

DRAFT

ORDINANCE NO.

**AN URGENCY INTERIM ORDINANCE OF THE CITY OF
SAN JOSE ESTABLISHING URGENCY MEASURES TO
IMPLEMENT A TEMPORARY MORATORIUM ON THE
ISSUANCE OF TOBACCO RETAIL LICENSES TO
BUSINESSES AT NEW LOCATIONS WITHIN THE CITY**

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure and Policy Making resulting in no changes to the physical environment); and

WHEREAS, the City Council of the City of San José is the decision-making body for this Ordinance; and

WHEREAS, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance;

WHEREAS, California Government Code Section 65858 provides that City may take appropriate action to adopt urgency measures as an interim ordinance, subject to certain conditions; and

WHEREAS, the City's City Charter Section 605(d) provides that City may adopt an urgency ordinance for the immediate preservation of public peace, health or safety; and

WHEREAS, City adopted Ordinance No. 28875 and No. 30675 requiring Tobacco Retailers to obtain a Tobacco Retailer License to ensure that Tobacco Retailers comply with tobacco control laws and City business standards; and

WHEREAS, the number of Tobacco Retailers operating in the City has significantly increased over the years, resulting in a disproportionate concentration within close proximity to schools, youth-serving facilities, and residential communities; and

WHEREAS, this disproportionate concentration of Tobacco Retailers in East San José, a predominately Latino and underserved community, raises serious health concerns because increased exposure to Tobacco Products contributes to higher rates of smoking-related illnesses and undermines community well-being; and

WHEREAS, the number of unlicensed businesses selling prohibited products such as flavored tobacco products, cannabis products and/or illegal drugs has also increased; and

WHEREAS, City does not have adequate regulatory controls in place to manage the location or density of Tobacco Retailers and without intervention, new Tobacco Retailers may continue operating in oversaturated areas, undermining community well-being and equitable business development; and

WHEREAS, City Council desires the City Administration to study changes to the City's zoning ordinances in the San José Municipal Code and other City regulations and policies within a reasonable time to address the foregoing concerns, with which the uses currently authorized by Tobacco Retailer Licenses may be in conflict; and

WHEREAS, during such period of review and examination, the community would be in jeopardy of new Tobacco Retailers commencing operations under existing land use regulations prior to the potential adoption of new land use regulations intended to preserve and protect the public health, safety and welfare; and

WHEREAS, this moratorium would allow existing Tobacco Retailers to continue operating without disruption;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

SECTION 1. A temporary moratorium is hereby established and imposed on the issuance of Tobacco Retailer Licenses for new Tobacco Retailer locations.

SECTION 2. Pursuant to the provisions of California Government Code Section 65858, the City Council of the City of San José hereby finds that there is a current and immediate threat to the public health, safety and welfare of City that warrants the establishment of this temporary moratorium of new Tobacco Retailer Licenses, which finding is based upon the following elements:

- A. The disproportionate concentration of Tobacco Retailers in predominately Latino and underserved communities in East San José raises serious health concerns because increased exposure to Tobacco Products contributes to higher rates of smoking-related illnesses and undermines community well-being.
- B. The number of Tobacco Retailers operating in the City has significantly increased over the years, resulting in a disproportionate concentration of Tobacco Retailers within close proximity to schools, youth-serving facilities, and residential communities.
- C. The 2025 Santa Clara County Latino Health Assessment found concerning disparities in East San José, including a higher density of Tobacco Retailers compared to the rest of the county.

- D. City does not have adequate regulatory controls in place to manage the location or density of Tobacco Retailers and without intervention, new Tobacco Retailers may continue operating in oversaturated areas, undermining community well-being and equitable business development.

SECTION 3. This ordinance is declared by the City Council to be an urgency measure necessary for the immediate preservation of the public peace, health or safety, and the facts constituting such urgency are all of those certain facts set forth in **Section 2** of this ordinance.

SECTION 4. This ordinance shall become effective immediately upon its adoption pursuant to Section 605 of the Charter of the City of San José and shall remain effective for 45 days, unless extended or repealed by the City Council in accordance with applicable law.

ADOPTED this _____ day of _____, 2025, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk