



Health, Housing &  
Community Services Department  
Environmental Health Division

Date: November 19, 2021

To: Tobacco Retailers

From: Mark Sproat,  
Tobacco Retail Program Lead

CC: Rebecca Day-Rodriguez, Health Service Program Specialist  
Ronald Torres, Environmental Health Division Manager

Subject: **Clarification on the Definition of “Little Cigars”, “Cigars”, and “Cigarillos”**

This memo serves to clarify the definitions of “Cigars,” “Little Cigars”, and “Cigarillos” as they pertain to the enforcement of the **Berkeley Municipal Code (BMC)** regarding Tobacco Retail Licensing and sales.

The **BMC** defines “Cigars” and “Little Cigars” as follows:

**BMC Chapter 9.80.020 A:** "Cigar" means any roll of tobacco other than a cigarette wrapped entirely or in part in tobacco or any substance containing tobacco and weighing more than three pounds per thousand units.

**BMC 9.80.020 K:** "Little cigar" means any roll of tobacco, other than a cigarette, wrapped entirely or in part in tobacco or any substance containing tobacco and weighing *no more than three pounds per thousand units*. **"Little cigar" includes, but is not limited to, tobacco products known or labeled as small cigar, little cigar, or cigarillo.**

According to the federal definition, “little cigars” are classified as “small cigars”, and the weight standard of “three pounds per thousand units” comes from the historic and current tax code classifications.

Although cigarillo can mean “small”, “mini”, or “little” cigar in Spanish, a survey of all cigarillo products (including the smallest “Swisher Sweets Diamond Minis”) found that they were all above the three pounds per thousand units classification, and therefore are considered to be cigars.

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Note that while manufacturers may label little cigars as cigarillos, or vice versa, it is the weight standard that defines and determines the legal classification. When in doubt, have the product weighed or obtain unpackaged weight information from the manufacturer. Again, based on our field survey, no cigarillo weighed less than the cigar classification, i.e. less than three pounds per thousand units.

Given the above, ALL cigars (i.e. over three pounds per thousand units) MUST be sold in minimum pack sizes of six (6) cigars, AND at a minimum price of \$7.00 per cigar. This essentially establishes a minimum sales price of \$42.00 per package of cigars.

Please note that cigars that are considered “premium” or “high-end” cigars often sold in cellophane wrappers or hard tubes such as Romeo y Julieta must also follow this packaging and pricing requirement.

Please note that original packages may be bundled together such that the six (6) cigar minimum is reached so long as the original packaging is intact and with the federal labeling intact. Upon removal from the case they must be securely bound. Loose packages of less than six (6) found anywhere within the store may be marked as a violation, as with opened packs of cigarettes and little cigars.

A fact sheet is included that shows the little cigars, cigarillos/small cigars, and cigars for reference. If you have any questions please don't hesitate to call or email:

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Attachment: Tobacco Fact Sheet