

Draft Ordinance Text Amendments

Added to Definitions Section in Chapters 2 & 5

(168) "Smoke shop and tobacco store" shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia, excluding hookah and smokers' lounges as defined in California Labor Code § 6404.5; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, e-cigarettes, or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to the restrictions in this chapter.

Added to Special Uses Section in Chapters 2 & 5

Smoke Shops and Tobacco Sales.

(a) Purpose. The regulation of smoke shops and tobacco stores is necessary and in the interests of the public health, safety and general welfare as the expansion of smoke shops and tobacco stores in the city could result in undesirable impacts to the community. Among these impacts are increased potential for tobacco sales to minors along with greater opportunity for the sale of cannabis, illegal drugs and associated paraphernalia. These regulations address such negative impacts of smoke shops and tobacco stores while providing a reasonable number of locations and zones for such shops to locate within the city.

(b) Definitions. For the purpose of this section, unless the context clearly indicates otherwise, the words, terms, and phrases shall have the following meanings:

"Ancillary sale" includes grocery stores, supermarkets, convenience stores and similar uses in which tobacco product display and sales is secondary to the primary use of the business. To qualify as "ancillary sale" no more than one percent of the gross floor area, or fifty square feet of vertical display area, may be used for the sale and marketing of tobacco products. The Community Development Director may require reductions in display area, or permit minor increases, for the purpose of ensuring that the sale and display of tobacco products is ancillary to the primary use. Businesses that include "ancillary sale" of tobacco products are not subject to the provisions of Section 10-2.1642, but must obtain, maintain and comply with at all times a valid Tobacco Retailer license as required pursuant to Section 5-9.202.

"E-cigarette" shall mean any electronic or battery-powered device, whether reusable or disposable, designed to deliver vaporized or aerosolized substances, including but not limited to nicotine, flavored solutions, or other chemical compounds, to the user through inhalation. This includes devices such as electronic cigarettes, vape pens, electronic cigars, cigarillos, pipes, hookahs, or any similar inhalation device, along with their components, parts, or accessories, like refillable tanks, pods, or cartridges, whether sold separately or not. E-cigarette also includes any solution, cartridge, or substance intended to be vaporized or aerosolized during use.

"Smoke shop and tobacco store" shall mean any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or

tobacco paraphernalia, excluding hookah and smokers' lounges as defined in California Labor Code § 6404.5; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes, e-cigarettes, or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to the restrictions in this chapter.

"Tobacco" shall mean any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

"Tobacco paraphernalia" shall mean any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for the smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body of tobacco, tobacco products, or other controlled substances as defined in California Health and Safety Code Section 11054 et seq. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bongs, water bongs, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighters and matches shall be excluded from the definition of tobacco paraphernalia.

"Tobacco product" shall mean any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of the tobacco or nicotine in the product, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco/smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

(c) Zoning and land use standards.

1. Permitted Zones. For smoke shops and tobacco stores (hereinafter referred to as "smoke shops") notwithstanding any other provision of this title to the contrary, smoke shops shall be a conditionally permitted use only in the following zones, subject to the regulations contained in this chapter:

a. Smoke shops are only permitted in commercial zones, specifically limited to C-2, C-2A, C-2B, C-2PD, C-3, C-3A, C-3B, C-3PD, C-4, C-4A, C-4B, C-4PD, C-5A.

b. Smoke shops are prohibited in any industrial, public-institutional zone or mixed-use zone, or zone where residential uses are permitted, or within any coastal commercial zones.

2. Conditional Use Permit. All smoke shops wishing to operate within the above zones after the effective date of the ordinance codified in this chapter must obtain a conditional use permit in accordance with Section 10-2.2506 of the Municipal Code. Conditional Use Permits shall be processed as first come first served, on the basis of the date the application is deemed complete. The Conditional Use Permit for a smoke shop is valid for a maximum of three (3) years from the date of approval of the permit, at which time the permit shall expire and be of no further force and effect unless renewed.

(a)The Conditional Use Permit shall be processed in accordance with Section 10-2.2506 and shall include the following standard conditions:

1. No smoking shall be permitted on the premises at any time.
2. No sales may be solicited or conducted on the premises by minors.
3. No self-service tobacco, tobacco product, or tobacco paraphernalia displays shall be permitted.
4. No distribution of free or low-cost tobacco, tobacco products or tobacco paraphernalia, as well as coupons for said items, shall be permitted.
5. No advertising or signage indicating the availability of tobacco products shall be visible from the exterior nor from entry of the retail establishment to the maximum extent possible.
6. Smoke shops shall post clear signage stating that minors may not enter the premises unless accompanied by a parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the smoke shop and tobacco store. It shall be unlawful for a smoke shop to fail to display and maintain, or fail to cause to be displayed or maintained, such signage.
7. The Smoke Shop must remain in compliance with all local, State, and federal laws, regulations, and orders, as well as all conditions of approval imposed on the use.
8. No Smoke shop shall sell or distribute cannabis or cannabinoid products, drug paraphernalia not directly related to legal smoke and vapor products, nitrous oxide, flavored tobacco products, or other products prohibited by law.
9. The sale of tobacco products is subject to the conditions contained in Title 5, Chapter 9, Article 2.

3. Locations. The permitted concentration and location of new smoke shops be as follows:

- a. No smoke shop shall be established or located within 600 feet from any public or private high schools or youth centers, as defined in 10-2.1626, as measured from the nearest property lines of each of the affected parcels and shall not be located within 600 feet from another smoke shop.

4. Maximum allowed. A maximum of five (5) smoke shops are permitted city-wide, with the exception of legal nonconforming smoke shops established prior to the effective date of this Ordinance for which the following applies:

- a. Legal nonconforming smoke shops may continue to operate, at their existing location, in accordance with Section 10-2.2002 and must obtain a Conditional Use Permit within a period of five (5) years from the effective date of this ordinance.
- b. A maximum of five (5) Conditional Use Permits may be issued on a first come first serve basis to existing legal nonconforming smoke shops and shall be counted against the maximum allowance of five (5) city-wide provided they comply with the requirements of this article.
- c. As legal nonconforming smoke shops abandon their use, either through change of use or expiration of operating permits, no new Conditional Use

Permits shall be issued unless the City is below the maximum allowance of five (5) smoke shops city-wide.

(d) Additional requirements and standards.

1. Smoke shops must obtain a Conditional Use Permit pursuant to Section 10-2.2506 and are subject to Planning Commission Design Review pursuant to Section 10-2.2502.
2. A Smoke shop must obtain, maintain and comply with at all times a valid Tobacco Retailer license as required pursuant to Redondo Beach Municipal Code Title 5, Chapter 9, Article 2.
3. A business license must be obtained subject to the requirements of Title 6, Chapter 1.

(e) Prevention of underaged smoking.

(a) Notice of Minimum Age for Purchase of Tobacco Products and Electronic Smoking Devices. Retailers shall post conspicuously, at each point of purchase, a notice stating that selling tobacco products and electronic smoking devices to anyone under 21 years of age is illegal and subject to penalties. Such notice shall be subject to the approval of the City.

(b) Positive Identification Required. No retailer shall sell or transfer a tobacco product or electronic smoking device to another person who appears to be under 30 years of age without first examining the customer's identification to confirm that the customer is at least the minimum age under State law to purchase and possess the tobacco product.

(c) Flavored Tobacco Products. No retailer shall sell a tobacco product, or any product used in an electronic smoking device, containing, as a constituent or additive, an artificial or natural flavor or an herb or spice, including, but not limited to, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, coffee, mint, menthol, spearmint or wintergreen that is a characterizing flavor of the tobacco product or smoke produced by the tobacco product. The prohibition in the preceding sentence shall not apply to a licensed hookah business that permits only patrons 21 years of age or older, or active-duty military personnel who are 18 years of age or older, to enter the location where the tobacco product may be consumed or purchased.

(g) Enforcement of smoke shops.

1. Inspections. All smoke shops shall be subject to routine unannounced inspections by City Officials to ensure compliance with this section and any additional conditions of the Conditional Use Permit.

2. Criminal Penalties. Violations of provisions of this section are subject to Title 1, Chapter 2 of Redondo Beach Municipal Code and will be enforced accordingly.

3. Separate offense for each day. Any person who violates any provision of this section shall be guilty of a separate offense for each and every day during any portion of which any such person commits, continues, permits, or causes a violation thereof, and shall be penalized accordingly.

4. Use or activity prohibited by State law. Nothing in this section shall be deemed to permit or authorize any use or activity which is otherwise prohibited by State law.

5. Revocation. If verified that a Smoke Shop Operator is in violation with either the provisions of this section, or the specific conditions of the Conditional Use Permit, that finding may be used as a basis for amending or revoking the Conditional Use

Permit, pursuant to Section 10-2.2506(f) of the Redondo Beach Municipal Code and/or Business License pursuant to Section 6-1.26 and 6-1.27, or Tobacco Retail Permit pursuant to Section 5-9.201 et seq.

Amending Youth Center Definition in Chapters 2 & 5

"Youth center" means any public or private facility that is primarily used for recreational, social, educational, cultural, or wellness activities for persons under eighteen (18) years of age. "Youth Center" shall also include facilities that provide such services to both minors and young adults up to twenty-five (25) years of age, such as allcove centers or similar programs. ~~to host recreational or social activities for minors, including, but not limited to,~~ Examples of youth centers include, but are not limited to, private youth membership organizations or clubs, social service teenage club facilities, video arcades, or similar amusement park facilities.