



URGENCY ORDINANCE

ZONING MORATORIUM – NEW TOBACCO SALES

City Council 06.03.24

Background

- ▷ Staff proposing temporary moratorium for new businesses selling tobacco and e-cigarette related items to address outdated Zoning regulations that limit enforcement options
- ▷ Municipal Code Chapter 4-36 *Tobacco Retailers Ordinance* prohibits sale of e-cigarettes, tobacco, and related products without valid Tobacco Retailers License (TRL)
- ▷ Zoning Code Chapter 1.12 defines “tobacconist/cigarette store” as business devoted primarily to the sale of tobacco, e-cigarettes, and/or related products:
 - \geq 20% floor/display area or
 - \geq 75% gross receipts
 - Only allowed in certain zones with Conditional Use Permit
 - 1,500' separation requirement from sensitive uses – school, park, library
 - Restrictions on hours – 6am – 10pm

Background

- ▶ Zoning “loophole” allows businesses under permitting thresholds to obtain TRL and sell tobacco-related products without protections
- ▶ Since 2021, staff has observed increase in new “Smoke Shops” locating in San Leandro utilizing Zoning loophole
- ▶ Current Zoning regulations limit enforcement options



Proposed Urgency Ordinance

▷ Establish a temporary moratorium:

- Prohibit new Tobacconist/Cigarette Stores

Existing legal tobacconist/cigarette stores would not be impacted and could continue to operate

- Prohibit sale of tobacco-related products or electronic-cigarette related products in new locations (as of 6/3/24) except new Supermarkets over 20,000 sq ft

Would not prevent new businesses from being established in a location where such products are currently sold unless they qualify as Tobacconist/Cigarette Stores under the Zoning Code

Outreach and Next Steps

- ▷ Notice mailed to existing businesses with TRL
- ▷ If Council adopts moratorium, staff will:
 - Review codes to evaluate appropriate regulations
 - Initiate enforcement of non-compliant businesses
 - Return to Council within 45-days to evaluate need for extension
 - Return to Council with recommended Code amendments

June

45-day Moratorium Begins
Evaluate Existing Policies

July

Return to Council to Consider Extension

Financial Impacts

- ▷ No direct fiscal impact with adoption of moratorium.
- ▷ Staff time related to reviewing current Municipal Code and Zoning Code for potential revisions



Recommendation

- ▷ Staff recommends Council adopt urgency ordinance enacting a zoning moratorium to prohibit:
 - Sale of tobacco-related products and electronic cigarette-related products in new locations
 - New tobacco/cigarette stores