

City of San Leandro Planning Commission

RESOLUTION NO. 2025-XXX

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SAN LEANDRO**

**A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT AN
ORDINANCE AMENDING VARIOUS SECTIONS OF THE SAN LEANDRO
ZONING CODE TO MODIFY REGULATIONS PERTAINING TO TOBACCO
RETAILING AND PARKING OF OVERSIZED VEHICLES IN RESIDENTIAL
ZONES (ZCA24-002)**

WHEREAS, The California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

WHEREAS, the San Leandro Zoning Code may be periodically amended to incorporate clarifications or corrections to existing designations, as well as substantive changes; and

WHEREAS, the proposed Amendments consist of changes to tobacco retailing and the parking of oversized vehicles in residential zones; and

WHEREAS, the City's Zoning Code §1-12-108 defines a "Tobacconist/Cigarette store" as a "business devoted primarily to the sale of tobacco-related and e-cigarettes, and e-cigarette-related products, as defined by: (1) devoting 20% or more of total floor area or display area to; or (2) deriving 75% or more of gross sales receipts from, the sale or exchange of tobacco-related products"; and

WHEREAS, the City's Municipal Code and Zoning Code as currently written creates a potential loophole to the City's intended regulation of tobacco retailing because businesses may sell tobacco-related products and electronic cigarette-related products without being classified as a "Tobacconist/Cigarette store" as long as the percentage of the business dedicated to tobacco products is less than the thresholds referenced; and

WHEREAS, the potential loophole is significant because it allows a business to be legally established without complying with the separation requirements or more stringent review process applicable to Tobacconist/Cigarette stores as contemplated in the Zoning Code; and

WHEREAS, as a result of the above, the City has observed an increase in the appearance of tobacco retailing by retailers without first complying with the Zoning Code's requirements for Tobacconist/Cigarette stores; and

WHEREAS, the City is concerned about this recent proliferation of tobacco retailer businesses, locations of tobacco retailer businesses, and the harmful effects of tobacco on the health, safety, and welfare of City residents, especially youth; and

WHEREAS, tobacco use is the number one cause of preventable death in California and continues to be an urgent public health issue; and

WHEREAS, for these reasons, the City Council, on June 3, 2024, enacted a Zoning Moratorium to prohibit the sale of tobacco-related products and electronic cigarette products in new locations and prohibit the establishment of new Tobacconist/Cigarette stores for a 45-day period; and

WHEREAS, the purpose of the Zoning Moratorium was to provide staff with time to prepare updated regulations pertaining to the sale of tobacco-related products and electronic cigarette-related products; and

WHEREAS, on July 1, 2024, the City Council adopted an Urgency Ordinance extending the Zoning Moratorium to be effective for a two-year period, lasting until June 2, 2026; and

WHEREAS, staff has prepared Zoning Code Amendments pertaining to the sale of tobacco-related products and electronic cigarette-related products that would improve clarity, establish reasonable limitations, and facilitate effective enforcement; and

WHEREAS, the amendments respond to changing social conditions and changing economic circumstances; and

WHEREAS, the proposed Zoning Code amendments are determined to be necessary to advance the City's interests with respect to economic development and quality of life; and

WHEREAS, the proposed Zoning Code Amendments have been determined to not be subject to the California Environmental Quality Act (CEQA) because (1) the proposed Amendments are covered by the general rule that CEQA only applies to projects that have the potential for causing a significant effect on the environment; and (2) any project that has the potential to cause a significant effect on the environment will be evaluated through a separate environmental review process in accordance with CEQA; and

WHEREAS, the Community Development Department provided notice of the proposed Zoning Code amendments by publishing a public hearing notice in the East Bay Times' Daily Review newspaper on April 11, 2025; and

WHEREAS, the Planning Commission did on the 1st day of May, 2025 hold a duly noticed Public Hearing for consideration of the Zoning Code amendments and did consider all public comments and testimony received prior to and during the hearing; and

WHEREAS, the City's General Plan, Zoning Code, Municipal Code, and Administrative Code are incorporated herein by reference, and are available for review at City Hall during normal business hours and on the internet at any time.

NOW, THEREFORE, BE IT RESOLVED THAT: The above and forgoing recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED THAT: The Planning Commission recommends that the City Council adopt an ordinance amending various sections of the Zoning Code to modify regulations pertaining to tobacco retailing and the parking of oversized vehicles in residential areas as shown in **Exhibit A** .

BE IT FURTHER RESOLVED THAT: The Planning Commission of the City of San Leandro does hereby make the following findings and determinations regarding the proposed amendments to the San Leandro Zoning Code:

1. Approval of the Amendments is exempt from environmental review under the general rule in the California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As a series of text amendments which have already been reviewed in accordance with CEQA, it can be seen with certainty that there is no possibility that the amendments will have a significant effect on the environment. The proposed amendments merely involve the relocation of an existing code section and minor modifications to land use limitations for tobacco retailing that could not possibly result in a significant environmental impact.
2. That the proposed Zoning Code Amendments are necessary and desirable to achieve the purposes of the Zoning Code because the proposed amendments promote and protect the public health, safety, morals, comfort, convenience, and the general welfare of the people. The proposed amendments would limit the proliferation of businesses with the primary purpose of selling tobacco, which if not carefully regulated could negatively impact public welfare.

3. That the proposed Zoning Code Amendments are consistent with the General Plan because they support the policies of the General Plan to enhance code enforcement efforts that ensure that San Leandro neighborhoods remain attractive and free of public nuisances and update the Zoning Code to respond to trends.

PASSED, APPROVED, AND ADOPTED, on this 1st day of May, 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Litha Zuber
Chair of the Planning Commission

ATTEST:

Avalon Schultz, AICP
Secretary to the Planning Commission