



CITY OF

NEWPORT BEACH

City Council Staff Report

October 28, 2025
Agenda Item No. 19

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Ordinance No. 2025-34: Extending the Temporary Moratorium on New Smoke Shops and Tobacco Retailer Businesses

ABSTRACT:

For City Council's consideration is an ordinance extending the current 45-day temporary moratorium established by Ordinance No. 2025-31 on the establishment and operation of new tobacco retailer businesses and the relocation or physical expansion of existing tobacco retailer businesses, also known as smoke shops, by an additional 10 months and 15 days.

RECOMMENDATIONS:

- a) Conduct a public hearing;
- b) Determine this action is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 15262, Section 15060(c)(2), Section 15060(c)(3), Section 15305, and Section 15061(b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3;
- c) Adopt Ordinance No. 2025-34, *An Urgency Ordinance of the City Council of the City of Newport Beach, California, Extending a Temporary Moratorium on the Establishment and Operation of New Tobacco Retailer Businesses and the Relocation or Physical Expansion of Existing Tobacco Retailer Businesses, Also Known as Smoke Shops*; and
- d) Review, approve, and issue the 10-day report as required by Government Code 65858 for the extension of the temporary moratorium.

DISCUSSION:

On September 9, 2025, Mayor Pro Tem Kleiman requested initiating amendments to Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC) related to tobacco retail establishments, tobacco accessories/paraphernalia, smoke shops, smoking lounges and other smoke-related businesses pursuant to City Council Policy A-1.

In addition to the code update, the City Council also directed staff to prepare an urgency ordinance to establish a temporary moratorium on the establishment of new smoke shops pending the outcome of the code amendment review. The City Council voted unanimously (6-0), via a straw poll, in favor of staff returning with an item.

On September 23, the City Council voted unanimously to adopt Ordinance No. 2025-31 (Attachment B), imposing a 45-day moratorium on the establishment and operation of new tobacco retailer businesses as well as the relocation or physical expansion of existing tobacco retailer businesses. In addition, the City Council adopted Resolution No. 2025-64 formally initiating the requested Title 20 and Title 21 amendments.

As noted above, the City Council has directed staff to process amendments to the NBMC related to smoke shops. The urgency ordinance prevents the establishment of any new smoke shops (i.e. tobacco retailer businesses) while the amendments are being drafted for the City Council to review. This direction is supported by the evidence of a significant rise in public safety concerns related to the accessibility and use of nitrous oxide and flavored tobacco products among the youth, the significant number of businesses in the City that are currently licensed by the State to sell tobacco, unlawful activity at existing tobacco retailer businesses, the City's concern about this increase, and the harmful effect of nitrous oxide and flavored tobacco products on the residents. Statistics from the Newport Beach Police Department and additional background information on the topic are included in the prior City Council Staff Report (Attachment C).

The current 45-day temporary moratorium (Ordinance No. 2025-31) expires on November 7, 2025, unless extended by the City Council.

Proposed Moratorium Extension

Staff is currently in the process of developing reasonable regulations for tobacco retailers to address community concerns regarding underage access, public notification of new licenses and the proliferation of retailers. These potential regulation changes require additional study and public hearings with the Planning Commission and City Council. These tasks cannot be completed within the initial 45-day temporary moratorium which expires on November 7, 2025.

Therefore, the need for the moratorium remains and staff recommends the City Council adopt an ordinance (Attachment A) extending the current moratorium for a period of 10 months and 15 days pursuant to Government Code 65858. This action would extend the expiration date of the temporary moratorium from November 8, 2025, to September 23, 2026. Staff intend to return to City Council with code amendments in early 2026, and the extension would allow staff with sufficient time to process the code amendments.

10-Day Report

Pursuant to Government Code Section 65858(d), at least 10 days prior to the expiration of the original 45-day temporary moratorium, the City shall issue a written report (10-day Report) describing the measures taken to alleviate the conditions which led to the

adoption of the moratorium (Ordinance No. 2025-31). For example, staff have initiated review of NBMC regulations of peer cities to identify best practices and develop effective regulations for tobacco retailers and began drafting potential code language and planning hearing dates. Staff has included the required 10-day Report as Exhibit A of Attachment A of this staff report to satisfy the requirements of Government Code Section 65858(d). Approval and issuance of the 10-day Report on October 28, 2025, meets the minimum 10-day requirement prior to November 8, 2025, expiration date of the temporary moratorium in compliance with State Law.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

The urgency ordinance is not subject to the CEQA pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines; California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. In addition, the ordinance consists of minor alterations in land use limitations and does not result in any changes in land use or density. It is therefore not subject to the California Environmental Quality Act review pursuant to Title 14, Division 6, Chapter 3, Sections 15305 and 15061(b)(3) of the California Code of Regulations.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). A public notice was also posted in a newspaper of local circulation 10 days prior to the public hearing in compliance with the Government Code Section 65090.

ATTACHMENTS:

Attachment A – Ordinance No. 2025-34: Extension of Urgency Ordinance for Moratorium
Attachment B – Ordinance No. 2025-31
Attachment C – City Council Staff Report dated September 23, 2025