

ORDINANCE NO.
AN ORDINANCE OF THE CITY OF REDONDO BEACH,
CALIFORNIA, AMENDING SECTIONS 10-2.402 AND 10-2.1642
OF THE REDONDO BEACH MUNICIPAL CODE, RELATING TO
SMOKE SHOPS AND TOBACCO SALES

THE COUNCIL OF THE CITY OF REDONDO BEACH DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 10-2.402(a) of the Redondo Beach Municipal Code is amended to read as follows:

(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; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, 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 (See Section 10-2.1642 for additional definitions).

SECTION 2. Section 10-2.1642 of the Redondo Beach Municipal Ordinance is amended to read as follows:

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" shall mean where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. For any grocery store, convenience store, retail kiosk or similar use consisting of 250 square feet or less, "ancillary sale" shall mean where no more than five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco.

"E-cigarette" shall mean any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize a liquid solution, popularly referred to as "juice," and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia.

"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; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, 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 for smoke shops and tobacco stores (*hereinafter referred to as “smoke shops”*).

1. 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. 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 within five (5) years 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.

3. 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 public or private elementary schools, day cares, and youth centers, as defined in 10-2.1626,

measured from the nearest property lines of each of the affected parcels.

b. Smoke shops shall not be located within 1000 feet, measured property line to property line, from another smoke shop.

c. No retailer shall be established or located within 150 feet of Dale Page Park, measured from the nearest property lines of each of the affected parcels.

4. 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 ten (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 (5) city-wide.

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 (5) smoke shops city-wide.

(d) Additional zoning and land use standards applying to all existing and new smoke shops shall include the following:

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 and maintain at all times a valid Tobacco Retailer license as required pursuant to Redondo Beach Municipal Code Title 5, Chapter 9, Article 2.

3. It is unlawful for a smoke shop to knowingly allow or permit minor, not accompanied by his or her parent or legal guardian, to enter or remain within any smoke shop.

4. 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.

5. 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. This includes compliance with annual City business license fees. In the event of non-compliance, the smoke shop operator shall be given written notice by the City and opportunity to cure the violation. Failure to cure the violation can result in the revocation of the business license, tobacco retailer license and conditional use permit if applicable.

6. 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.

(e) 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 may be open for access to the public between the hours of 8:00 a.m. and 9:00 p.m., Monday through Sunday, unless modified by the Planning Commission.

(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 may be deemed a misdemeanor and shall be enforced pursuant to Title 1, Chapter 2 of Redondo Beach Municipal Code.
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.