



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Chris Burton

SUBJECT: See Below

DATE: November 24, 2025

Approved

Date:

12/3/25

COUNCIL DISTRICT: Citywide

**SUBJECT: Extension of the Urgency Interim Ordinance on the Temporary
Moratorium on the Issuance of Tobacco Retail Licenses**

RECOMMENDATION

Approve an ordinance extending the Urgency Interim Ordinance No. 31270 of the City of San José, establishing a temporary moratorium on the issuance of Tobacco Retail Licenses to businesses at new locations within San José, and setting forth findings to support such extension.

SUMMARY AND OUTCOME

Staff recommends that the City Council extend the Urgency Interim Ordinance No. 31270 establishing a temporary moratorium on new tobacco retailer, smoke shop, and smoking lounge permits under the San José Municipal Code Chapter 6.87 for an additional 22 months and 15 days, from December 19, 2025 to November 3, 2027. If the City Council wishes to extend the Urgency Interim Ordinance No. 31270, action is required by December 16, 2025, the last regular meeting before the moratorium expires. An ordinance extending the Urgency Interim Ordinance No. 31270 for an additional 22 months and 15 days is provided for City Council consideration.

The extension of the Urgency Interim Ordinance No. 31270 will allow the City of San José (City) 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 to strengthen enforcement and close legal loopholes, aligning local rules with state and recent federal regulations, updating fines, and enhancing coordination among City departments and with other state and local agencies.

As provided under the Urgency Interim Ordinance No. 31270, existing licensed retailers could continue operating and renew their permits, while new applications would be suspended. The outcome for San José would be a more comprehensive and effective regulatory framework for tobacco and vape retailers that better protects public health, prevents youth exposure, and ensures consistent enforcement across all retail establishments.

BACKGROUND

On June 11, 2025, the Rules and Open Government Committee directed staff to draft a temporary, citywide moratorium on new smoke shops in response to concerns about their overconcentration, particularly in East San José, and the associated public health, youth access, and neighborhood safety impacts. A May 22, 2025 City Council memorandum highlighted these issues and cited the 2025 Latino Health Assessment,¹ which documented disproportionately high densities of tobacco retailers in East San José and related risks for underserved communities.

On November 4, 2025, the City Council unanimously adopted the Urgency Interim Ordinance No. 31270, establishing a temporary moratorium on the issuance of Tobacco Retail Licenses (TRL) for new business locations within San José. Additionally, the City Council approved the October 31, 2025 joint memorandum which recommended accepting staff's recommendations and approving the staff-recommended work plan. This work plan, outlined on page 7 of the memorandum,² included direction to amend the TRL fine schedule, increase penalties for violations related to licensing requirements (6.87.200), update tobacco business regulations and conditions (6.87.300), and place limits on new tobacco business retail locations (6.87.370). The moratorium took effect immediately, prohibiting acceptance of new applications while allowing existing TRL holders to continue operating and renewing their licenses. The short-term pause was intended to allow the City time to review and strengthen its tobacco retail regulations in response to increased complaints about unpermitted vape and smoke shop activity and growing concerns over youth access to nicotine and vaping products.

Under Government Code 65858 and Section 605(d) of the City Charter, the Urgency Interim Ordinance No. 31270 may be extended for up to 22 months and 15 days with at least eight affirmative votes by the City Council.

¹ [2025 Latino Health Assessment](#)

² [25-1166 - Memorandum](#)

ANALYSIS

Since the Urgency Interim Ordinance No. 31270 was adopted on November 4, 2025, staff has begun implementing the TRL Temporary Moratorium Work Plan to achieve the identified goals and objectives over the next two years (see Table 1). The following section provides an overview of the actions taken to date, anticipated next steps, and estimated completion timelines. Staff does not expect all work plan items to be completed until at least December 2026, with some activities continuing beyond that date. The proposed timeline is largely dependent on securing the additional resources needed to support this work, including expansion of the Department of Justice grant administered by the Santa Clara County Public Health Department, and the approval and onboarding of a rehire-retiree position. Once staffing and funding are in place, staff will advance enforcement efforts by issuing cease-and-desist letters to more than 80 unpermitted businesses, conducting license reviews to determine whether businesses must obtain a TRL or cease sales, and continuing inspections and complaint responses within required timelines. Staff will also implement the Memorandum of Understanding to clarify roles, responsibilities, and coordinated enforcement procedures between the City and partner agencies. In parallel, staff will begin the fine study with Guidehouse, Inc. in December 2025, complete ordinance research and benchmarking, and monitor recent federal changes related to hemp products containing THC to ensure ongoing compliance.

As staff advances the implementation of the work plan, an extension of the Urgency Interim Ordinance No. 31270 to November 3, 2027, for an additional 22 months and 15 days, is necessary to prevent new businesses from opening in already impacted neighborhoods and to ensure sufficient time to complete the work. This extension will support the development of a more comprehensive, effective, and sustainable regulatory framework.

Table 1: TRL Temporary Moratorium Work Plan

Work Plan Item	Actions Taken Since 11/4/25	Next Steps	Estimated Completion
Secure Additional Resources- Expand Department of Justice (DOJ) grant administered by County Public Health Department (PHD) to enforce on unpermitted businesses	Submitted request to County PHD to expand the DOJ grant; drafted request for retire-rehire to support enforcement.	Obtain grant and retire-rehire approvals; onboard retire-rehire; begin enforcement.	Jan 2026
Improve Enforcement Coordination- Work with Police, County, and State agencies to develop a coordinated enforcement strategy	Identified pain points and opportunities for better coordination; drafted proposed Memorandum of Understanding (MOU) procedures/workflow.	Implement MOU clarifying roles and responsibilities and establishing coordinated enforcement.	April 2026

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Work Plan Item	Actions Taken Since 11/4/25	Next Steps	Estimated Completion
Amend Fine Schedule- Increase TRL fines per Council direction	Finalized agreement with Guidehouse for fine study (Dec 2025- Mar 2026)	Begin fine study with Guidehouse, Dec 2025	May/June 2026
Ordinance Updates- Strengthen TRL regulations and close loopholes	Began ordinance research/peer agency benchmarking	Complete ordinance research/benchmarking	Dec 2026
Enhance Enforcement and Compliance- License revocation, cessation of sales, or legal action	Drafted cease-and-desist letter for 80+ unpermitted businesses	Issue cease-and-desist letters for 80+ unpermitted businesses; begin enforcement	Ongoing
Business Licensing Compliance- Ensure all eligible businesses are licensed	Completed first review and reconciliation of City/State business rosters	Conduct final review; begin enforcement to enroll businesses or require cessation of sales	Ongoing
Proactive Inspections and Complaint Response	Completed 14 proactive annual inspections	Continue inspections and complaint responses per required timelines	Ongoing
Monitor State/Federal Regulations	N/A	Review and monitor recent federal changes for hemp products containing THC	Ongoing

Racial Equity Impact Analysis

This extension of the Urgency Interim Ordinance No. 31270 directly responds to community concerns over public health, youth exposure, and neighborhood safety in areas with high concentrations of smoke shops.

The primary beneficiaries of extending the Urgency Interim Ordinance are residents, particularly youth and families in East San José and other communities disproportionately impacted by tobacco and vape retail concentration. These neighborhoods, which tend to experience higher densities of smoke shops and related public health risks, will benefit from fewer tobacco retail businesses, reduced exposure to tobacco, vaping, or other illicit products, and stronger regulatory oversight.

Businesses and property owners seeking to open new tobacco or vape shops may experience economic burdens during the extended moratorium. Certain communities, such as immigrant or small business owners, may be disproportionately impacted by these restrictions. Licensed retailers may see a variation in their annual license fee as retailers are added or removed from the program, however, significant or long-term negative impacts are not anticipated.

Potential unintended consequences include an increase in unlicensed operators and businesses attempting to evade the extended moratorium. There could also be economic effects on business owners seeking to begin selling tobacco products.

EVALUATION AND FOLLOW-UP

Staff will provide a progress update on the implementation of the TRL Temporary Moratorium Work Plan, including outcomes of the efforts to regulate and reduce tobacco and vape retailers citywide as part of the Code Enforcement Annual Report scheduled for the Neighborhood Services and Education Committee meeting on April 9, 2026.

COST SUMMARY/IMPLICATIONS

If adopted, the ordinance would be enforced pursuant to routine Code Enforcement efforts, which is included within the City's budget. The ordinance may affect the fee-funded TRL Program, as fluctuations in the number of licensed businesses will result in corresponding changes to license fee revenues. The ordinance is not expected to have any significant fiscal impact on the General Fund.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the December 16, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

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PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

Chris Burton

Director, Planning, Building, and Code
Enforcement Department

For questions, please contact Rachel Roberts, Deputy Director, Planning, Building, and Code Enforcement Department, at rachel.roberts@sanjoseca.gov.