

**CITY COUNCIL REPORT ISSUED PURSUANT TO
GOVERNMENT CODE SECTION 65858(d)**

DATE: April 1, 2025

SUBJECT: Report on Measures Taken Following Adoption of Urgency Ordinance Number 2025-03-04-1504 Establishing a Temporary 45-Day Moratorium

BACKGROUND: On March 4, 2025, the Stockton City Council adopted Urgency Ordinance no. 2025-03-04-1504, which established a temporary moratorium on the issuance of any license, permit, or other entitlement for use, for the establishment, relocation, or physical expansion of a tobacco retailer business.

Pursuant to California Government Code section 65858(a), an interim ordinance remains in effect for forty-five (45) days from its adoption date and may be extended for ten (10) months and fifteen (15) days following a noticed, public hearing and with a four-fifths (4/5) vote for adoption from the City Council, which would require six (6) of seven (7) votes. If adopted, the proposed extended interim ordinance would take effect immediately.

California Government Code section 65858(d) requires the City Council to issue a written report ten (10) days before the earliest of either: the interim ordinance's expiration; or the adoption of an extension to the interim ordinance. The report shall describe the measures the City is taking to alleviate the condition(s) that led to the interim ordinance's adoption.

Urgency Ordinance no. 2025-03-04-1504 will expire on April 18, 2025. Staff will present a request for City Council to consider an extension of Urgency Ordinance no. 2025-03-04-1504 on April 15, 2025. Therefore, this report satisfies the requirements of California Government Code section 65858(d).

DISCUSSION: Per the City Council's direction, the City Attorney's Office, Police, Administrative Services, and Community Development Departments met to discuss how best to address health and safety issues caused by the proliferation of tobacco retailers, smoke shops, and illegal businesses operating as smoke shops. Initial findings are as follows:

Licensing & Fees

Updated license fee structure

An Annual Retail Tobacco License fee is established by SMC 5.104.040.B, said fee may be fixed and established by City Council resolution at any time.

Requirement of safety/security plans

Safety/security plans can be submitted as a part of the application process; this would require an amendment to SMC 5.104.040 (License Application).

Removal/amendment of exceptions

SMC Section 5.104.060.A.6 and 7 lists exceptions from minimum separation distance requirements for:

1. Lawfully operating businesses that existed prior to Ordinance 2023-06-20-1502's effective date of September 18, 2023.
2. Lawfully operating businesses that would become ineligible should a sensitive use locate within the minimum separation area.
3. Lawfully operating businesses that may have an expired license less than 6 months from license application date or an application submitted less than one year since the Ordinance effective date
4. Qualified development projects where a land use permit or entitlement was deemed complete prior to the Ordinance effective date and has not expired.

Item number 3 above can be removed via Ordinance amendment as it is no longer necessary (time frame has passed). It is not recommended to remove the remaining exemptions as they would impact existing lawfully operating businesses.

Enforcement

Updated enforcement program, including compliance checks
Annual Compliance Check & Monitoring

Updated penalties for violations
Applicable to Owner/Operator
Suspension & Revocation
Penalty waiting period if operating without a license

Mitigating Neighborhood Impacts

Addition of separation distances between business types (smoke shop vs. retailer)
Current Code identifies a minimum 600-foot distance between tobacco retailers, regardless of primary or ancillary tobacco sales. Staff will investigate the feasibility of an Ordinance amendment distinguishing between businesses with ancillary tobacco sales and businesses designated as smoke shops. Once that distinction is determined, the Ordinance can be amended to increase minimum separation distances between smoke shops to 1,000 feet as requested by City Council, while keeping the distance restriction between businesses with ancillary tobacco sales at 600 feet.

Increased distances from sensitive uses
Current Code identifies a minimum 600-foot distance between tobacco retailers and sensitive uses (defined in the Code as schools, public parks, public playgrounds, public recreational areas, or youth facilities). As discussed above, Staff will investigate the feasibility of an Ordinance amendment distinguishing between businesses with ancillary tobacco sales and businesses designated as smoke shops. Once that distinction is determined, the Ordinance can be amended to increase minimum separation distances between smoke shops and sensitive uses to 1,000 feet as requested by City Council,

while keeping the distance restriction between businesses with ancillary tobacco sales and sensitive uses at 600 feet.

Establishment of a cap on smoke shops

The establishment of a cap on smoke shops, either City-wide or by district, requires significant research on potential legal implications, coordination between City departments, and investigation into other jurisdictions working on similar caps. While language can be added via Ordinance to establish a cap, as was similarly adopted for Cannabis operator permits, there are several concerns that must be addressed before an Ordinance amendment is appropriate. The City must distinguish how it will determine the number of smoke shops allowed, whether the City will continue to issue license renewals to smoke shops that are currently legally operating once the cap has been reached, how the City will determine which legally operating businesses will have their licenses renewed and which will not, whether the City will permit a period of amortization for legally operating smoke shop businesses which are not issued license renewals pursuant to the cap, and other similar concerns.

Regional Coordination

Review San Joaquin County Ordinance language to address potential conflicts in County pockets

On February 25, 2025, the San Joaquin County Board of Supervisors directed County staff to bring an Urgency Ordinance imposing a moratorium on Smoke Shops and to study and consider amendments to the County Ordinance Code Title 7 Business Regulations and Title 9 Development Title, to effectively regulate Smoke Shop Businesses within the unincorporated Areas of the County. Said moratorium was adopted unanimously on March 11, 2025. City staff will coordinate with County staff to ensure consistency between the respective agencies' efforts.

In addition to considering all items City Council identified to address health and safety issues caused by the proliferation of tobacco retailers, smoke shops, and illegal businesses operating as smoke shops, staff is also looking at other jurisdictions, changes in state law, and reaching out to partner agencies to determine best practices for addressing issues caused by tobacco retailers, smoke shops, and illegal businesses operating as smoke shops. Therefore, additional time is necessary to adequately analyze and address their impacts.

Staff will present a request for City Council to consider an extension of Urgency Ordinance No. 2025-03-04-1504 on April 15, 2025.

OPPORTUNITY FOR PUBLIC COMMENT: Members of the public will have the opportunity to comment on the proposed extension of Urgency Ordinance no. 2025-03-04-1504 at the City Council meeting on April 15, 2025. The City will publish notice for this meeting pursuant to California Government Code section 65090.