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**City Manager's Report**  
**April 9, 2024, City Council Meeting**  
**Prepared by: Pierre Rivas**  
**Item #: 12.1**

**Subject:** Consider adoption of actions to alleviate issues that may be the result of additional establishment of tobacco retail stores.

**Recommendation:** Adopt the actions described herein to address issues created by the unregulated sale of tobacco products within the City.

**Purpose:** With the adoption of the urgency ordinance prohibiting the establishment of new tobacco retailers on March 12, 2024, the Council is required to adopt actions to attempt to alleviate the concerns of having unlicensed/unregulated tobacco retailers operating within the City that prompted the adoption of the urgency ordinance. These actions must be adopted at least 10 days prior to the expiration of the extension of the urgency ordinance.

**Strategic Plan Strategy:** Health & Public Safety: (no specific strategy identified);  
 Maintain/Improve Quality of Life: Strategy 5 – Maintain and Update Planning Documents

**Background:** On February 13, 2024, staff from El Dorado County Public Health gave a presentation to the City Council on current tobacco prevention efforts in El Dorado County and statewide and on local tobacco retail license requirements and local enforcement including prevention of retail sales of tobacco products to youth, zoning to limit density, number of tobacco retailers, distance to schools, and waste management regulations such as prohibiting single-use electronic smoking devices. Following Council discussion, the City Council directed staff to return with an urgency ordinance to prohibit the establishment of any new tobacco retail shops to allow for the completion of a tobacco retail ordinance.

The El Dorado County Board of Supervisors adopted an Urgency Ordinance (Ordinance No. 5192) on January 30, 2024, providing for an interim moratorium on new tobacco retailer applications and adopted an urgency ordinance on March 12, 2024, extending the interim moratorium from 45 days following the original adoption to 10 months and 15 days (to January 30, 2025).

The City Council adopted Urgency Ordinance (Ordinance No. 1716) providing for an interim moratorium on new tobacco retailer applications on March 12, 2024. The urgency ordinance will expire on April 26, 2024. The Council will have the opportunity to review the ordinance again and consider extending the ordinance at its meeting on April 23, 2024. State Law requires that the Council adopt actions to alleviate concerns by allowing the establishment of new tobacco retailer establishments 10 days prior to considering an extension of the ordinance.

**Discussion:**

SB 793 “Flavored Tobacco Products” law became effective on December 21, 2022. The sale of the following tobacco products from retail locations are no longer permitted:

- Flavored e-cigarettes or vapes, e-juice, pods, or cartridges,
- Menthol cigarettes,
- Flavored little cigars and cigarillos,
- Flavored loose leaf roll-your-own tobacco,
- Flavored smokeless tobacco products,
- Flavored Tobacco Rolling Papers, and
- Tobacco product flavor enhancers.
- Compliance with the law lies solely with retailers.
- Retailers are expected to comply with the law and are required to immediately remove the current stock of flavored tobacco products covered by the law and tobacco product flavor enhancers from their shelves by December 21, 2022.
- Local law enforcement agencies have the authority to enforce the state law.

City staff continues to collaborate with El Dorado County Public Health Division’s County-wide Tobacco Use Prevention Program (TUPP) team on developing the tobacco retail ordinance. City staff have received complaints from competitor tobacco retailers regarding shops that have continued to sell product inventory of banned tobacco products. In addition, signage violations of tobacco retailers continue to be an issue.

Based on past current and past experiences, the following actions are recommended to alleviate the effects of continued tobacco product sales and operations.

1. Continue to follow-up on complaints regarding the sale of banned tobacco products (responsible departments: Police and Code Enforcement).
2. Continue to collaborate with El Dorado County Public Health Division’s County-wide Tobacco Use Prevention Program (TUPP) team in tobacco prevention programs (responsible department: Development Services Department).
3. Conduct regular visits of existing tobacco retailers and provide education and/or enforcement of current City codes and state regulations (responsible department: Development Services-Code Enforcement).
4. Other measures recommended by the City Council.

**Options:**

1. Adopt the listed actions as recommended by staff.
2. Modify the actions and adopt them.
3. Do not adopt the actions and provide further direction to staff.

**Environmental:** The proposed action is not a “project” within the meaning of Public Resources Code Section 21065 and CEQA Guidelines Section 15378 because the proposed actions will not have the potential of resulting in a direct physical change to the environment or reasonably foreseeable indirect physical change in the environment.

**Cost:** Staff time to prepare the ordinance.

**Budget Impact:** None



M. Cleve Morris, City Manager



Pierre Rivas, Development Services Director

Attachment A: Adopted urgency Ordinance No. 1716