



# Administrative Report

N.2., File # 25-1193

Meeting Date: 8/19/2025

**To: MAYOR AND CITY COUNCIL**

**From: MARC WIENER, COMMUNITY DEVELOPMENT DIRECTOR**

## **TITLE**

DISCUSSION AND POSSIBLE ACTION REGARDING UPDATES TO THE REDONDO BEACH MUNICIPAL CODE TO REGULATE SMOKE SHOPS AND A REVIEW OF THE CITY'S CURRENT TOBACCO RETAIL PERMIT REQUIREMENTS

## **EXECUTIVE SUMMARY**

According to the federal Centers for Disease Control and Prevention, nicotine is highly addictive and can harm brain development, which continues until 25 years of age, and poses a unique risk to youth. The state has passed recent legislation strengthening tobacco oversight programs and expanding the seizure of illegal tobacco products which it has deemed essential to achieving the state's public health goal of lowering youth tobacco use.

In addition to the health risks associated with the sale of tobacco, there has also been a track record of compliance issues associated with smoke shops in Redondo Beach and elsewhere. The Police Department has identified compliance issues with several smoke shops throughout the City, as detailed later in this report. Other cities throughout the state are also experiencing compliance issues with smoke shops. For example, the City of Modesto inspected its 47 smoke shops and found that all were selling flavored tobacco products, which were outlawed in 2022. The City of Fresno conducted inspections of its 67 smoke shops and found that 79% were selling illegal cannabis products, which resulted in the issuance of \$5 million in citations to the non-compliant businesses.

On April 15, 2025, the City Council reviewed and provided input on a draft Smoke Shop Ordinance and gave direction on the following items, which have been incorporated into the draft Ordinance:

1. Include a process to allow a max of 5 smoke shops Citywide, with the exception of the legal nonconforming businesses, in which 10 would initially be allowed and be reduced to 5 over time through attrition
2. Do not set the cap based on City Council Districts
3. Include a three-year expiration for conditional use permits
4. Include a requirement for design review and updated signage standards
5. Ensure that e-cigarettes are addressed in the Ordinance

The Council also directed staff to return with an Urgency Ordinance imposing a temporary moratorium on the establishment of new smoke shops, to be in effect while the permanent ordinance is being developed. The 45-Day Urgency Ordinance was adopted on May 6, 2025 and extended for

an additional year on June 10, 2025.

On July 17, 2025, the Planning Commission reviewed the draft Smoke Shop Ordinance and passed a Resolution recommending that the City Council adopt the Ordinance with modifications. The attached, redlined, Resolution reflects the Planning Commission's proposed changes. Staff is now returning to the City Council for final review and input prior to scheduling the Ordinance for consideration of first reading and adoption. Additionally, this report provides an opportunity for the Council to review and discuss regulations pertaining to tobacco retail permits.

## **BACKGROUND**

The Redondo Beach Municipal Code (RBMC) does not currently include a definition or specific regulations for smoke shops. They are treated as standard retail businesses that are permitted-by-right, meaning that the applicant only needs to obtain a business license to open and operate in the City. The North American Industrial Classification System (NAICS) defines smoke shops as establishments primarily engaged in retailing cigarettes, cigars, tobacco, pipes, and other smokers' supplies. There are approximately 16 retail smoke shops in Redondo Beach, six of which have opened since 2019.

Staff is proposing a draft Ordinance that would create a definition for smoke shops and tobacco retailers, adding Section 10-2.1642, Article 4 (Special Use Regulations) to the RBMC to regulate these types of businesses. The draft Ordinance would require all new smoke shops to obtain a Conditional Use Permit (CUP), which would provide the City with more discretion and authority over business permitting and operations. Under the draft Ordinance, CUPs issued for smoke shops would be valid for a maximum of three years from the date of approval of the permit, at which time the CUP would expire if not renewed by the business owner.

Under the draft Ordinance, a maximum of 5 smoke shops would be permitted Citywide, with the exception of legal nonconforming smoke shops established prior to the effective date of the Ordinance, for which 10 would initially be allowed. This number, over time, would be reduced to five through attrition. The standards that would apply to existing legal nonconforming smoke shops are listed below. Following the Planning Commission meeting, the underlined section was added by the City Attorney's Office to more clearly address business license transfers during the five-year period.

- 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 years from the effective date of this Ordinance
- b) A maximum of 10 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 Citywide 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 at or below the maximum of allowance of five smoke shops Citywide. Business permits may be transferred or issued to another owner, at the same location whether wholly or as a co-owner, for the period remaining on the then existing business permit. For example, if the current owner has three months left on his business license and transfers it to a new owner,

the new owner shall only have three months left on the business license. Business licenses must be renewed each year. Notwithstanding the above, in no event shall a business license issued for a legal nonconforming business location be valid for longer than five years from the effective date of this Ordinance. If a business license's annual term extends beyond the five-year period, the business license term shall be coterminous with the five-year period and terminate accordingly

The draft Ordinance also includes operational standards that apply to all existing and new smoke shops and expressly prohibits the sale or distribution of "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." The draft Ordinance also includes enforcement provisions allowing unannounced inspections by City officials, as discussed later in this report, and authorizes the City to apply criminal penalties as well as authority to revoke the operator's business license and/or CUP in response to violations.

#### Planning Commission Recommendations

On July 17, 2025, the Planning Commission reviewed the draft Smoke Shop Ordinance and recommended that the City Council adopt it with modifications. The attached Resolution includes changes (underlined) reflecting the Planning Commission's recommendations, as summarized below:

- The Planning Commission recommended adopting a program that would allow the City to issues fines to smoke shops in violation. Staff has conferred with the City Attorney on this matter and is considering amending RBMC Section1-2.01, to add business violations to the list of potential infractions, which carries a fine of \$100 for the first infraction, \$200 for the second, and \$500 for the third, which can be charged daily. The Planning Commission also recommended that the City Council consider requiring that smoke shops post a bond to cover the cost of future anticipated enforcement. Staff does not recommend implementing this requirement, due to the administrative burden created by holding and monitoring the funds for each smoke shop business.
- Limit the hours, through the CUP, from 10:00 a.m. to 9:00 p.m. (the original draft version would have allowed them to open at 8:00 a.m.). The proposed reduction in hours is supported by staff, so that the shops would not be open before school hours.
- Require that smoke shops be located 150 feet from any park or residential use (original version only included 150 feet from Dale Page Park). Staff is comfortable with the park distance requirement, but has concerns about the residential use requirement as it would make 100% of the existing shops nonconforming.
- The draft Ordinance includes a definition of tobacco sales as an ancillary use in grocery stores, supermarkets, or convenience stores, and allows a display area at two percent of its gross floor area, or 200 square feet, whichever is less. The Planning Commission recommended that there be more flexibility in regulating the display area. The following language was added: *"The Community Development Director may approve minor exceptions to the display area requirements, if a determination is made that the sale of tobacco products is clearly an ancillary use within the grocery store, supermarket, or convenience store."*
- The Planning Commission recommended that the definition of "smoke shop and tobacco store" expressly exclude cigar lounges/smokers' lounges, which is more of an activity-based business than a retail smoke shop. Language has been added excluding smokers' lounges as defined in California Labor Code § 6404.5, from the category of "smoke shop and tobacco

store.”

### Concentration and Location

The draft Ordinance, when including the Planning Commission’s recommendations, proposes that smoke shops be a minimum of 600 feet from schools, daycares, and youth centers; 150 feet from all parks and residential zones (as recommended by PC); and 1000 feet from other smoke shops. Staff has prepared an analysis of the impact that these distance requirements would have on the City’s 16 existing smoke shops. The table below shows the percentage of smoke shops that would be made nonconforming, meaning that they would be unable to obtain a CUP within five years as required by the Ordinance.

### **Percentage of Smoke Shops to Become Nonconforming**

<b>Use Type</b>	<b>Percentage Nonconforming</b>
600 ft. Middle/High School:	56%
600 ft. Elementary School	56%
600 ft. Youth Center	44%
600 ft. Daycare	56%
150 ft. Residential	100%
150 ft. Park	25%
1000 ft. Other smoke shops	81%

The City Council may consider either eliminating some or all of the distance/concentration requirements, or including an allowance that exempts existing smoke shops altogether. If the Council chooses to retain the buffers, staff would, at a minimum, recommend eliminating the distance requirement from residential zones and between smoke shops due to the high percentage of locations that would become immediately nonconforming, and also daycare centers, based on the low risk of accessibility to minors.

### Implementation Process

The following are some of the key points relating to how the Ordinance would be implemented and affect the processing of smoke shops applications:

1. Upon adoption of the Ordinance, the City would immediately exceed the allowed initial cap of 10 existing smoke shop businesses. Any business license or CUP applications submitted for new smoke shops, not currently in operation, would be rejected.
2. Owners of the existing businesses would be notified via U.S. Mail of the Ordinance and provided the opportunity to apply for a CUP. The owners would also be notified of the new operational standards affecting their business once the Ordinance is passed.
3. Existing legal nonconforming smoke shops would have five years to obtain a CUP (and Design Review) approval. Those that are unable to obtain a CUP would be forced to close at the end of the five-year period.
4. Applications would be processed on a first-come first-serve basis and decisions would be made by the Planning Commission based on the merits of the application and ability of the business to comply with the Municipal Code requirements.
5. Of the existing 16 smoke shops, CUPs would only be issued to 10. Some, or all, of the smoke

shops would be unable to obtain a CUP depending on the location of the shop and the final approved buffer requirements.

6. The Ordinance would provide the City with additional enforcement tools and expressly allow the CUP and/or business license to go through a revocation process if the business is found to be in violation.
7. As legal nonconforming smoke shops abandon their use, either through change of use or expiration of operating permits, no new CUPs would be issued unless the City is at or below the maximum allowance of five smoke shops Citywide.

### Enforcement

The Police Department remains committed to enforcing all regulations governing smoke shops within the City through random inspections, joint operations, and targeted enforcement efforts. This work is not without challenges, as variances between state and local laws often dictate differing administrative and criminal options for addressing violations.

In 2025, the Police Department, including the Code Enforcement Division, in coordination with the California Department of Tax and Fee Administration (CDTFA), conducted multiple inspections of smoke shops to address the sale of prohibited products. In March, joint inspections at locations in the 2400 block of 190th Street and the 2200 block of Artesia Boulevard resulted in the seizure of flavored tobacco, nicotine products, and illegal cannabis items prohibited under California law. These cases are currently under review by CDTFA, and the store owners involved may be subject to administrative hearings and fines.

In April, the Code Enforcement Division inspected 15 smoke shops Citywide, issuing correction notices to seven businesses for selling prohibited products and ordering one unlicensed business on the 2700 block of Artesia Boulevard to close immediately. Follow-up inspections confirmed all prohibited items had been removed from the noticed locations. On July 16, targeted inspections of three locations identified during a City Council meeting found one business in violation (notice issued) and two in compliance. The Police Department will continue to monitor these businesses and conduct periodic compliance inspections, as well as enforcement operations, as needed based on complaints and observed violations.

### Tobacco Retail Permits/Licenses

The proposed Smoke Shop “Zoning” Ordinance is intended to regulate retail business in which the primary product is tobacco (and nicotine), including smoke shops. It includes provisions that limit the display area in stores that sell tobacco products as an ancillary use, such as grocery stores, supermarkets, convenience stores, and the like.

The City currently regulates all tobacco sales under Chapter 5 - Article 2 of the RBMC, which is not a zoning ordinance as it is under the title of “Sanitation and Health.” It includes a process requiring any business selling tobacco within the City, either as a primary or ancillary use, to obtain a Tobacco Retail Permit (TRP). Other requirements include a business license and a separate CUP for smoke shops (per the Smoke Shop Ordinance).

To obtain a TRP, the applicant must provide proof that the location seeking the permit has been issued a valid state tobacco retailer's license by the CDTFA. The TRP is valid for one year after the date of issuance and must be renewed annually. The RBMC includes grounds for denying annual renewals and includes a section addressing violations and penalties, which starts with suspension

and escalates to revocation. The TRP process is not a State requirement and is established through a local ordinance. It provides the City with the ability to take enforcement action against any business, regardless of type, selling tobacco. A local ordinance also provides additional enforcement tools to address smoke shops, working in conjunction with a potential Smoke Shop Ordinance. The City Council may wish to further evaluate the TRP process and whether it should be modified to enhance the regulation of tobacco sales throughout the City. It should be noted that many stores with TRP's, primarily sell other goods, i.e. grocery stores, and only provide access to tobacco products following a display of ID and with store employee's having to retrieve them through controlled storage areas.

**COORDINATION**

This administrative report was coordinated with the City Attorney's Office and the Police Department.

**FISCAL IMPACT**

The preparation of this report is part of the Community Development Department's annual work program. There is no additional fiscal impact associated with this item.

**APPROVED BY:**

*Mike Witzansky, City Manager*

**ATTACHMENTS**

- Reso - Planning Commission No. 2025-07-PCR-06 Recommending that the City Council Amend Title 10, Chapter 2 Zoning and Land Use, and Title 10, Chapter 5 Coastal Land Use Plan Implementing Ordinance of the Redondo Beach Municipal Code Pertaining to the Regulation of Smoke Shops (with Redlines)
- Table - Smoke Shop Buffer Analysis
- RBMC - Title 5, Chapter 9 §5-9.201 Tobacco Retail Permits