

**REPORT OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE
ON INTERIM URGENCY ORDINANCE NO. 210-2018 IMPOSING A MORATORIUM
ON THE ESTABLISHMENT OF TOBACCO RETAILING BUSINESSES, SMOKE
SHOPS, OR HOOKAH OR VAPOR LOUNGES**

I. Introduction

On August 16, 2018, the City Council of the City of Clearlake enacted Ordinance No. 210-2018, an interim urgency ordinance imposing a moratorium on the of tobacco retailing businesses, smoke shops, or hookah or vapor lounges. Pursuant to Government Code Section 65858, the interim urgency ordinance remains in effect for forty-five (45) days. Thereafter, state law allows the City Council to extend the ordinance for ten (10) months and fifteen (15) days and, if necessary, to adopt a second extension for an additional year.

Ten days prior to the expiration of the interim urgency ordinance, the City Council must issue a written report describing the measures taken to alleviate the conditions which led to the adoption of the ordinance. The City has prepared this report in satisfaction of the requirements of Section 65858.

II. Background to the Adoption of the Interim Urgency Ordinance

In support of the interim urgency ordinance, the City Council made the following findings:

- 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. The ordinance was hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines Section 15061 (b)(3).

III. Measures Taken Since the Adoption of the Interim Urgency Ordinance

As the City Council's findings demonstrate, the interim urgency ordinance was enacted in response to the likelihood that the City of Clearlake would receive an application for a business license for a tobacco retailing business, smoke shop or hookah or vapor lounge before it could put into place satisfactory regulations to protect against the adverse impacts that typically accompany such establishments.

To alleviate the conditions that led to the adoption of the interim urgency ordinance, the City has begun to take the following steps:

1. City staff has studied the potential impacts of tobacco retail businesses, smoke shops and/or hookah or vapor lounges on the public health, safety, and welfare, and possible amendments to the City's Zoning Ordinance.
2. City staff has gathered factual data regarding the adverse impacts experienced by other cities that have permitted such businesses. This information is currently being processed to determine the likelihood that such impacts might result in Clearlake.
3. City staff has also conducted research into the City's options for permanent regulation of tobacco retail businesses. This research, which is ongoing, includes a review of city ordinances in California that either prohibit or regulate tobacco retail businesses.

For these reasons, on August 11, 2019, the City Council will consider extending the interim urgency ordinance for an additional year to permit City staff to complete its research and to provide sufficient time for City staff to formulate appropriate recommendations in light of that research.