



AGENDA REPORT

Community Development

DATE:	April 1, 2025
TO:	Mayor Martinez and Members of the City Council
FROM:	Lina Velasco, Director of Community Development Eva Mann, Code Enforcement Manager Avery Stark, Planning Manager
SUBJECT:	Extension of Moratorium on New Tobacco Retailers
FINANCIAL IMPACT:	The urgency ordinance extension, if adopted, would be enforced pursuant to routine code enforcement efforts, which is included within the City's budget. The ordinance, therefore, is not expected to have any additional fiscal impact on the General Fund.
PREVIOUS COUNCIL ACTIONS:	April 16, 2024 May 21, 2024
STATEMENT OF THE ISSUE:	On April 16, 2024, the City Council adopted Urgency Ordinance No. 03-24 N.S., which placed a temporary moratorium on the issuance of any new permit, license, or entitlement for any new tobacco retailer within the City. On May 21, 2024, the City Council adopted Urgency Ordinance No. 05-24 N.S. extending the moratorium established by Urgency Ordinance No. 03-24 N.S. for ten months and fifteen days from the date of the 45-day moratorium's expiration, May 31, 2024; this initial extension is set to expire on April 15, 2025. Pursuant to Government Code Section 65858(d), the City has taken steps and continues to take steps to alleviate the conditions that necessitated the adoption of said moratorium; however, it has been determined that it is necessary to further extend the moratorium for a period of one year, until April 15, 2026, as authorized by Government Code Section 65858(a) in order to protect against the current and immediate threat to the public

	health, safety, and welfare and provide sufficient time for the City to continue its study of viable solutions and municipal code amendments necessary to reasonably regulate tobacco and hedge against the current threats to the public health, safety, and welfare.
RECOMMENDED ACTION:	HOLD a public hearing and ADOPT an urgency ordinance, pursuant to Government Code Section 65858, extending the temporary moratorium on the issuance of new permit, license, or entitlement for any new tobacco retailer in the City of Richmond for an additional 12 months, until April 15, 2026. This ordinance is intended to preserve the status quo, and it will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. The enactment of this ordinance, therefore, does not constitute the approval of a project under the California Environmental Quality Act (“CEQA”), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c)(2)(3); 15061(b)(3); 15064(d)(3); 15378(a)) - Community Development Department (Lina Velasco/Eva Mann (510) 621-1220).

DISCUSSION:

On April 16, 2024, the City Council adopted Urgency Ordinance No. 03-24 N.S., which placed a temporary moratorium on the issuance of any new permit, license, or entitlement for any new tobacco retailer within the City. On May 21, 2024, the City Council adopted Urgency Ordinance No. 05-24 N.S (Attachment 1). extending the moratorium established by Urgency Ordinance No. 03-24 N.S. for ten months and fifteen days from the date of the 45-day moratorium’s expiration, May 31, 2024; this initial extension is set to expire on April 15, 2025. Pursuant to Government Code Section 65858(d), the City has taken steps and continues to take steps to alleviate the conditions that necessitated the adoption of said moratorium; however, it has been determined that it is necessary to further extend the moratorium for a period of one year, until April 15, 2026, as authorized by Government Code Section 65858(a) in order to protect against the current and immediate threat to the public health, safety, and welfare and provide sufficient time for the City to continue its study of viable solutions and municipal code amendments necessary to reasonably regulate tobacco and hedge against the current threats to the public health, safety, and welfare.

ANALYSIS/DISCUSSION:

As noted and presented previously, the City has a substantial interest in promoting compliance with federal, state, and local laws intended to regulate tobacco sales and use; in discouraging the illegal purchase of tobacco products by minors; in promoting

compliance with laws prohibiting sales of cigarettes and tobacco products to minors; and in protecting children from being lured into illegal activity through the misconduct of adults. In recent years, the introduction of vaping and smoking of non-tobacco products, identified by the Centers for Disease Control (CDC) as harmful, has created a market for smoking products not currently captured by tobacco sales regulations in the Richmond Municipal Code (RMC). Recently strengthened regulations in other cities put Richmond in a position to be an attractive market for tobacco and vape retailers.

Due to increased complaints and the establishment of unpermitted tobacco retailers, staff recommended that the Council consider establishing a temporary moratorium on new tobacco retailer licenses to address revising the definitions of tobacco products to expressly include vape products and vapor smoking devices; increasing penalties for violations of local laws; and reviewing licensing fees and licensee restrictions. On April 16, 2024, the City Council adopted Ordinance No. 03-24 N.S., which placed a temporary 45-day moratorium on any new tobacco retailer within the City of Richmond and declared an urgency thereof pursuant to Government Code Section 65858. This urgency ordinance was extended for 10-months and 15-days by Ordinance No. 05-24; however, a further extension of this moratorium is required.

Since the moratorium took effect, the City has studied necessary actions to improve licensing and enforcement tools for regulating unlicensed tobacco retailers within the City. From the City's studies, it was determined that of the 83 known tobacco retailers operating within the City, 51 are unlicensed. Also, as part of this study, regulatory inspections were conducted at several tobacco retailers. At these inspections, it was discovered that the issues relating to tobacco retailers were much broader and more serious than initially believed. These inspections revealed that tobacco retailers operating without licensing is just one of the many issues; tobacco retailers are being operated by underaged employees, unlawful cannabis, illicit drugs, and paraphernalia are being marketed and sold including to minors, and mass quantities of flavored tobacco products fill the shelves of these retailers. These discoveries are particularly troublesome given the widespread availability and ease of access for the City's youth. Moreover, during this moratorium period, new State laws have gone into effect that explicitly prohibit any sale of flavored tobacco products and tobacco flavor enhancers, all products which were observed in mass quantities during these inspections. As such, additional time under the moratorium to study and develop viable solutions to deal with these new issues and address the myriad of issues identified and return with recommendations to adequately protect the public health, welfare, and safety.

Under the current moratorium, legally existing tobacco retailers are permitted to continue operating and obtain renewal of their licenses subject to existing approval and denial standards. The City also reserves the right to suspend or revoke any existing permit, license, or entitlement of tobacco-related businesses under existing standards. The proposed urgency ordinance extension requires a public hearing and a four-fifth's vote of the City Council.

City staff is recommending adoption of a new urgency ordinance to extend the temporary moratorium for an additional 12-months, until April 15, 2026, to allow staff sufficient time to prepare changes to the RMC to develop stronger regulations of tobacco retailers to adequately protect the public health, welfare, and safety and also implement new changes in State law, which took effect on January 1, 2025 and regulate flavored tobacco products. Under Government Code Section 65858(d), at least 10 days prior to the expiration of any extension, the legislative body shall issue a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance (Attachment 2). Staff prepared and posted online at <https://www.ci.richmond.ca.us/4662/Tobacco-Retailers-License> the required 10-day report describing the measures that have been taken to alleviate conditions which led to the adoption of the urgency ordinance (Attachment 3).

ENVIRONMENTAL ANALYSIS:

This proposed ordinance is intended to preserve the status quo while the City considers further regulations on tobacco sales and distribution. The ordinance will not cause a direct physical change in the environment, nor a reasonably foreseeable indirect physical change in the environment. This action, therefore, does not constitute the approval of a project under the California Environmental Quality Act ("CEQA"), and it is exempt from CEQA. (Pub. Res. Code § 21065, CEQA Guidelines §§ 15060(c)(2)(3); 15061(b)(3); 15064(d)(3); 15378(a)).

ALTERNATIVE ACTIONS:

The City Council could decide not to extend the moratorium at this time and direct staff to continue working on possible amendments to the RMC while processing new tobacco retailer license applications and renewals based on the current regulations. This could result in immediate adverse impacts, such as tobacco and vape retailers that have had to close in other cities relocating to Richmond during the period required to develop and propose stronger regulations, some which may locate in areas frequented by youth such as near schools or after school programs.

DOCUMENTS ATTACHED:

Attachment 1 – Ordinance No. 03-24 N.S. and Ordinance No. 05-24
Attachment 2 – Urgency Ordinance Extending Moratorium
Attachment 3 – Updated 10-Day Report