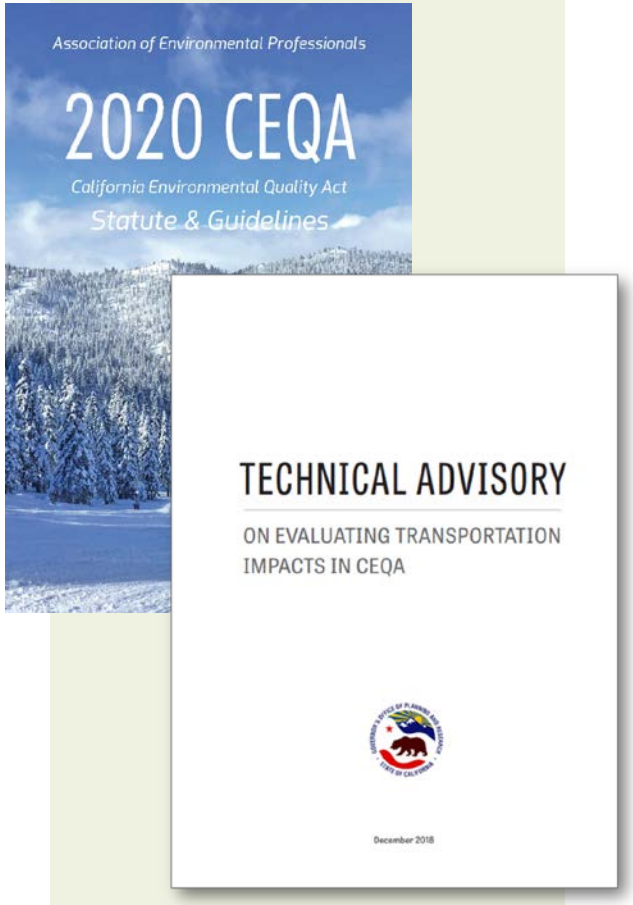


Figure 2: California Total Daily VMT Per Capita

Source: *2017 Scoping Plan-Identified VMT Reductions and Relationship to State Climate Goals*, CARB (pg. 9) https://ww2.arb.ca.gov/sites/default/files/2019-01/2017_sp_vmt_reductions_jan19.pdf

Senate Bill 743



Legislation — Sets **intent and goals**

CEQA Statute — Sets legal **requirements** for adequate environmental analysis

Technical Advisory — Offers **advice** for compliance

What does SB743 do and not do?

Does

- Eliminates vehicle delay (i.e. LOS) as basis for determining significant CEQA impacts
- Recommends VMT as the most appropriate measure of transportation impacts
- Other considerations: transit and non-motorized travel

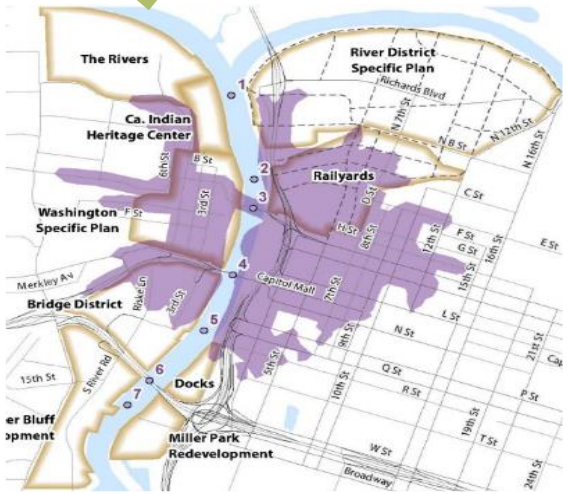
Does Not

- Affect planning, design, or development review, except for the CEQA process (i.e. retain LOS for local-level analyses)
- Change the Comprehensive Plan or Congestion Management Plan process
- Change CEQA disclosure standards

CEQA Transition – LOS to VMT

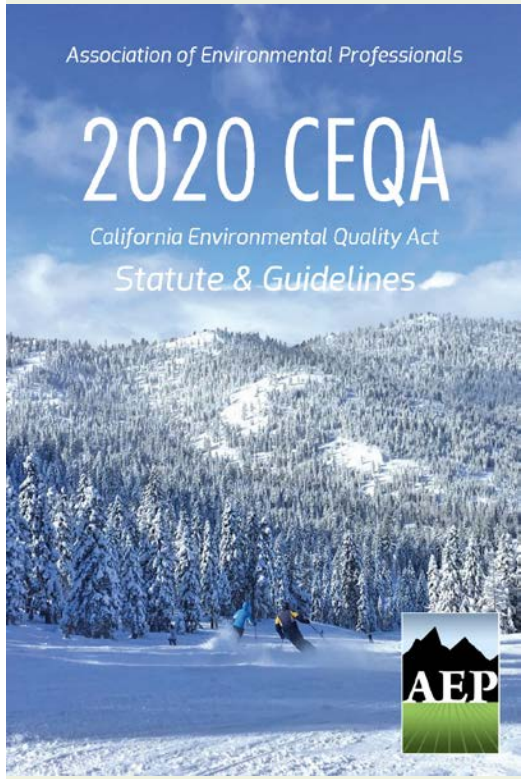
LOS

*measures the impact **to** drivers*



VMT

*Measures impact **of** driving on the environment*



CEQA Guidelines Excerpt

Section 15064.3(b)(4): Determining the Significance of Transportation Impacts

- *A **lead agency has discretion to choose the most appropriate methodology to evaluate a project's VMT**, including whether to express the change in absolute terms, per capita, per household or any other measure*
- *A lead agency **may use models to estimate a project's VMT** and may revise those estimates to reflect professional judgment **based on substantial evidence**.*
- *Any assumptions used to estimate VMT and any revisions to model outputs should be documented and explained in the environmental document*

CEQA Guidelines Excerpt

Section 15064.7: Thresholds of Significance

- *A threshold of significance is an identifiable quantitative, qualitative, or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant…*

- *Each public agency is encouraged to* ***develop and publish thresholds of significance*** *that the agency* ***uses in the determination of the significance of environmental effects****.*

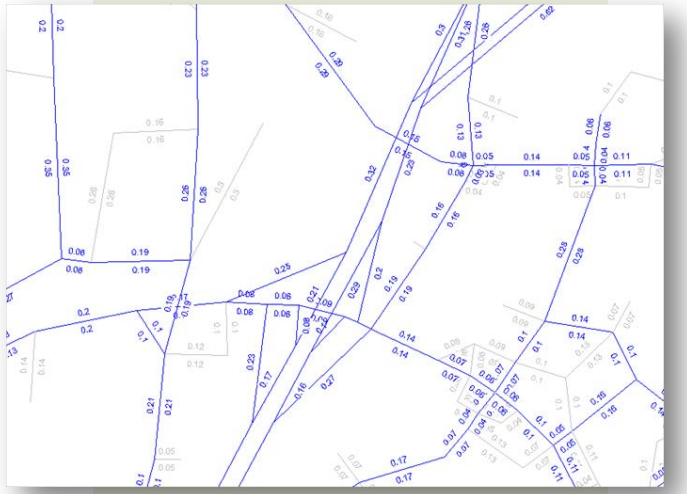
- ***Thresholds of significance*** *to be adopted for general use … must be* ***adopted by ordinance, resolution, rule, or regulation****, and developed through a public review process and* ***supported by substantial evidence.***

CEQA Guidelines Excerpt

Section 15064.7: Thresholds of Significance (cont.)

- *Lead agencies may also use thresholds on a case-by-case basis.*
- *When adopting or using thresholds of significance, a lead agency may consider thresholds of significance previously adopted or recommended by other public agencies or recommended by experts, provided the decision…is supported by substantial evidence.*

What is VMT and how is it measured?



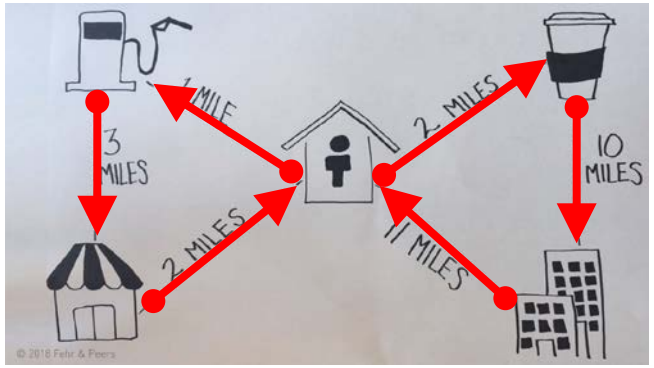
- Vehicle Miles Traveled (VMT) is a measure of network use
- VMT = Trips x Trip Length
- Generally expressed as VMT per capita for a typical weekday

VMT Metric – Total or Partial?

TOTAL VMT

Household
Generated VMT

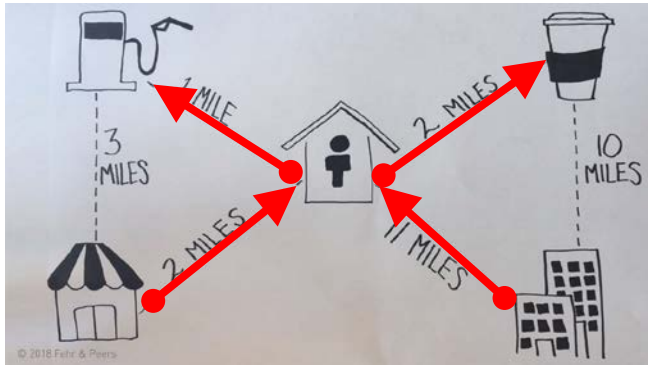
29



PARTIAL VMT Residential

Home-Based
Generated VMT

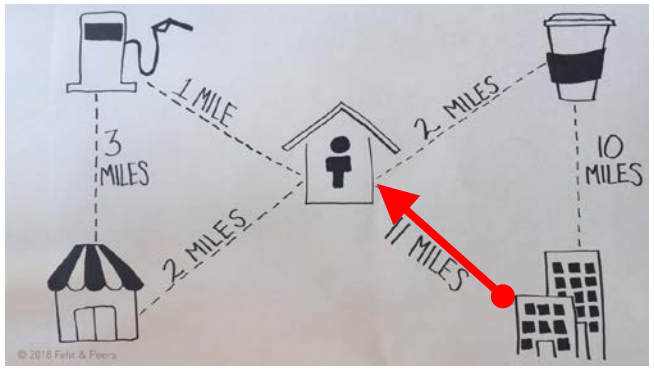
16



PARTIAL VMT Office

Home-Based Work
Generated VMT

11



Can Palo Alto still use Level of Service (LOS)?

- LOS ***cannot*** be used in CEQA to determine if a project will have a significant impact on the environment.
- Palo Alto may continue to have a LOS policy. Given the conflicting nature of LOS and VMT policy outcomes, the City may wish to indicate whether and in what situations VMT policies take priority over LOS policies.
- Palo Alto may use LOS as a metric in future area or corridor planning efforts as well as updates to the transportation development fee program.
- Palo Alto may use LOS to require traffic improvements as a "condition of approval" in the entitlement process.

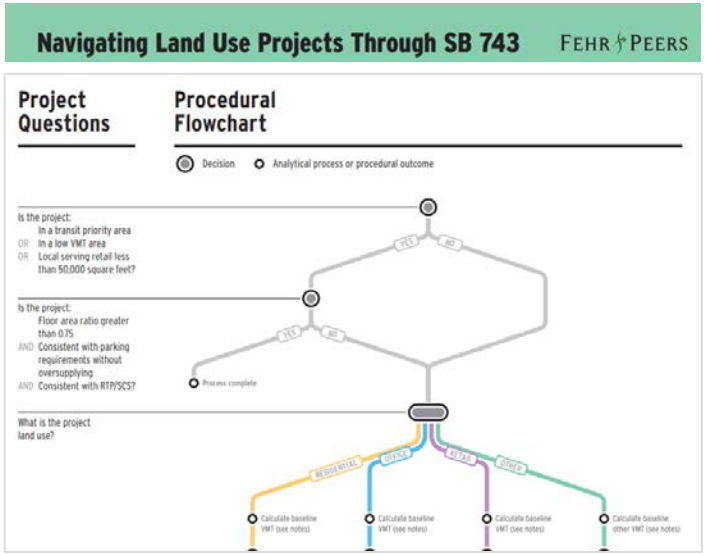
Decisions: Establishing VMT Threshold(s)

Define Significance Criteria (Defines Impacts Under CEQA)

- OPR Technical Advisory or Other?
- What is acceptable vs. unacceptable VMT when viewed solely through a transportation lens by lead agency?

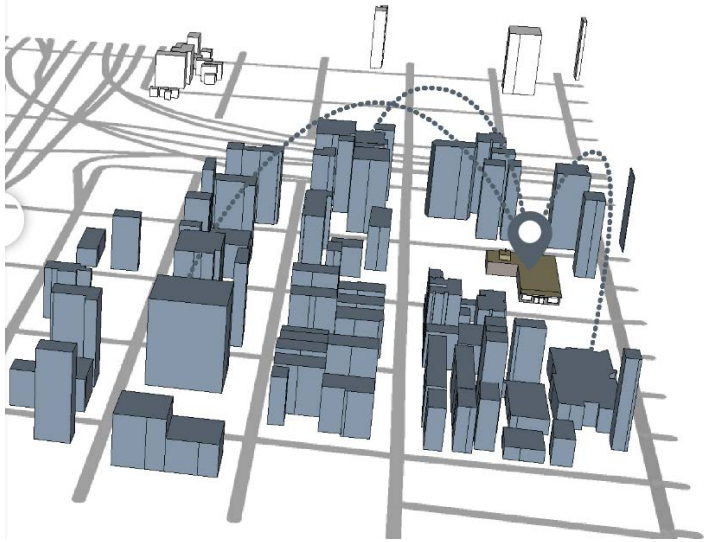
Define Methodology

- Consistent for Thresholds and Project Assessment
- How VMT reduction is addressed in air quality, energy, and GHG impact analysis
- Identify Mitigation Potential



Project VMT vs Cumulative Impacts

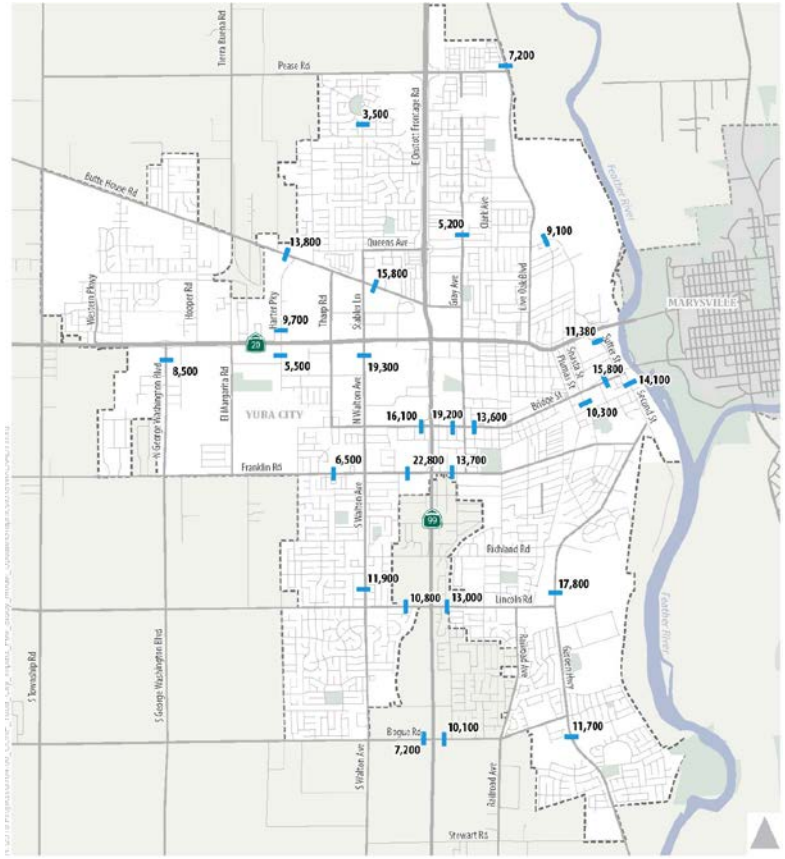
Project Generated VMT vs.
Effect on Regional or City VMT (Cumulative)



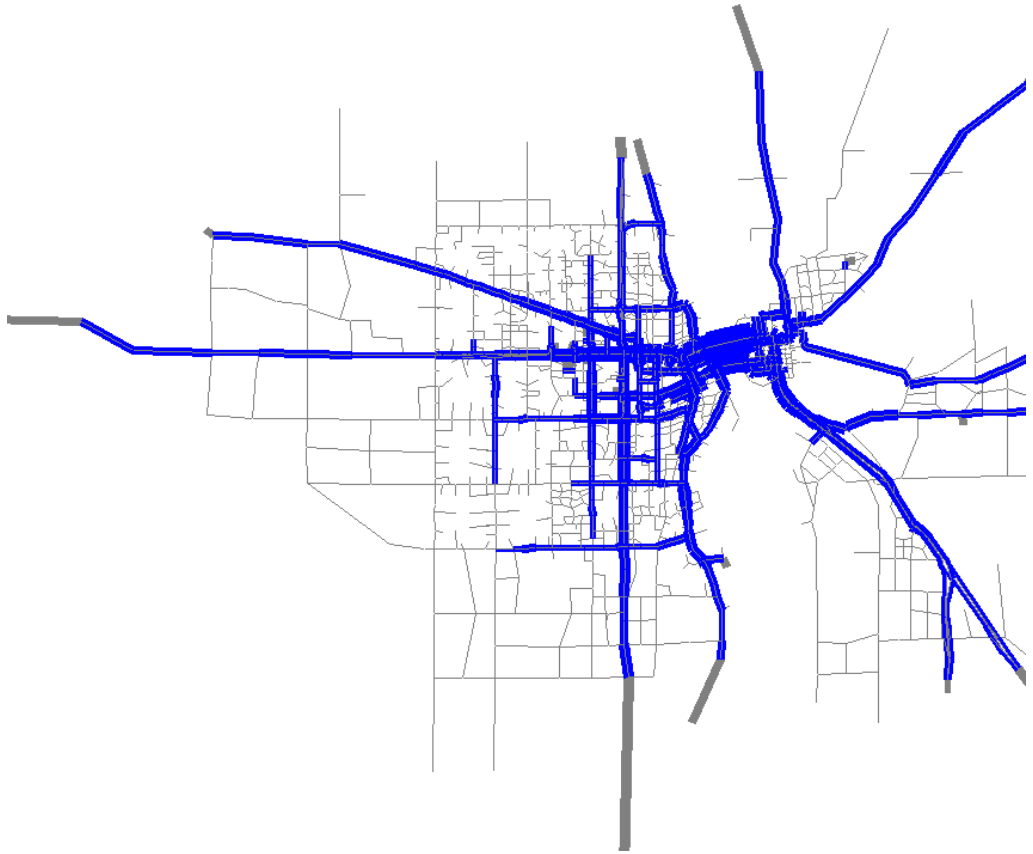
VMT Consistency?

Vehicle Trip Type	VMT Required in Analysis			
	AQ	GHG	Energy	SB 743 Transportation
Residential Project				
Home-based work	✓	✓	✓	✓
Home-based other	✓	✓	✓	✓
Non-home-based	✓	✓	✓	
Office Project				
Home-based work	✓	✓	✓	✓
Visitor	✓	✓	✓	
Delivery	✓	✓	✓	
Maintenance/Security	✓	✓	✓	

VMT Metric – Network vs. OD



Boundary VMT-708,700



Origin-Destination (OD) VMT-2,212,800

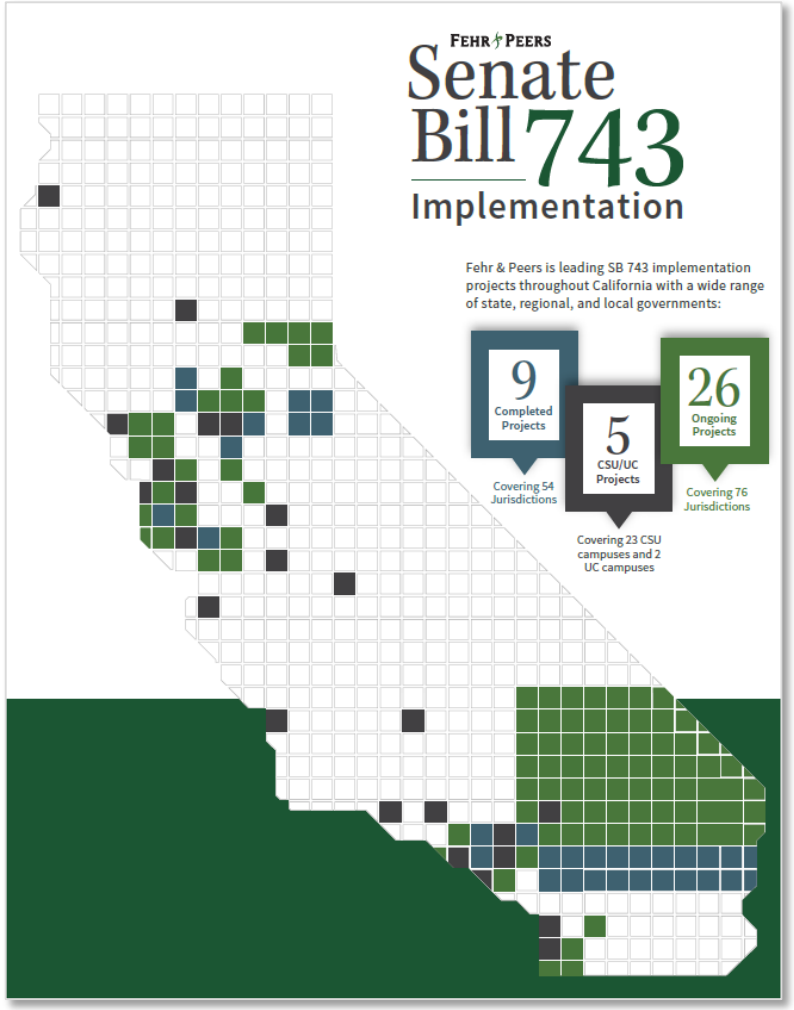
Level of Service (LOS)

LOS = Current measure used to analyze traffic flow

LOS A Example

LOS F Example

Senate Bill 743 Implementation Experience



CITY OF PALO ALTO

FEHR PEERS

Bob Grandy
Principal
B.Grandy@fehrandpeers.com
(415) 348-0300

COUNCIL MEETING
5/18/2020
✔Received Before Meeting
6

CITY OF PALO ALTO

Proposed Tobacco Retail Permit Ordinance

City Council Meeting

May 18, 2020

www.cityofpaloalto.org

Background

December 9, 2019, Council Colleagues' Memo discussed the rise in youth vaping. Council directed staff to return with:

1. An ordinance prohibiting the sale and distribution of all electronic cigarettes and flavored tobacco products, in alignment with the County of Santa Clara's recent approach, with as few exemptions as possible;
2. Avenues to support legislation that deters minors from ordering e-cigarette products online;
3. An update on the enforcement activities of the existing Tobacco Retail Permit Ordinance;
4. Recommended funding based recommendations from a community meeting led by Healthy Cities in January 2020;
5. Potential disincentives and/or fines for vaping in public;
6. Work done with Palo Alto Unified School District (PAUSD) through the City/School Liaison Committee to reduce youth vaping; and,
7. A recommendation of appropriate disposal methods and education for electronic cigarettes.

Update on Action Items from December 9 Council Meeting

1. Proposed Ordinance for discussion and Council direction
2. New state legislation and federal regulation further deters youth access to tobacco products in effect (SB 39 online sales, FDA flavored pod ban);
3. PAPD youth-decoy undercover checks were conducted;
4. Community Funding: Healthy Cities identified the ThinkFund as a good potential recipient to increase funds for youth-led initiatives to reduce tobacco use;
5. Existing restrictions on public smoking, new free “no smoking” signage for businesses now provided to expand public signage;
6. Work done with Palo Alto Unified School District (PAUSD) through the City/School Liaison Committee to reduce youth vaping;
7. Public education for electronic cigarette disposal is planned for 2020.

Current Tobacco Retail Permit Ordinance Summary

1. All retailers must maintain a permit with Santa Clara County Department of Health and pay annual permit fees;
2. Retailers cannot sell flavored tobacco products/e-liquids
   - Adult-only stores are exempt from this requirement;
3. Limits store advertising;
4. Under age-21 only allowed to enter store with an adult;
5. Repeat violations are considered over 24 months.

Agreement with City and Santa Clara County requires County administration of permit checks, and annual Palo Alto Police Department undercover youth decoy checks.

Palo Alto's Tobacco Retailers

Retailers	Type of Retailer	Proposed Ordinance Impacts
1. Gas stations, liquor stores, convenience stores (15)	Retailer	Low impact. Most changes occurred with previous ordinance adoption.
2. Two cigar retailers	Over age-21	None
3. Three vape/tobacco stores	Over age-21	Significant
4. Two unique retailers: • Hookah Nites and Lounge (lounge-only, no product leaves premises); • Mac's Smoke Shop (snacks, periodicals and smoking/vaping products)	Over age-21	Significant

Five stores expressed concern about impact of proposed ordinance to continue their business (Hookah Nites, Mac's, Raw Smoke Shop, Smokes and Vapes, Vapes and More.

Proposed Tobacco Retail Permit Ordinance

1. Prohibits sales of electronic cigarette devices (flavored tobacco products and e-liquids already banned). Only traditional tobacco products and smoking cessation products can be sold;
2. Current exemptions remain for adult-only stores where flavored tobacco and electronic cigarette products can be sold due to financial impact on these stores:
3. Additional restrictions:
   - No new adult only stores would be permitted. Stores must have a permit June 30, 2020 to operate as an over-21 retailer in future years.
   - Customers under age-21 cannot enter stores, even if legal adult present;
   - Age must be confirmed before anyone can enter store;
   - Permit revoked if two sales to under age 21 within 60 months occur;
   - Violations of County or State Health Directives could result in permit loss.

City Comparisons – Santa Clara County

City	Ordinance Requirement	County Partner?	Stores Impacted
Los Altos	No flavored tobacco or e-cigarettes.	No	Several stores impacted but the single adult-only store was exempted.
Los Gatos, Cupertino	No flavored or e-cigarette products. No exemptions.	Yes	Few retailers impacted, no adult-only stores. Palo Alto is the only County partner to have adult-only stores that would be impacted by the proposed County Ordinance.
Saratoga, San Jose, Mountain View, Sunnyvale, considering options in future.	Considering no flavored or e-cigarettes.	No	San Jose and Sunnyvale reported that stores would likely close if their Councils do not exempt adult-only stores.

Public Comments

Public Comment Theme	Staff Response/How Ordinance Addresses Comment
The City must do its part to reduce youth access to vaping and flavored tobacco.	Palo Alto's Proposed Ordinance would be the strongest among cities in the County that have adult-only stores.
Exempting adult-only stores will lead to more adult-stores and more access to vaping products.	No new adult only stores can open. The ordinance requires adult-only retailers to be operating on June 30, 2020 in order to continue.
Flavored tobacco product availability is what compels kids to use smoking/vaping products.	• Flavored tobacco/flavored vaping products currently prohibited at 15 retailers; • Proposed Ordinance would remove sales of <u>all</u> e-cigarettes products (devices and liquids) at non-adult retailers; • Ordinance adds requirements to limit under age-21 access to adult-only stores.
The City would have to cover the costs to enforce the permitting process and this would become a low priority.	• The City would require permit fees to cover administrative and staff costs (currently done by the County). Some fees could help fund youth smoking/vaping reduction programs; • Adult-only stores would be a high priority for Palo Alto enforcement; • State and Federal checks at stores would also continue.
The Ordinance will negatively impact my business financially.	• Proposed exemptions for adult-only stores, with new restrictions to deter under-age sales.

Summary of Proposed Ordinance

1. Most tobacco retailers (15 stores) would be prohibited from selling flavored tobacco and e-cigarette products (devices and liquids);
2. Adult-only stores would have additional requirements to continue operating
3. Palo Alto's Proposed Ordinance would be the strongest among cities in the County among those that have adult-only stores;
4. Additional measures to further strengthen the ordinance and reduce teen vaping can be considered in the future.

Options

1. Adopt the Ordinance as proposed by staff (Attachment D), and direct staff to explore the following and return to Council at a later date:
   a) Investigate further restrictions for adult-only stores (e.g., card readers, purchase log, additional fees to support youth programs, etc.);
   b) Consider alternative exemption structure for retailers, e.g., exempt lounges where no product leaves the store;
   c) Consider additional measures over time to reduce the number of adult-only stores.
2. Direct Staff to modify the proposed Ordinance and return to Council at a future date, eliminating the current exemption for those adult stores where the subject products leave the store. Introduce a future effective compliance date that would allow the other four impacted adult-only stores time to sell/remove their current inventory and modify their business model to address the exemption elimination.

CITY OF
PALO
ALTO

Phil Bobel
Public Works Assistant Director
Environmental Services
phil.bobel@cityofpaloalto.org

Julie Weiss
Policy and Public Education Manager
Environmental Services-Watershed Protection
julie.weiss@cityofpaloalto.org