

ORDINANCE NO. 213-2018

EXTENSION OF AN URGENCY ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF CLEARLAKE PLACING A
MORATORIUM ON THE ESTABLISHMENT OF TOBACCO
RETAILING BUSINESSES, SMOKE SHOPS, OR HOOKAH OR
VAPOR LOUNGES

WHEREAS, on August 15, 2018, the City Council of the City of Clearlake voted 5-0 to adopt Urgency Ordinance No. 210-2017 placing a moratorium on and prohibiting the establishment of tobacco retailing business, smoke shops, or hookah or vape lounges within the City.

The City Council of the City of Clearlake does ordain as follows:

Section 1. Findings. The City Council of the City of Clearlake finds and determines that:

A. There is a public urgency and a need to immediately protect the public health, safety and welfare by placing a moratorium on and prohibiting the opening of tobacco retailers, smoke shops, hookah lounges, or vapor lounges at any location in the City of Clearlake.

B. The facts constituting the urgency are that a business has expressed intent to proceed with opening a smoke shop. The City's zoning code does not currently regulate the location of these types of businesses.

C. There is insufficient time for the City to adopt a regular, non-urgency ordinance applicable to these types of businesses. This ordinance both complies with applicable state law (California Government Code §36937) and preserves the status quo, so that the City may either prohibit such uses or establish reasonable rules and regulations protecting the public health, safety and welfare of Clearlake residents and businesses regarding the sales of tobacco products, smoke shops, hookah lounges, and vapor lounges.

D. The potential adverse direct and secondary effects of tobacco retailers, smoke shops, hookah lounges, and vapor lounges present a clear and present danger to the immediate preservation of the public health, safety, and welfare of the community as these businesses may be incompatible with existing businesses and neighborhoods located in the City.

E. This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061 (b)(3).

Section 2. Extension. The City Council of the City of Clearlake hereby extends Urgency Ordinance 210-2017, in its entirety, which thereby places a moratorium on and prohibiting the opening of the opening of tobacco retailers, smoke shops, hookah lounges, or vapor lounges at any location in the City of Clearlake for a period of ten (10) months and fifteen (15) days. The urgency ordinance is necessary for the protection of the public health, safety, and welfare

to become effective immediately upon its adoption; and to protect the health, safety and welfare of the residents of the City.

Section 3. Immediate Effect. Consistent with Government Code Section 65858, this ordinance shall take effect immediately upon the expiration of the forty-five (45) days from the date the original Urgency Ordinance was approved on August 15, 2018, for a period of ten (10) months and fifteen (15) days and the existing provisions of the code previously affected by this ordinance will continue in force unaffected upon the expiration of this time period consistent with Government Code Section 65858 or as amended during this time period by the Clearlake City Council. The ordinance may be extended further by one year pursuant to action of the City Council consistent with the requirements of California Government Code sec. 65858.

Section 4. Interpretation. Any provision of the City of Clearlake Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further valid, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 5. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. The City Council of the City of Clearlake declares that it would have adopted all the provisions of this ordinance that remain valid if any provisions of this ordinance are declared invalid.

Section 6. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective immediately upon its adoption. The publication of a summary of the ordinance in lieu of the full text of the ordinance is authorized only where the requirements of Government Code section 36933(c)(1) are met.

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED this 27th day of September, 2018.

AYES: Mayor Sabatier, Vice Mayor Harris, Councilmembers Overton, Bennett and Cremer

NOES: None

ABSENT OR NOT VOTING: None


MAYOR

ATTEST:


CITY CLERK

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