

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

ORDINANCE NO. 2025-014

ORDINANCE AMENDING VARIOUS SECTIONS OF THE SAN LEANDRO ZONING CODE TO MODIFY REGULATIONS PERTAINING TO THE SALE OF TOBACCO-RELATED PRODUCTS AND E-CIGARETTE-RELATED PRODUCTS WITHIN CITY LIMITS

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 regulations pertaining to the sale of tobacco-related products and e-cigarette-related products within city limits; 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, on May 1, 2025, the Planning Commission held a public hearing and voted to recommend City Council adoption of proposed Zoning Code amendments; and

WHEREAS, on July 7, 2025, the City Council held a public hearing and directed staff to conduct additional public outreach on the proposed Zoning Code amendments; and

WHEREAS, staff conducted additional public outreach in accordance with the City Council's direction; and

WHEREAS, staff has incorporated modifications to the proposed Zoning Code amendments based on the additional public outreach; and

WHEREAS, on October 2, 2025, the Planning Commission held a public hearing and voted to recommend City Council adoption of the proposed Zoning Code amendments; and

WHEREAS, on November 3, 2025, the City Council held a duly noticed public hearing to consider the proposed Zoning Code amendments, at which time all interested parties had an opportunity to be heard; and

WHEREAS, the City Council has considered all public comments received, the presentation by City staff, the staff report and attachments in adopting this Ordinance; 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 October 23, 2025; 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, the City Council of the City of San Leandro does **ORDAIN** as follows:

Section 1. Recitals.

The recitals above are true and correct and when applicable, incorporated herein by reference.

Section 2. Findings.

The City Council makes the following findings in support of adopting this ordinance, based on the whole of the record:

1. 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.
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.

Section 3. Amendment of Zoning Code.

The San Leandro Zoning Code is hereby amended as shown in the attached "Exhibit A," which is incorporated herein by reference.

Section 4. Environmental Review.

The passage of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect on the environment under CEQA Guidelines Section 15061(b)(3).

Section 5. Severability.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each of every section, subsection, sentence, clause, or phrase not

declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Section 6. Effective Date.

The effective date of this Ordinance shall be 30 days from the date of adoption.

Section 7. Publication.

The City Clerk is directed to cause this ordinance to be published in a manner required by law.

Introduced by Councilmember Viveros-Walton and passed to print the 3rd day of November 2025, by the following vote:

- AYES:** Councilmember Aguilar, Boldt, Bowen, Simon, Viveros-Walton, and Mayor González (6)
- NOES:** None (0)
- ABSENT:** Councilmember Azevedo (1)

Passed and adopted the 1st day of December 2025 after publication on November 6, 2025 by the following vote:

- AYES:** ()
- NOES:** ()
- ABSENT:** ()

ATTEST: _____
Sarah K. Bunting
Acting City Clerk