



City of Sunnyvale

Agenda Item

26-0451

Agenda Date: 4/27/2026

REPORT TO PLANNING COMMISSION

SUBJECT

Proposed Project: Recommend to City Council to Adopt an Urgency Interim Ordinance pursuant to Government Code Section 65858 adopting a Temporary Moratorium on the establishment and operation of “Smoke Shops,” as defined, within the City of Sunnyvale.

Location: Citywide

File #: PLNG-2026-0232

Environmental Review: Exempt CEQA Government Code 15061(b)(3)), would not result in a significant impact.

Staff: Rebecca Moon, (408) 730-2700, rmoon@sunnyvale.ca.gov

DISCUSSION

City staff are currently aware of eight “smoke shops” operating in Sunnyvale. A “smoke shop” is generally understood as a stand-alone retail business that primarily sells products and accessories related to smoking and vaping. Many smoke shops also sell products such as cannabis, flavored tobacco, nitrous oxide canisters, psilocybin (“magic mushrooms”), 7-OH (an opiate-like derivative of the kratom plant), and unregulated, newly developed chemicals that mimic the effects of psychoactive substances.

The proliferation of smoke shops raises public health and safety concerns, particularly related to minors. These uses may also contribute to visual blight, reduce retail diversity, and alter the character of commercial areas when concentrated in specific neighborhoods. Unlike most of our neighboring jurisdictions, Sunnyvale does not have specific zoning regulations or permitting requirements for retail tobacco sales. For comparison, many other cities in Santa Clara County have either adopted a local permit requirement, or have opted into a permit program run by Santa Clara County.

<u>City</u>	<u>Tobacco Permit</u>
Campbell	City permit
Gilroy	City permit
Los Altos	City permit
Morgan Hill	City permit
San Jose	City permit
Saratoga	City permit
Cupertino	County permit
Los Gatos	County permit
Palo Alto	County permit
Unincorporated County	County permit
Milpitas	None
Santa Clara (City)	None
Sunnyvale	None

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This lack of regulation creates an immediate risk that additional smoke shops may establish before the City can adopt appropriate controls. Once established, these uses may be difficult to regulate or remove. The proposed urgency ordinance (Attachment A) would temporarily prohibit new smoke shops, allowing the City time to study the issue and develop permanent regulatory measures.

Under California Constitution Article XI, Section 7 and Government Code Section 65858, the City Council may adopt an urgency interim ordinance as an immediate measure to protect public health, safety, or welfare. Since the City currently does not impose specific zoning or permitting restrictions on tobacco retailers beyond standard business licenses and state retail tobacco licensing, staff find it in the best interest of the City to prohibit new smoke shops for a period not to exceed forty-five (45) days to allow staff to further study the issue.

Accordingly, staff recommends a temporary prohibition on new smoke shops for up to forty-five (45) days to allow time for further analysis and development of appropriate regulations.

An urgency ordinance must be passed by a four-fifths vote. If at least six (6) Councilmembers vote to pass the urgency ordinance, it will take effect immediately as of May 5, 2026, and remain in effect until June 19, 2026. Staff will return prior to that date to provide an update and propose a further extension of the ordinance for up to ten months, 15 days.

EXISTING POLICY

GENERAL PLAN

GOAL LT-4 AN ATTRACTIVE COMMUNITY FOR RESIDENTS AND BUSINESSES - In combination with the City's Community Design Sub-Element, ensure that all areas of the city are attractive and that the city's image is enhanced by following policies and principles of good urban design while valued elements of the community fabric are preserved.

Policy LT-4.1 Preserve and enhance an attractive community, with a positive image, a sense of place, landscaping, and a human scale.

- *LT-4.1a Support a robust code enforcement program to maintain and enhance the appearance of neighborhoods and commercial districts and encourage property and area cleanup and beautification projects.*

Policy LT-6.2 Limit the intrusion of incompatible uses and inappropriate development in and near residential neighborhoods, but allow transition areas at the edges of neighborhoods.

ENVIRONMENTAL REVIEW

This project does not require environmental review under the California Environmental Quality Act (CEQA) because it can be seen with certainty that there is no possibility that it will have a significant impact on the environment (CEQA Guidelines, Section 15061(b)(3)).

FISCAL IMPACT

There are no fiscal impacts from this action. Staff time to develop a program will come from operating budgets, no consultant fees are expected.

PUBLIC CONTACT

Public contact was made by posting the Council meeting agenda on the City's official-notice bulletin

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board at City Hall. In addition, the agenda and this report are available at the City Hall reception desk located on the first floor of City Hall at 456 W. Olive Avenue (during normal business hours), and on the City's website.

ALTERNATIVES

Recommend to City Council:

1. Recommend that City Council Adopt the Urgency Interim Ordinance pursuant to Government Code Section 65858 adopting a Temporary Moratorium on the establishment and operation of "Smoke Shops," as defined, within the City of Sunnyvale found in Attachment 2.
2. Alternative 1 with modifications.
3. Take no action.

STAFF RECOMMENDATION

Recommend to City Council:

Alternative 1: Recommend that City Council Adopt the Urgency Interim Ordinance pursuant to Government Code Section 65858 adopting a Temporary Moratorium on the establishment and operation of "Smoke Shops," as defined, within the City of Sunnyvale found in Attachment 2.

Enacting this measure will prevent new smoke shops from opening while comprehensive standards are developed.

LEVINE ACT

The Levine Act (Gov. Code Section 84308) prohibits city officials from participating in certain decisions regarding licenses, permits, and other entitlements for use if the official has received a campaign contribution of more than \$500 from a party, participant, or agent of a party or participant in the previous 12 months. The Levine Act is intended to prevent financial influence on decisions that affect specific, identifiable persons or participants. For more information see the Fair Political Practices Commission website: www.fppc.ca.gov/learn/pay-to-play-limits-and-prohibitions.html

An "X" in the checklist below indicates that the action being considered falls under a Levine Act category or exemption:

SUBJECT TO THE LEVINE ACT

- ☐ Land development entitlements
- ☐ Other permit, license, or entitlement for use
- ☐ Contract or franchise

EXEMPT FROM THE LEVINE ACT

- ☐ Competitively bid contract*
- ☐ Labor or personal employment contract
- ☐ Contract under \$50,000 or non-fiscal
- ☐ Contract between public agencies
- ☒ General policy and legislative actions

* "Competitively bid" means a contract that must be awarded to the lowest responsive and responsible bidder.

Prepared by: Rebecca Moon, City Attorney

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Reviewed by: Shaunn Mendrin, Planning Officer

Reviewed by: Trudi Ryan, Director of Community Development

Reviewed by: Connie Verceles, Deputy City Manager

Approved by: Tim Kirby, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Draft Ordinance