

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE EXTENDING
THE URGENCY INTERIM ORDINANCE NO. 31270 OF THE
CITY OF SAN JOSE, ESTABLISHING A TEMPORARY
MORATORIUM ON THE ISSUANCE OF TOBACCO RETAIL
LICENSES TO BUSINESSES AT NEW LOCATIONS
WITHIN SAN JOSE, AND SETTING FORTH FINDINGS TO
SUPPORT SUCH AN EXTENSION**

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, on November 4, 2025, the City Council adopted an Urgency Interim Ordinance No. 31270, imposing a 45-day moratorium on the issuance of tobacco retail licenses to businesses at new locations within the City; and

WHEREAS, by operation of the provisions of the California Government Code Section 65858, Ordinance No. 31270 will expire on December 19, 2025, and the City Council desires to extend the temporary moratorium imposed under Ordinance No. 31270 for an additional 22 months and 15 days; and

WHEREAS, the City Council finds and declares that the adoption of this extension of Urgency Interim Ordinance No. 31270 is necessary for the immediate protection of the public peace, health and safety while the City continue its work to strengthen tobacco retail regulations and enforcement; and

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

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 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, this extended 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. The temporary moratorium on the issuance of Tobacco Retailer Licenses for new Tobacco Retailer locations under San José Municipal Code Chapter 6.87, previously established and imposed as of November 4, 2025 by Ordinance No. 31270, is hereby extended for in this Ordinance.

SECTION 2. This Ordinance shall become effective on December 19, 2025.

SECTION 3. 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 extension 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. The City requires more time to complete efforts to strengthen its tobacco retail regulations and enforcement, including ceasing illegal business operations, amending applicable provisions of the San José Municipal Code, aligning local rules with state and federal regulations, updating fines, and enhancing coordination among City departments with other State and local agencies.
- E. The extension of Urgency Interim Ordinance No. 31270 is necessary to prevent new Tobacco Retailers from operating in oversaturated areas, undermining community well-being and equitable business development.
- F. The extension of Urgency Interim Ordinance No. 31270 is also necessary to protect the public health, safety and welfare by allowing the City to undertake additional measures to address the conditions that led to its adoption on November 4, 2025.

SECTION 3. This ordinance is declared by the City Council to be an urgency measure necessary for the immediate and continuing 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 on December 19, 2025, upon its adoption pursuant to Section 605 of the Charter of the City of San José and shall remain effective for 22 months and 15 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