CITY OF REDONDO BEACH CITY COUNCIL AGENDA Tuesday, October 8, 2019 CITY COUNCIL CHAMBER 415 DIAMOND STREET, REDONDO BEACH



Bill Brand, Mayor Nils Nehrenheim, Councilmember, District 1 Todd Loewenstein, Councilmember, District 2 Christian Horvath, Councilmember, District 3 John F. Gran, Councilmember, District 4 Laura Emdee, Councilmember, District 5

> Michael W. Webb, City Attorney Eleanor Manzano, City Clerk Steven Diels, City Treasurer

AGENDA AND SUPPORTING MATERIALS - An agenda packet is available 24 hours a day at the Redondo Beach Police Department and at www.redondo.org on the City Clerk page. Agenda packets are available during Library hours, at the reference desks at the Redondo Beach Main Library and Redondo Beach North Branch Library. During City Hall hours, agenda packets are available for review in the Office of the City Clerk, Door 1.

AGENDA POSTING NOTIFICATION - If you would like to receive notification of the agenda availability, please subscribe to our eNotify list at www.redondo.org/services/subscribe.asp. You will receive notification when the agenda is available for viewing on the website and you may view and/or print a copy of the agenda.

DOCUMENTS DISTRIBUTED FOLLOWING THE POSTING OF THE AGENDA (BLUE FOLDER ITEMS) -Any writing that relates to an agenda item for an open session that is distributed within 72 hours of the meeting is available for public inspection at the City Clerk's Office, 415 Diamond Street, Door 1, Redondo Beach. In addition, such writings and documents will be posted on the City's website at www.redondo.org **PUBLIC COMMENT** - The public is encouraged to address the City Council on any matter posted on the agenda or on any other matter within its jurisdiction. If you wish to address the City Council on non-agenda items, you may do so during the **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** section on the agenda. Each person is allotted three (3) minutes to speak.

Pursuant to provisions of the Brown Act, no action may be taken on a matter unless it is listed on the agenda, or unless certain emergency or special circumstances exist. The City Council may direct staff to investigate and/or schedule certain matters for consideration at a future City Council meeting.

AMERICANS WITH DISABILITIES ACT - It is the intention of the City of Redondo Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant at this meeting, you will need special assistance beyond what is normally provided, the City will attempt to accommodate you in every reasonable manner. Please contact the City Clerk's Office at (310) 318-0656 at least forty-eight (48) hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible. Please advise us at that time if you will need accommodations to attend or participate in meetings on a regular basis.

CITY OF REDONDO BEACH CITY COUNCIL AGENDA Tuesday, October 8, 2019 CITY COUNCIL CHAMBER 415 DIAMOND STREET, REDONDO BEACH

CLOSED SESSION - ADJOURNED REGULAR MEETING - 4:30 P.M.

OPEN SESSION - REGULAR MEETING - 6:00 P.M.

4:30 PM - CLOSED SESSION – ADJOURNED REGULAR MEETING

The City Council may move into a Closed Session pursuant to applicable law, including the Brown Act (Government Code Section 54960, et seq.) for the purpose of conferring with the City's real property negotiator, and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section 54957 (Personnel); and/or conferring with the City's Labor Negotiator.

A. CALL MEETING TO ORDER

- B. ROLL CALL
- C. SALUTE TO FLAG AND INVOCATION

D. BLUE FOLDER ITEMS- ADDITIONAL BACK UP MATERIALS

Blue folder items are additional back up material to administrative reports and/or public comments received after the printing and distribution of the agenda packet for receive and file.

E. PUBLIC COMMUNICATIONS ON CLOSED SESSION ITEMS AND NON-AGENDA ITEMS

This section is intended to provide members of the public with the opportunity to comment on Closed Session Items or any subject that does not appear on this agenda for action. This section is limited to 30 minutes. Each speaker will be afforded three minutes to address the Mayor and Council. Each speaker will be permitted to speak only once. Written requests, if any, will be considered first under this section.

F. RECESS TO CLOSED SESSION

F.1. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> 54956.9(d)(1).

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: BS 168564</u>

F.2. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

<u>Name of case:</u> <u>AES Southland Development, LLC et al. v. City of Redondo Beach, et al.</u> <u>Case No. BS157037</u> F.3. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

Name of case:

Public Utilities Commission of the State of California, Rulemaking 16-02-007, Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements

F.4. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1)</u>

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: BC682833</u>

F.5. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: 19STCV13547</u>

F.6. <u>CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION -</u> <u>The Closed Session is authorized by the attorney-client privilege, Government Code</u> <u>Section 54956.9(d)(4)</u>

One potential case

F.7. <u>CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed</u> Session is authorized by the Government Code Sec. 54957.6.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Diane Strickfaden, Director of Human Resources

EMPLOYEE ORGANIZATIONS: Redondo Beach Police Officers Association and Redondo Beach Firefighters Association

F.8. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

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PROPERTY: 900 Pacific Coast Highway, Redondo Beach, CA 90277 (APN#: 4186-031-101)

<u>NEGOTIATING PARTY:</u> <u>David Lawrence on behalf of Carwell LLC</u>

UNDER NEGOTIATION: Both Price and Terms

F.9. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the attorney-client privilege, Government Code Sec. 54956.8.</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: <u>110-151 Fisherman's Wharf, Redondo Beach, CA 90277 (Portions of APN#:</u> <u>7505-002-934)</u>

<u>NEGOTIATING PARTY:</u> <u>Next Century Power, LLC - Leo Pustilnikov</u>

UNDER NEGOTIATION: Both Price and Terms

F.10. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY:

Portions of APNs: 7503-029-900, 7503-029-902, 7503-033-903, 7503-033-905, 7505-002-908, 7505-002-914, 7505-002-932

NEGOTIATING PARTY: Leo Pustilnikov

UNDER NEGOTIATION: Both Price and Terms

F.11. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR -The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

<u>AGENCY NEGOTIATOR:</u> <u>Joe Hoefgen, City Manager</u> <u>Mike Witzansky, Assistant City Manager</u> Stephen Proud, Waterfront and Economic Development Director

PROPERTY:

<u>300 N. Harbor Drive, Redondo Beach, CA 90277 (Former Gold's Gym, APN: 7503-034-024)</u>

NEGOTIATING PARTY: Leo Pustilnikov

UNDER NEGOTIATION: Both Price and Terms

F.12. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

<u>PROPERTY:</u> <u>208 Yacht Club Way, Redondo Beach, CA 90277 (portions of APN's: 7503-003-900;</u> <u>7503-013-822; 7503-003-901)</u>

NEGOTIATING PARTY: Maryann Guthrie, MCL

UNDER NEGOTIATION: Both Price and Terms

- G. RECONVENE TO OPEN CLOSED SESSION
- H. ROLL CALL
- I. ANNOUNCEMENT OF CLOSED SESSION ACTIONS
- J. ADJOURN TO REGULAR MEETING

6:00 PM - OPEN SESSION - REGULAR MEETING

- A. CALL TO ORDER
- B. ROLL CALL
- C. SALUTE TO THE FLAG AND INVOCATION
- D. PRESENTATIONS/PROCLAMATIONS/ANNOUNCEMENTS
- E. APPROVE ORDER OF AGENDA
- F. AGENCY RECESS
- G. BLUE FOLDER ITEMS- ADDITIONAL BACK UP MATERIALS

Blue folder items are additional back up material to administrative reports and/or public comments received after

the printing and distribution of the agenda packet for receive and file.

H. CONSENT CALENDAR

Business items, except those formally noticed for public hearing, or those pulled for discussion are assigned to the Consent Calendar. The Mayor or any City Council Member may request that any Consent Calendar item(s) be removed, discussed, and acted upon separately. Items removed from the Consent Calendar will be taken up under the "Excluded Consent Calendar" section below. Those items remaining on the Consent Calendar will be approved in one motion. The Mayor will call on anyone wishing to address the City Council on any Consent Calendar item on the agenda, which has not been pulled by Council for discussion. Each speaker will be permitted to speak only once and comments will be limited to a total of three minutes.

H.1. <u>APPROVE AFFIDAVIT OF POSTING FOR THE CITY COUNCIL ADJOURNED</u> <u>REGULAR AND REGULAR MEETING OF OCTOBER 8, 2019.</u>

CONTACT: ELEANOR MANZANO, CITY CLERK

- H.2. <u>APPROVE MOTION TO READ BY TITLE ONLY AND WAIVE FURTHER READING</u> OF ALL ORDINANCES AND RESOLUTIONS LISTED ON THE AGENDA. CONTACT: ELEANOR MANZANO, CITY CLERK
- H.3. <u>APPROVE THE FOLLOWING CITY COUNCIL MINUTES: NONE</u>

CONTACT: ELEANOR MANZANO, CITY CLERK

I. EXCLUDED CONSENT CALENDAR ITEMS

J. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS

This section is intended to provide members of the public with the opportunity to comment on any subject that does not appear on this agenda for action. This section is limited to 30 minutes. Each speaker will be afforded three minutes to address the Mayor and Council. Each speaker will be permitted to speak only once. Written requests, if any, will be considered first under this section.

K. EX PARTE COMMUNICATIONS

This section is intended to allow all elected officials the opportunity to reveal any disclosure or ex parte communication about the following public hearings

L. PUBLIC HEARINGS

M. ITEMS CONTINUED FROM PREVIOUS AGENDAS

M.1. <u>DISCUSSION AND POSSIBLE ACTION ON POTENTIAL AMENDMENTS TO THE</u> ZONING ORDINANCE AND THE COASTAL LAND USE IMPLEMENTING ORDINANCE TO ADD ANIMAL KENNEL AS AN ALLOWED USE IN THE CITY IN <u>CERTAIN ZONING DISTRICTS</u>

CONTACT: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

N. ITEMS FOR DISCUSSION PRIOR TO ACTION

N.1. DISCUSSION AND POSSIBLE ACTION REGARDING IMPLEMENTING A CITY-WIDE SMOKING BAN IN PUBLIC EXCEPT FOR DESIGNATED SMOKING AREAS, DISALLOWING POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS, AND ESTABLISHING A LOCAL TOBACCO RETAIL PERMIT AND PROCESS FOR ALL TOBACCO RETAILERS IN THE CITY A. INTRODUCE BY TITLE ONLY ORDINANCE NO. O-3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS. FOR INTRODUCTION AND FIRST READING:

<u>OR</u>

B. INTRODUCE BY TITLE ONLY ORDINANCE NO. O-3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS AND DISALLOWING POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS. FOR INTRODUCTION AND FIRST READING:

<u>AND</u>

C. INTRODUCE BY TITLE ONLY ORDINANCE NO. O-3194-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS. FOR INTRODUCTION AND FIRST READING.

CONTACT: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

N.2. DISCUSSION REGARDING THE TEMPORARY USE OF PROPERTY ON MOLE B BY NORTHROP GRUMMAN FOR THE LOADING AND TRANSPORT OF EQUIPMENT FOR THE TERM OCTOBER 18, 2019 - OCTOBER 20, 2019

CONTACT: STEPHEN PROUD, WATERFRONT AND ECONOMIC DEVELOPMENT DIRECTOR

- O. CITY MANAGER ITEMS
- P. MAYOR AND COUNCIL ITEMS
- P.1. DISCUSSION AND CONSIDERATION OF MAYOR APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS
- Q. MAYOR AND COUNCIL REFERRALS TO STAFF
- R. CLOSED SESSION
- **R.1.** <u>CONFERENCE WITH LEGAL COUNSEL EXISTING LITIGATION The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: BS 168564</u>

R.2. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

Name of case:

AES Southland Development, LLC et al. v. City of Redondo Beach, et al. Case No. BS157037

R.3. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

Name of case:

Public Utilities Commission of the State of California, Rulemaking 16-02-007, Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements

R.4. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1)</u>

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: BC682833</u>

R.5. <u>CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed</u> <u>Session is authorized by the attorney-client privilege, Government Code Sec.</u> <u>54956.9(d)(1).</u>

<u>Name of case:</u> <u>Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al.</u> <u>Case Number: 19STCV13547</u>

R.6. <u>CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION -</u> <u>The Closed Session is authorized by the attorney-client privilege, Government Code</u> <u>Section 54956.9(d)(4)</u>

One potential case

R.7. <u>CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed</u> <u>Session is authorized by the Government Code Sec. 54957.6.</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Diane Strickfaden, Director of Human Resources

EMPLOYEE ORGANIZATIONS: Redondo Beach Police Officers Association and Redondo Beach Firefighters Association

R.8. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

<u>AGENCY NEGOTIATOR:</u> <u>Joe Hoefgen, City Manager</u> <u>Mike Witzansky, Assistant City Manager</u> Stephen Proud, Waterfront and Economic Development Director

<u>PROPERTY:</u> <u>900 Pacific Coast Highway, Redondo Beach, CA 90277</u> (APN#: 4186-031-101)

NEGOTIATING PARTY: David Lawrence on behalf of Carwell LLC

UNDER NEGOTIATION: Both Price and Terms

R.9. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> authorized by the attorney-client privilege, Government Code Sec. 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

<u>PROPERTY:</u> <u>110-151 Fisherman's Wharf, Redondo Beach, CA 90277 (Portions of APN#:</u> <u>7505-002-934)</u>

<u>NEGOTIATING PARTY:</u> <u>Next Century Power, LLC - Leo Pustilnikov</u>

UNDER NEGOTIATION: Both Price and Terms

R.10. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY:

Portions of APNs: 7503-029-900, 7503-029-902, 7503-033-903, 7503-033-905, 7505-002-908, 7505-002-914, 7505-002-932

NEGOTIATING PARTY: Leo Pustilnikov

UNDER NEGOTIATION: Both Price and Terms

R.11. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8.</u>

AGENCY NEGOTIATOR:

<u>Joe Hoefgen, City Manager</u> <u>Mike Witzansky, Assistant City Manager</u> <u>Stephen Proud, Waterfront and Economic Development Director</u>

PROPERTY: 300 N. Harbor Drive, Redondo Beach, CA 90277 (Former Gold's Gym, APN: 7503-034-024)

NEGOTIATING PARTY: Leo Pustilnikov

UNDER NEGOTIATION: Both Price and Terms

R.12. <u>CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is</u> <u>authorized by the Government Code Section 54956.8</u>

<u>AGENCY NEGOTIATOR:</u> <u>Joe Hoefgen, City Manager</u> <u>Mike Witzansky, Assistant City Manager</u> Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 208 Yacht Club Way, Redondo Beach, CA 90277 (portions of APN's: 7503-003-900; 7503-013-822; 7503-003-901)

NEGOTIATING PARTY: Maryann Guthrie, MCL

UNDER NEGOTIATION: Both Price and Terms

S. RECONVENE TO OPEN CLOSED SESSION

T. ADJOURNMENT

The next meeting of the City Council of the City of Redondo Beach will be an Adjourned Regular meeting to be held at 4:30 p.m. (Closed Session) and a Regular meeting to be held at 6:00 p.m. (Open Session) on Tuesday, October 15, 2019, in the Redondo Beach City Hall Council Chamber, 415 Diamond Street, Redondo Beach, California.



R.1., File #19-0304

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: BS 168564



F.2., File #19-0353

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: AES Southland Development, LLC et al. v. City of Redondo Beach, et al. Case No. BS157037



F.3., File #19-0354

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case:

Public Utilities Commission of the State of California, Rulemaking 16-02-007, Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements



R.4., File #19-0357

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1)

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: BC682833



R.5., File #19-0358

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: 19STCV13547



R.6., File #19-0335

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Section 54956.9(d)(4)

One potential case



R.7., File #19-0336

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed Session is authorized by the Government Code Sec. 54957.6.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Diane Strickfaden, Director of Human Resources

EMPLOYEE ORGANIZATIONS: Redondo Beach Police Officers Association and Redondo Beach Firefighters Association



R.8., File #19-0339

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 900 Pacific Coast Highway, Redondo Beach, CA 90277 (APN#: 4186-031-101)

NEGOTIATING PARTY: David Lawrence on behalf of Carwell LLC



R.9., File #19-0340

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 110-151 Fisherman's Wharf, Redondo Beach, CA 90277 (Portions of APN#: 7505-002-934)

NEGOTIATING PARTY: Next Century Power, LLC - Leo Pustilnikov



R.10., File #19-0341

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: Portions of APNs: 7503-029-900, 7503-029-902, 7503-033-903, 7503-033-905, 7505-002-908, 7505-002-914, 7505-002-932

NEGOTIATING PARTY: Leo Pustilnikov



R.11., File #19-0342

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR -The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 300 N. Harbor Drive, Redondo Beach, CA 90277 (Former Gold's Gym, APN: 7503-034-024)

NEGOTIATING PARTY: Leo Pustilnikov



R.12., File #19-0343

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 208 Yacht Club Way, Redondo Beach, CA 90277 (portions of APN's: 7503-003-900; 7503-013-822; 7503-003-901)

NEGOTIATING PARTY: Maryann Guthrie, MCL



Council Action Date: 10/8/2019

To: MAYOR AND CITY COUNCIL

From: ELEANOR MANZANO, CITY CLERK

TITLE

APPROVE AFFIDAVIT OF POSTING FOR THE CITY COUNCIL ADJOURNED REGULAR AND REGULAR MEETING OF OCTOBER 8, 2019.

EXECUTIVE SUMMARY

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES)CITY OF REDONDO BEACH)

AFFIDAVIT OF POSTING

In compliance with the Brown Act, the following materials have been posted at the locations indicated below.

Legislative Body	City Council
Posting Type	Adjourned Regular & Regular Meeting Agenda
Posting Locations	 415 Diamond Street, Redondo Beach, CA 90277 ✓ City Hall Kiosk ✓ City Clerk's Counter, Door 1
Meeting Date & Time	OCTOBER 8, 2019 4:30 p.m. Closed Session 6:00 p.m. Open Session

As City Clerk of the City of Redondo Beach, I declare, under penalty of perjury, the document noted above was posted at the date displayed below.

Eleanor Manzano, City Clerk

Date: <u>October 4, 2019</u>



H.2., File #19-0331

Council Action Date: 10/8/2019

<u>TITLE</u>

APPROVE MOTION TO READ BY TITLE ONLY AND WAIVE FURTHER READING OF ALL ORDINANCES AND RESOLUTIONS LISTED ON THE AGENDA.



H.3., File #19-0347

Council Action Date: 10/8/2019

<u>TITLE</u>

APPROVE THE FOLLOWING CITY COUNCIL MINUTES: NONE



Council Action Date: 10/8/2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

TITLE

DISCUSSION AND POSSIBLE ACTION ON POTENTIAL AMENDMENTS TO THE ZONING ORDINANCE AND THE COASTAL LAND USE IMPLEMENTING ORDINANCE TO ADD ANIMAL KENNEL AS AN ALLOWED USE IN THE CITY IN CERTAIN ZONING DISTRICTS

EXECUTIVE SUMMARY

In response to a City Council referral, staff has prepared the following report outlining options for amending the Zoning Ordinance and Coastal Land Use Implementing Ordinance to add "Animal Kennel" as an allowed use within specific zones. After researching provisions for animal kennels, including State regulations and other municipalities' ordinances, staff have outlined the various options City Council has for regulations to ensure the animal kennel uses do not adversely affect surrounding properties, uses, and residents. Staff recommends that the City Council review the options and provide direction on provisions for the ordinances.

BACKGROUND

Current Regulations for Animal-Related Uses

Currently, Redondo Beach Municipal Code Sections 10-2.402 and 10-5.402 define "Kennel" as "any lot or premises on which four (4) or more dogs or cats at least four (4) months of age are kept, boarded, or trained, whether in special buildings or runways or not." Currently per the code sections, kennel uses may be permitted only as incidental to an "Animal Hospital".

Animal-related uses are currently only allowed in Commercial and Mixed-Use zones in Redondo Beach. The uses include" Animal Feed and Supplies" as permitted by right, and "Animal Grooming", "Animal Hospitals", and "Animal Sales" as conditionally permitted (i.e. these uses require a Conditional Use Permit). Animal-related uses are currently not listed as allowed uses within the Industrial Zones. Again, the definition of "Animal Hospital" in Sections 10-2.402 and 10-5.402 allows a kennel as incidental to the hospital use.

It is recommended that any amendments adding "Animal Kennel" as a stand-alone use require a Conditional Use Permit (CUP), to enable conditions to be placed on the operation of the business to ensure the protection of health, safety, and welfare of adjacent properties and residents, as well as the animals. The following table reflects the zoning districts in which other municipalities allow animal kennels and the approval processes required.

City	Zoning Districts Allowed	Approval Method	Additional Regulations
Carson	Industrial Zones	CUP	
El Segundo	M-1 Light Industrial Zone	CUP	
Hawthorne	M-1 Limited Industrial Zone	Permitted	Soundproofing, 8-foot solid wall surrounding the property
Hermosa Beach	Not permitted	N/A	N/A
Huntington Beach	General Commercial District General Industrial District Limited Industrial District	CUP by Zoning Administrator	200-foot buffer from any residential use
Inglewood	M-1 Light Manufacturing Zone	Permitted unless within 300-feet of a Residential zone, then a CUP	Prohibited within 100- feet of a residential zone
Lawndale	Not permitted	N/A	N/A
Manhattan Beach	Community Commercial General Commercial	CUP	Specific Code Sectior detailing Regulations
Newport Beach	CC Commercial Corridor CG Commercial General CM Commercial Recreational and Marine Office Airport Zone Office Regional Zone Industrial General	CUP	Specific Code Section detailing Regulations
Torrance	Commercial Zones C-3, C-4, C-5 Manufacturing Zones M-1, M-2	CUP	300-foot buffer from residential, school, and parks; adequate measures to control noise, odor, dust

Options for the Regulation of Animal Kennels

California Health and Safety Code Standards

The California Health and Safety Code sets standards for pet boarding facilities to protect the welfare of the animals. Attached to this report is a copy of the California code section related to Pet Boarding Facilities. These regulations are required by the State, and it is recommended that any amendments adding "Animal Kennels" to the Redondo Beach Municipal Code require compliance with this section of the California Health and Safety Code. The California code addresses the following:

- Maintenance of facilities and equipment
- Implementation of pest control
- Containment of pets

- Sanitization of facilities
- Storage of food
- Provision of an area for isolating sick pets from healthy pets
- Accommodation of the well-being of pets (heating, cooling, lighting, ventilation, shade, protection from elements)
- Specifications for enclosures •
- Regulations on length of time in enclosures
- Limitations on number of pets per enclosure •
- Requirements for observing each pet •
- Provision of food and water •
- Notification of owner of pet if sick or injured
- Established protocols for natural disasters and emergency evacuations; pick up/drop offs; and when personnel on site

Zoning Districts and Buffer Zones

Staff requests direction from City Council as to which zoning districts animal kennels would be allowed. As stated previously, animal-related uses are currently allowed in certain Commercial (C) and Mixed-Use (MU) zones, but not in the Industrial (I) or Industrial-Commercial (IC) zones. However, City Council may want to consider adding "Animal Kennels" to the uses allowed in industrial zones, too, as it seems the industrial zones would be well suited to accommodate this use. Typically, the industrial zones do not border residential properties, and existing land uses allowed in industrial zones are more intensive in terms of noise. Thus, animal kennels may likely not cause a detrimental impact in the existing industrial zones.

In researching other cities' regulations, many of the municipalities that allow animal kennels require a "buffer zone" from residential properties. These buffer zones vary from as little as 100 feet (Inglewood) to as much as 500 feet (LA City). The City of Torrance has a 300-foot buffer area from any school, park, residential zone, or residential use. There are several cities in the area that do not require a buffer zone, including Manhattan Beach. Hermosa Beach and Lawndale do not allow animal kennels as a use at all.

Although a buffer zone would help minimize the animal kennel impact on residential properties, implementing a buffer zone may significantly restrict the number of locations in which the use would be feasible. For example, almost all the commercially zoned properties along Artesia and Aviation Boulevards abut residential properties. Therefore, implementing a buffer zone would in essence create a situation where animal kennel businesses could not be established along Artesia or Aviation Boulevards. Similar situations exist along 190th Street, Pacific Coast Highway south of Torrance Boulevard, and S. Catalina Avenue in the Riviera Village. Additionally, should the Council decide to allow animal kennels within the industrial zones, a buffer would affect those industrial properties along the northside Manhattan Beach Boulevard, as they are only 100 feet away from the residential properties on the southside of the boulevard.

An alternative to a residential buffer would be to establish a minimum distance between animal kennel businesses, similar to the separation requirements for massage businesses, body art studios, and thrift stores. This would limit the number of animal kennels within a geographic area without severely diminishing the number of potential locations, as a buffer zone would. Although staff has not 28

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found other municipalities that require a separation between animal kennels, given that the majority of commercial properties in Redondo Beach have shallow lot depths, and almost all are close to residential properties, the separation option may be more viable than the buffer option in Redondo Beach, should Council even deem this as necessary.

Additional Regulations

Although the California Health and Safety Code does regulate certain aspects of pet boarding facilities, the City Council may also want to incorporate additional regulations including, but not limited to, the following:

- Feeding and watering
- Administering medications
- Enclosure size
- Exercise requirements
- Waste disposal and drainage
- Heating and ventilation
- Noise attenuation (Hawthorne requires soundproofing and perimeter wall)
- Property enclosure requirements
- Limitation on the number of animals
- Specifications on hours of operation
- Operator and/or employee animal training and/or certification requirements

Some sample ordinances from other municipalities are attached for review, to see how they have addressed these issues. The City Council can consider the zoning districts, CUP requirements, buffers, and these additional items related to animal kennels during the discussion and provide direction to staff on how to proceed.

The proposed ordinances amending the Zoning Code will require Planning Commission review and recommendation prior to consideration by the City Council.

COORDINATION

The preparation of the Administrative Report and options for the ordinances have been coordinated with the City Attorney's Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department's portion of the adopted 2019-2020 Annual Budget and is part of the department's annual work program.

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS

- California Health and Safety Code Pet Boarding Facilities
- City of Huntington Beach buffer zone requirement
- City of Torrance buffer zone requirement

- City of Manhattan Beach Animal Care Regulations
- City of Newport Beach Regulations of Kennels
- PowerPoint Presentation
- Public Comment Letter

e	Bill Information California Law Publications Other Resources My Subscriptions My Favorites
	Code: Select Code Section: Search
	Up^ Add To My Favorites HEALTH AND SAFETY CODE - HSC DIVISION 105. COMMUNICABLE DISEASE PREVENTION AND CONTROL [120100 - 122477] (Division 105 added by Stats. 1995, Ch. 415, Sec. 7.) PART 6. VETERINARY PUBLIC HEALTH AND SAFETY [121575 - 122388] (Part 6 added by Stats. 1995, Ch. 415, Sec. 7.
,)
	CHAPTER 11. Pet Boarding Facilities [122380 - 122388] (Chapter 11 added by Stats. 2016, Ch. 364, Sec. 1.)
-	122380. As used in this chapter, the following definitions apply:
	(a) "Enrichment" means providing objects or activities, appropriate to the needs of the species, as well as the age, size, and condition of the pet, that stimulate the pet and promote the pet's well-being.
	(b) "Permanent or fixed enclosure" means a structure, including, but not limited to, an exercise run, kennel, or room, used to restrict a pet, that provides for the effective separation of a pet from the pet's waste products.
	(c) "Person" means an individual, partnership, firm, limited liability company, joint-stock company, corporation, association, trust, estate, or other legal entity.
	(d) "Pet" means any nonhuman animal housed in the pet boarding facility, including, but not limited to, mammals, birds, reptiles, and amphibians. However, "pet" does not include a horse.
	(e) "Pet boarding facility" means any lot, building, structure, enclosure, or premises, or a portion thereof, whereupon four or more dogs, cats, or other pets in any combination are boarded at the request of, and in exchange for compensation provided by, their owner. However, "pet boarding facility" does not include a city, county, or city and county animal control agency, society for the prevention of cruelty to animals, or humane society that contracts for the care of stray or abandoned animals, or the premises of a veterinary facility that is registered pursuant to Section 4853 of the Business and Professions Code.
	(f) "Pet boarding facility operator" or "operator" means a person who owns or operates, or both, a pet boarding facility.
	(g) "Temporary enclosure" means a structure used to restrict a pet, including, but not limited to, a crate or cage, that does not provide for the effective separation of a pet from the pet's waste products.
	(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)
-	122381. Each pet boarding facility operator shall be responsible for all of the following:
	(a) Ensuring that the entire pet boarding facility, including all equipment therein, is structurally sound and maintained in good repair.
	(b) Ensuring that pests do not inhabit any part of the pet boarding facility in a number large enough to be harmful, threatening, or annoying to the pets.
	(c) Ensuring the containment of pets within the pet boarding facility, and, in the event that a pet escapes, making reasonable efforts to immediately capture the escaped pet.
	(d) If an escaped pet has not been captured despite reasonable efforts, ensuring that all material facts regarding the pet's escape are reported to the local agency for animal control and to the owner.
	(e) Ensuring that the pet boarding facility's interior building surfaces, including walls and floors, are constructed in a manner that permits them to be readily cleaned and sanitized.
	(f) Ensuring that light, by natural or artificial means, is distributed in a manner that permits routine inspection and

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(g) If pet grooming services are offered by a pet boarding facility, separating the grooming work area from the pet boarding facility's permanent or fixed and temporary enclosures and ensuring that the grooming areas are cleaned and sanitized at least once daily.

(h) Storing food in an area separate from permanent or fixed enclosures or temporary enclosures.

(i) Maintaining an area for isolating sick pets from healthy pets.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122382. (a) Each permanent or fixed and temporary enclosure shall comply with all of the following standards:

(1) Be structurally sound and maintained in good repair to protect the enclosed pet from injury, to contain the pet, to keep other animals out, and to promote the health and well-being of the pet.

(2) Be maintained in a comfortable and sanitary manner. When being cleaned in a manner or with a substance that is or may be harmful to a pet within the enclosure, that pet shall be removed from the enclosure.

(3) Be constructed of material suitable for regular cleaning and sanitizing.

(4) As needed to ensure the comfort and well-being of the pet, provide heating, cooling, lighting, ventilation, shade, and protection from the elements, including, but not limited to, the sun, wind, rain, and snow.

(5) Allow a pet to turn around freely, stand easily, and sit or lie down in a comfortable position.

(b) Each enclosure is either a permanent or fixed enclosure or a temporary enclosure.

(c) In addition to the requirements set forth in subdivision (a), a permanent or fixed enclosure for a cat shall provide an elevated platform appropriate for the size of the cat.

(d) A pet may be contained in a temporary enclosure for a period not to exceed 4 hours during the day and 12 hours at night or the length of time that is humane for that particular pet, whichever is less. However, the pet shall remain outside the temporary enclosure for no less than the amount of time needed for the pet to eliminate its waste.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122383. A pet boarding facility operator shall comply with all of the following animal care requirements:

(a) House only one pet at a time in an enclosure unless otherwise consented to by the owner.

(b) Observe each pet as necessary, but no less than once every 24 hours, in order to recognize the signs of sickness, injury, or distress, and in order to ensure that the pet, food, and waste or debris is removed as necessary to prevent contamination or injury.

(c) Provide each pet with easy and convenient access to potable water at all times, or if the behavior of the pet makes unrestricted access to water impracticable, offer water as often as necessary to ensure the pet's health and well-being. However, water may be restricted as directed by the owner or a licensed veterinarian.

(d) Provide each pet with nutritious food in quantities and at intervals suitable for that pet.

(e) Provide each pet daily with enrichment sufficient to maintain the behavioral health of the pet.

(f) Maintain and abide by written policies and procedures that address animal care, management and safe handling, disease prevention and control, routine care, preventive care, emergency care, veterinary treatment, and disaster planning, evacuation, and recovery that are applicable to the location of the pet boarding facility. These procedures shall be reviewed with each employee who provides animal care and shall be present, in writing, either electronically or physically, in the facility and made available to all employees.

(g) Isolate those pets that have or are suspected of having a contagious condition.

(h) Ensure that each sick or injured pet is immediately provided with appropriate care and, if prudent, veterinary treatment.

(i) Ensure that the owner of a pet is notified immediately that his or her pet is sick or injured unless the owner has indicated in writing that notification of any, or a particular, type of illness or injury is not required.

(j) In the event of a natural disaster, an emergency evacuation, or other similar occurrence, ensure that the humane care and treatment of each animal is provided for, as required by this chapter, to the extent access to the pet is reasonably available.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

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122384. (a) A pet boarding facility operator shall provide each owner with written information describing all of the following:

(1) Days and times during which the pet boarding facility permits pets to be dropped off and picked up.

(2) Days and times during which personnel are onsite.

(3) The square footage of the permanent or fixed and temporary enclosures in which the species of pet that the owner is boarding is customarily contained.

(4) General observation practices during each 24-hour period for the species of pet that the owner is boarding is customarily observed by personnel.

(5) The pet boarding facility's customary daily activity schedule for the species of pet that the owner is boarding.

(b) If the pet boarding facility will materially deviate from the customary practices described in the written information required by subdivision (a) with respect to an owner's pet, the pet boarding facility operator shall disclose those deviations to the owner or patron, as appropriate.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122385. A pet boarding facility shall maintain either of the following:

(a) A fire alarm system that is connected to a central reporting station that alerts the local fire department in case of fire.

(b) A fire suppression sprinkler system.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122386. (a) An animal control officer, as defined in Section 830.9 of the Penal Code, a humane officer qualified pursuant to Section 14502 or 14503 of the Corporations Code, or a peace officer who detects a violation of Sections 122380 to 122385, inclusive, if he or she decides the violation warrants formal action, shall issue a single notice to correct that shall contain all of the following information:

(1) Specify each violation of this chapter found in the inspection.

(2) Identify the corrective action for each violation.

(3) Include a specific period of time during which the listed violation or violations are to be corrected.

(b) After issuing a notice to correct pursuant to this section, the officer or another qualified officer of the issuing agency shall verify compliance with this chapter by conducting a subsequent investigation of the pet boarding facility within a reasonable period of time.

(c) An exact, legible copy of the notice to correct shall be delivered to the pet boarding facility operator at the time he or she signs the notice. In the alternative, the issuing agency may personally deliver the notice to the operator within 48 hours of its issuance, excluding holidays and weekends. The signing of the notice is an acknowledgment of receipt and does not constitute an admission of guilt.

(d) A pet boarding facility operator who is verified to have complied with a notice to correct shall not be subject to subdivision (g).

(e) A pet boarding facility operator who violates the same provision of this chapter on more than one occasion within a five-year period is not eligible to receive a notice to correct, and is guilty of an infraction on the second violation, and is guilty of a misdemeanor on the third or subsequent violation.

(f) Notwithstanding subdivision (a), a pet boarding facility operator that causes or allows harm or injury to an animal, or allows an animal to be subject to an unreasonable risk of harm or injury is guilty of a misdemeanor.

(g) Except as provided in subdivisions (e) and (f), a pet boarding facility operator who violates any provision of this chapter is guilty of an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) for the first violation and by a fine not to exceed one thousand dollars (\$1,000) for each subsequent violation. The court shall weigh the gravity of the offense in setting the penalty.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122387. (a) Nothing in this chapter shall be construed to in any way limit or affect the application or enforcement of any other law that protects animals or the rights of consumers, including, but not limited to, Section 597 of the Penal Code.

(b) Nothing in this chapter limits, or authorizes any act or omission that violates, Section 597 of the Penal Code, or any other local, state, or federal law that protects animals or the rights of consumers.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

122388. Pursuant to Section 7 of Article XI of the California Constitution, a city, county, or city and county may adopt ordinances that establish additional standards and requirements for a pet boarding facility.

(Added by Stats. 2016, Ch. 364, Sec. 1. (SB 945) Effective January 1, 2017.)

L-4 Reserved.

L-5 Only limited facilities are allowed subject to approval of a conditional use permit from the Zoning Administrator, and body and fender shops are permitted only as part of a comprehensive automobile-service complex operated by a new vehicle dealer.

L-6 Only "small-scale" facilities, as described in use classifications, are permitted with a maximum seven persons employed full time in processing or treating retail products, limited to those sold on the premises.

L-7 Repealed.

L-8 On-site storage limited to two rental cars or two cars for lease.

L-9 Public facilities permitted, but a conditional use permit from the Zoning Administrator is required for commercial facilities.

L-10 Permitted if the space is 5,000 square feet or less; allowed with Administrative Permit approval if space exceeds 5,000 square feet.

In addition, personal enrichment uses within a retail building parked at a ratio of one space per 200 square feet, shall require no additional parking provided the use complies with the following:

• Maximum number of persons per classroom does not exceed the number of parking spaces allocated to the suite based upon the square footage of the building; and

• The instruction area does not exceed 75% of total floor area of the personal enrichment building area.

L-11 Permitted if the space is 5,000 square feet or less; allowed with a conditional use permit from the Zoning Administrator if the space exceeds 5,000 square feet.

L-12 Permitted for existing facilities proposing to expand up to 20% of existing floor area or display area.

L-13 For wireless communication facilities see Section 230.96, Wireless Communication Facilities. All other communication facilities permitted.

L-14 Allowed with Neighborhood Notification pursuant to Chapter 241 if space is 5,000 square feet or less; allowed with a conditional use permit from the Planning Commission if the space exceeds 5,000 square feet.

L-15 Includes businesses with the primary building use of office for vehicle retail sales and wholesale businesses which may display the maximum number of vehicles at any given time as required by the California Department of Motor Vehicles.

L-16 No person shall keep or maintain upon premises owned or controlled by him or her in the City, any **kennel** within 200 feet of any residential use. Refer to HBMC Section 7.12.150 - Kennels.

- (A) Reserved.
- (B) See Section 230.40, Helicopter Takeoff and Landing Areas.
- (C) Repealed.

(D) See Section 230.38, Game Centers; Chapter <u>5.28</u>, Dance Halls; Chapter <u>9.24</u>, Card Rooms; Chapter <u>9.32</u>, Poolrooms and Billiards; and Chapter <u>9.28</u>, Pinball Machines.

- (E) See Section 230.32, Service Stations.
- (F) See Section 241.20, Temporary Use Permits.
- (G) See Chapter 236, Nonconforming Uses and Structures.

(H) For teen dancing facilities, bicycle racks or a special bicycle parking area shall be provided. These may not obstruct either the public sidewalk or the building entry. See also Chapter 5.28, Dancing Halls; Chapter 5.44, Restaurants - Amusement and Entertainment Premises; and Chapter 5.70, Adult Entertainment Businesses.

(I) Only permitted on a major arterial street, and a passive or active outdoor recreational amenity shall be provided.

(J) In the CV District the entire ground floor area and at least one-third of the total floor area shall be devoted to visitor-oriented uses as described in the certified Local Coastal Program Land Use Plan. Any use other than visitor serving commercial shall be located above the ground level, and a conditional use permit from the Planning Commission or the Zoning Administrator is required. Any use other than visitor serving commercial uses shall only be permitted if visitor serving uses are either provided prior to the other use or assured by deed restriction as part of the development. No office or residential uses shall be permitted in any visitor serving designation seaward of Pacific Coast Highway.

(K) See Section 230.42, Bed and Breakfast Inns.

(L) Collection containers are permitted in all commercial districts; recycling facilities as an accessory use to a permitted use shall be permitted upon approval by the director with Neighborhood Notification pursuant to Chapter 241. See Section 230.44, Recycling Operations.

(M) Subject to approval by the Police Department, Public Works Department, Fire Department and the director. See also Section 230.86, Seasonal Sales.

(N) The following businesses proposing to sell alcoholic beverages for on-site or off-site consumption are exempt from the conditional use permit process:

(1) Retail markets with no more than 10% of the floor area devoted to sales, display, and storage of alcoholic beverages provided 35 the sale of alcoholic beverages is not in conjunction with the sale of gasoline or other motor vehicle fuel.

(Amended by O-1854)

a) Airports and landing strips conditionally permitted in C-3, C-4, C-5, M-1 and M-2 zones only, subject to the provisions of Chapter 3 of Division <u>7</u>

b) Heliports and Helistops conditionally permitted, subject to the provisions of Chapter 8 of Division 9

c) The provisions of this section shall not apply to that certain area of the Torrance Municipal Airport designated as the "Aero-nautical Area" as delineated on the Torrance Airport print dated February 6, 1968 and marked Exhibit "A", on file in the Office of the Planning Director.

95.3.3 ON-SALE LIQUOR SALES ESTABLISHMENTS.

(Amended by O-1660; O-2021; O-2511)

a) On-sale liquor sales establishments are conditionally permitted in zones C-1, C-2, C-3, C-4, C-5, M-1 and M-2.

b) For the purpose of this section, on-sale liquor sales establishment shall mean any premises on or from which any alcoholic beverage is sold or dispensed for sale to the general public, excepting therefrom those premises from which distilled spirits are sold by the bottle or package to be consumed off the premises.

c) The sale of beer and wine is conditionally permitted in the C-R zone only in conjunction with the sale of food. No other alcoholic beverages may be sold.

d) Any conditional use permit issued pursuant to the provisions of this section shall become void, and any nonconforming use of premises used for an on-sale liquor sales establishment shall terminate, where such establishment shall have ceased the sale of liquor by reason of the termination or revocation of the State on-sale liquor license therefor or the suspension by the State of sales thereunder for a period of ninety (90) or more calendar days unless renewed by the License Review Board.

e) The conditional use permit shall be renewed, if at all, by the License Review Board, rather than the Planning Commission, where the sale of liquor is to be resumed in such establishment after it has ceased as provided in subsection c) and the existing State on-sale liquor license is to be transferred or exchanged for another on-sale liquor license.

f) The conditions of subsections d) and e) shall apply equally to any establishment selling beer and wine under subsection c).

g) The Planning Commission or the License Review Board, as the case may be, shall specify individual development standards for each establishment when granting or renewing a Conditional Use Permit based on the following considerations:

1) Its distance from existing residential uses within the zone and its distance from residential and non-commercial uses in zones adjacent to that zone in which the establishment is proposed.

2) Location of and distances to churches, schools, hospitals and public playgrounds in relation to the proposed establishment.

- 3) Hours of operation of the proposed establishments.
- 4) The combination of uses proposed within the proposed establishment.
- 5) The quality of the interior and exterior construction and furnishings.
- 6) Such other considerations as, in the judgment of the Planning Commission or License Review Board are necessary to protect the public health, safety or welfare.

95.3.4 BORROW PITS.

Borrow pits to a depth of over three (3) feet (all zones). This does not include required drainage sumps or normal grading for new construction or parking lots.

95.3.5 ANIMAL HOSPITALS; KENNELS.

Animal hospitals and kennels conditionally permitted in C-3, C-4, C-5, M-1 and M-2 zones only; provided, however, no animal hospital or kennel shall be located closer than three hundred (300) feet from any school, park, residential zone or residential use. Adequate measures and controls, satisfactory to the Planning Commission shall be taken to prevent offensive noise, odor, dust and flies.

95.3.6 CHURCHES.

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Chapter 5.08 - ANIMAL CARE REGULATIONS

Sections:

5.08.010 - Regulations.

Every person, within the City of Manhattan Beach, who owns any animal or who owns, conducts, manages, or operates any animal establishment shall comply with each of the following.

- A. **Structural strength.** Housing facilities for animals shall be structurally sound and shall be maintained in good repair, to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals.
- B. All animals shall be supplied with sufficient good and wholesome food and water as often as the feeding habits of the respective animals require.
- C. All animals and all animal buildings or enclosures shall be maintained in clean and sanitary condition.
- D. All animals shall be so maintained as to eliminate excessive and nighttime noise.
- E. No animals shall be without attention more than twenty-four (24) consecutive hours. Whenever an animal is left unattended at a commercial animal facility, the telephone number of the Department of Animal Aid or the name, address, and telephone number of the responsible person shall be posted in a conspicuous place at the front of the property.
- F. Every reasonable precaution shall be used to insure that animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any person or means.
- G. No condition shall be maintained or permitted that is or could be injurious to the animals.
- H. Animal buildings and enclosures shall be so constructed and maintained as to prevent escape of animals. All reasonable precautions shall be taken to protect the public from the animals and the animals from the public.
- I. Every animal establishment shall isolate sick animals sufficiently so as not to endanger the health of other animals. Sick animals shall at all times be isolated from the other animals.
- J. Every building or enclosure wherein animals are maintained shall be constructed of material easily cleaned and shall be kept in a sanitary condition. The building shall be properly ventilated to prevent drafts and to remove odors. Heating and cooling shall be provided as required, according to the physical need of the animals, with sufficient light to allow observation of animals and sanitation.

- K. Take any animal to a veterinarian for examination or treatment if the Animal Aid personnel find this is necessary in order to maintain the health of the animal and orders the owner or custodian to do so.
- L. Provide proper shelter and protection from the weather at all times.
- M. No owner of an animal shall abandon such animal.
- N. Every violation of an applicable regulation shall be corrected within a reasonable time to be specified by the Director of Animal Aid.

(§ 1, Ord. 1557, eff. July 5, 1979)

Sections:

- <u>7.35.010</u> Definitions.
- <u>7.35.020</u> Operator's Permit Required.
- <u>7.35.030</u> Application for Operator's Permit.
- <u>7.35.040</u> Police Department Review.
- 7.35.050 Operator's Permit Issuance and Denial.
- <u>7.35.060</u> Requirements of Operation.
- <u>7.35.070</u> Humane Animal Care.
- 7.35.080 Kennel Construction Standards—General.
- 7.35.090 Kennel Operating Standards—General.
- 7.35.100 Indoor Kennel Standards.
- 7.35.110 Outdoor Kennel Standards.
- 7.35.120 Kennels for Dogs.
- 7.35.130 Cat Enclosure Construction.
- 7.35.140 Rabies Vaccination.
- 7.35.150 Identification.
- 7.35.160 Fees.
- <u>7.35.170</u> New/Existing Permittees.
- 7.35.180 Transfer and Duration of Permits.
- 7.35.190 Suspension, Revocation, Denial and Appeal.

7.35.010 Definitions.

Unless the particular provision of the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning, and application of words and phrases used in this chapter.

"Cat" means any cat or feline.

"Chief of Police" means the Chief of Police of the City of Newport Beach, or his or her designated representative.

"Commercial kennel" means any place where more than three dogs over the age of four months, three cats over the age of four months, or three other animals are treated, conditioned, boarded, raised or offered for sale for any form of compensation, including, but not limited to, donations by any person or entity. The definition of commercial kennel shall not include a kennel operated by a State-licensed veterinarian or any pet store.

"Dog" means any dog or any canine.

"Kennel" means any commercial kennel, non-profit kennel or private kennel.

"Non-profit kennel" means any place owned or operated by a non-profit organization where more than three dogs over the age of four months, three cats over the age of four months, or three other animals are treated, conditioned, boarded, or raised and whose function is to rescue, care, feed and place animals with the public either for no compensation or for donations. The definition of a non-profit kennel shall not include a location operated by a State-licensed veterinarian or any pet store.

"Non-profit organization" means a non-profit organization, as defined in Section 501(c)(3) of the Internal Revenue Code.

"Operator" means the legal owner, permit holder, or person in actual control of any activity involving animals at a kennel.

"Owner" means the actual custodian of an animal, whether or not that person is the legal owner, the caretaker, or merely the possessor of an animal. Any person who is registered as the owner on a license or other legal document shall be deemed an owner of the animal.

"Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

"Private kennel" means any place where more than three dogs over the age of four months, three cats over the age of four months, or three other animals are treated, conditioned, boarded, or raised for which no compensation is received, including, but not limited to, donations by any person or entity. The definition of private kennel shall not include a location operated by a State-licensed veterinarian or any pet store.

"Run" means the floor surface and cage, exclusive of the sleeping box, used to contain or maintain dogs, cats or other animals. (Ord. 2008-12 § 1 (part), 2008)

7.35.020 Operator's Permit Required.

No person shall operate a kennel within the City without first obtaining an operator's permit pursuant to this chapter. (Ord. 2008-12 § 1 (part), 2008)

7.35.030 Application for Operator's Permit.

A. Required Forms. Any person desiring an operator's permit for a kennel shall file a written application on the required forms prescribed by the Chief of Police who shall conduct an investigation.

B. Required Information. The application for a commercial kennel or non-profit kennel shall contain or be accompanied by the following information:

1. The type of ownership of the business, i.e., whether by a sole proprietorship, partnership, corporation or otherwise. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation or charter together with the State and date of incorporation and the names and residence addresses of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation. If the applicant is a partnership, the application shall set forth the name and residence of each of the partners, including limited partners. If it is a limited partnership, it shall furnish a copy of its certificate of limited partnership filed with the Secretary of State. If one or more of the partners is a corporation, the provisions of this subsection pertaining to corporations shall apply. The applicant corporation or partnership shall designate one of its officers or general partners to act as its responsible managing officer;

2. The precise name under which the commercial kennel or non-profit kennel is to be conducted;

3. The name and address of the owner and lessor of the real property upon or in which the commercial kennel or non-profit kennel is to be conducted. In the event the applicant is not the legal owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a commercial kennel or non-profit kennel will be located on his or her property;

4. All necessary information establishing that the proposed commercial kennel or non-profit kennel use complies with the zoning regulations of the City;

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5. A list of the type(s) of animals proposed to be kept or used for any purpose, together with the estimated maximum number thereof;

6. The days and hours that the commercial kennel or non-profit kennel is open to customers or the public;

7. Authorization for the City, its agents and employees to seek verification of the information contained in the application;

8. Such other documents and information as the Chief of Police may require to determine the truth of the matters herein specified and as required to be set forth in the application.

C. Verification. The application shall be completed and signed by the operator of the proposed kennel, if a sole proprietorship; all general partners, if the operator is a partnership; two officers or two directors, if the operator is a corporation; and one participant, if the operator is a joint venture. The person(s) signing the application for a kennel operator's permit shall certify under penalty of perjury that all information contained in the application is true and correct.

D. Notification. If, during the term of a permit, the permit holder has any change in information submitted on the original or renewal application, the permit holder shall notify the Newport Beach Police Department of such change within ten business days thereafter, in writing.

E. Fees. Applications for a kennel operator's permit shall be accompanied by a fee as established by resolution of the City Council. Non-profit kennels shall not be charged any application or permit fee under this chapter.

F. Waivers. The Chief of Police may waive the submission of items deemed unnecessary. (Ord. 2008-12 § 1 (part), 2008)

7.35.040 Police Department Review.

A. Time Limits and Notification. Within thirty (30) calendar days of the filing of an application, the Chief of Police shall determine whether the application is complete and notify the applicant in writing if the application is determined to be incomplete.

B. Incomplete Applications. If the application is determined to be incomplete, the Chief of Police shall notify the applicant in writing and shall specify those parts of the application which are incomplete and shall indicate the manner in which they can be made complete, including a list and thorough description of the specific information or materials needed to complete the application. Upon the receipt of the information or materials needed to complete the application, a new thirty (30) calendar day review period shall begin to determine the completeness of the application.

C. Extension of Time Limits. Extensions of the time limits of the review period are permitted when mutually agreed upon by the Chief of Police and the applicant. (Ord. 2008-12 § 1 (part), 2008)

7.35.050 Operator's Permit Issuance and Denial.

The Chief of Police shall issue such permit as requested, unless he or she makes any of the following findings:

A. The applicant, if an individual; or any of the officers or directors of the corporation, if the applicant is a corporation; or a partner, if the applicant is a partnership; or a participant, if the operator is a joint venture; or any of operator's members, managers, volunteers or employees has:

1. Within eight years preceding the date of the application or a renewal application, been convicted on two occasions of violating any statute, rule or regulation prohibiting cruelty to animals, including, but not limited to, any conviction of California Penal Code Sections <u>597</u>, <u>597a</u>, <u>597b</u>, <u>597c</u>, <u>597e</u>, <u>597f</u>, <u>597</u>

597j, 597k, 597m, 597n, 597o, 597r, 597s, 597t, 597u, 597v, 597x, 597y, 597z, 597i, 598a, 598a, 598b, 598c, 598d, 599, 600, 600.2, or 600.5, or accepted a plea of guilty or nolo contendere to any lesser included or lesser related offense, in satisfaction of, or as a substitute for, any of the previously listed crimes;

2. Within eight years preceding the date of the application or a renewal application, been convicted on two occasions of any offense in any other State which is the equivalent of any of the abovementioned offenses;

3. Been engaged in conduct in another jurisdiction which, if it had occurred within the City, would constitute grounds for denial, suspension or revocation under this chapter;

4. Been subjected to a permanent injunction against the conducting or maintaining of a nuisance;

5. On two occasions, within the last eight years, been engaged in conduct which would constitute an offense as described in subsection (A)(1) of this section;

6. Committed an act in another jurisdiction which, if committed in this State, would have been a violation of law and, which, if done by a permittee under this chapter, would be grounds for denial, suspension or revocation of the permit;

7. Been convicted of an act involving dishonesty, fraud, deceit or moral turpitude or an act of violence, which act or acts are related to the qualifications, functions or duties of the operator;

8. Had a kennel operator permit or other similar license or permit denied, suspended or revoked for cause by a licensing authority or by any City, County or State;

9. Made a false, misleading or fraudulent statement or omission of fact to the City in the permit application process;

10. Failed to submit an application that contains all of the information required by Section 7.35.030;

11. Proposed a kennel that does not comply with all applicable laws, including, but not limited to, health, zoning, fire and safety requirements and standards;

12. Within eight years of the date of the application, been convicted on two occasions of a criminal offense for violating the requirements of this chapter;

13. Within eight years of the date of the application, had a dog owned or under the persons control declared to be potentially dangerous or vicious.

B. If the application is denied, the applicant may not reapply for a period of six months from the date the application was denied.

C. No permit granted herein shall confer any vested right to any person or business. (Ord. 2008-12 § 1 (part), 2008)

7.35.060 Requirements of Operation.

A. All operators and managers of a commercial kennel or non-profit kennel shall comply with the following conditions and any other conditions specified by the Chief of Police:

1. No person granted a permit pursuant to this chapter shall use any name or conduct business under any designation not specified in his or her permit.

2. All commercial kennels and non-profit kennels required to be permitted under this chapter shall have a manager on the premises at all times the kennel is open to customers or the public. The operator of each

kennel shall file a statement with the Chief of Police designating the person or persons with power to act as a manager. The operator and/or on duty manager shall post, on a daily basis, the name of each on duty manager in a conspicuous public place in the lobby of the commercial kennel or non-profit kennel. The operator, or the manager in the operator's absence, shall be responsible for ensuring compliance with this chapter.

3. An operator and/or on duty manager shall be responsible for the conduct of all employees, volunteers or independent contractors while they are on the permitted premises. Any act or omission of any employee, volunteer or independent contractor constituting a violation of the provisions of this chapter shall be deemed the act or omission of the operator for purposes of determining whether the operator's permit shall be revoked, suspended, denied or renewed.

4. The Chief of Police shall establish the kind and maximum number of animals authorized to be maintained on the premises. The operator and/or on duty manager shall not maintain, treat, condition, board, raise or offer for sale for any compensation, including, but not limited to, donations, at the commercial kennel or non-profit kennel any kind of animal not authorized by the Chief of Police and/or that exceeds the maximum kind and number of animals authorized by the Chief of Police.

5. The operator shall report in writing any changes in address, ownership, or management to the Chief of Police at least fifteen (15) calendar days prior to such change.

6. Operator shall maintain a register of the names and addresses of person from whom animals have been received and to whom animals have been sold, traded, rented, leased, or given. This information shall be available to the Chief of Police upon demand.

7. A copy of these regulations shall be issued to each applicant for a permit. The applicant shall acknowledge receipt of such standards and shall agree to comply with same by signing a form provided for the purpose by the Chief of Police. Such form shall be filed with the application for a permit.

8. The operator shall display the permit issued by the Chief of Police in the office, reception room, or other area accessible for inspection.

9. Each permit shall automatically terminate on the expiration date shown thereon unless, on or before such date, application for renewal has been submitted and approved as herein provided.

10. All operators, upon being granted a commercial kennel or non-profit kennel operator's permit, do thereby consent and agree to the entry upon the premises described in the permit by the Chief of Police or his/her authorized designee for the purpose of conducting such inspections as he/she may deem required. The inspections shall be conducted with the operator or manager present.

11. The operator shall comply with all provisions of this chapter, all conditions set by the Chief of Police, and any applicable provisions of this Code.

B. All operators of a private kennel shall comply with the following conditions and any other conditions specified by the Chief of Police:

1. The Chief of Police shall establish the kind and maximum number of animals authorized to be maintained on the premises. The operator shall not maintain, treat, condition, board, or raise any kind of animal not authorized by the Chief of Police and/or that exceeds the maximum kind and number of animals authorized by the Chief of Police.

2. The operator shall report in writing any changes in address to the Chief of Police at least fifteen (15) calendar days prior to such change.

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3. All animals maintained, treated, conditioned, boarded or raised at the premises shall be owned by the operator.

4. A copy of these regulations shall be issued to each applicant for a permit. The applicant shall acknowledge receipt of such standards and shall agree to comply with same by signing a form provided for the purpose by the Chief of Police. Such form shall be filed with the application for a permit.

5. All operators, upon being granted a kennel operator's permit, do thereby consent and agree to the entry upon the premises described in the permit by the Chief of Police or his or her authorized designee for the purpose of conducting such inspections as he or she may deem required upon seventy-two (72) hours' written notice. The inspections shall be conducted with the operator present.

6. Each permit shall automatically terminate on the expiration date shown thereon unless, on or before such date, application for renewal has been submitted and approved as herein provided.

7. The operator shall comply with all provisions of this chapter, all conditions set by the Chief of Police, and any applicable provisions of this Code. (Ord. 2008-12 § 1 (part), 2008)

7.35.070 Humane Animal Care.

A. Sale of Puppies and Kittens. Every person who owns, conducts, manages or operates commercial kennel or non-profit kennel shall comply with each of the following conditions:

1. No puppy or kitten under the age of eight weeks shall be brought or shipped into the City for the express purpose of selling the animal. This subsection shall not apply to non-profit kennels that accept a distressed puppy or kitten under the age of eight weeks from any other location.

2. Every puppy or kitten offered for sale must be examined by a State-licensed veterinarian for distemper, worms, skin disease and ear mites, and other disease or conditions which would be injurious to the animal or a potential owner.

3. Every puppy or kitten offered for sale, including, but not limited to, donations from any person or entity, shall have been vaccinated against distemper. Documentation providing the date and treatment shall be provided to the purchaser or donor at the time of sale.

B. Feeding and Watering. Every person who owns, conducts, manages or operates a kennel shall comply with each of the following conditions:

1. Animals shall be provided food which shall be free from contamination, wholesome, palatable, and of sufficient quantity and nutritive value to meet the normal daily requirement for the condition and size of the animal.

2. Food receptacles shall be accessible to all animals and shall be located so as to minimize contamination by excreta. Feeding pans shall be durable and kept clean. The food receptacles shall be sanitized at least once every two weeks. Disposable food receptacles may be used but must be discarded after each feeding. Self-feeders may be used for the feeding of dry food, and they shall be sanitized regularly to prevent molding, deterioration or caking of food.

3. Clean potable water shall be available to the animals in conformance with the principles of good animal husbandry unless restricted for veterinary care. Watering receptacles shall be kept clean and shall be sanitized at least once every two weeks. (Ord. 2008-12 § 1 (part), 2008)

7.35.080 Kennel Construction Standards—General.

Every person who owns, conducts, manages or operates a kennel shall comply with each of the following conditions:

A. Construction and Maintenance. Housing facilities for animals shall be constructed, equipped, and maintained so as to continuously provide a healthful and sanitary environment, as approved by the Chief of Police, for the animals kept or to be kept therein.

B. Shelter and Exercise. There shall be adequate shelter from the elements and sufficient space for exercise.

C. Waste Disposal. There shall be adequate drainage and satisfactory sanitary disposal of both natural precipitation and animal wastes of all kinds. If disposal is by a sanitary sewage system, it must comply with the provision of the California Plumbing Code and other applicable ordinances and regulations. (Ord. 2008-12 § 1 (part), 2008)

7.35.090 Kennel Operating Standards—General.

Every person who owns, conducts, manages or operates a kennel shall comply with each of the following conditions:

A. Good Citizenship. No person shall allow any animal for which they are responsible to constitute or cause a hazard, or to be a menace to the health, safety, or peace of the community. Each animal for which the person is responsible shall be kept in such a manner as may be prescribed to protect the animals from the public and the public from the animals.

B. Cruelty. Each person who is responsible for an animal shall take every reasonable precaution to insure that animals are not teased, abused, mistreated, annoyed, tormented, or in any manner made to suffer by any person or means. Any tack, equipment, device, substance, or material that is or could be injurious or cause unnecessary cruelty to any animal is prohibited. Animals which are natural enemies, temperamentally unsuited, or otherwise incompatible shall not be quartered together or so near each other as to cause injury or torment. Antibark collars and sedatives shall not be used by operators on any animal without the written permission of the owner of the animal.

C. Health. No person shall display any animal bearing evidence of malnutrition, ill health, unhealed injury, or having been kept in an unsanitary condition. Operator shall isolate sick or diseased animals from healthy animals at all times and in such a way that diseases or parasites will not be transmitted to other animals. The Chief of Police or his/her designee may order any animal to be examined and/or treated by a veterinarian.

D. Vector Control. There shall be adequate and effective means of control of insects and rodents and such control must be vigorously maintained at all times.

E. Waste Disposal. Each person shall provide for the daily disposal of all animal feces and wastes. If disposal is by other than a sanitary sewerage system, dead animals, manure, and wastes shall be collected not less often than daily, and shall be stored in fly-tight containers until removed.

F. Escaped Animals. Operator has full responsibility for recapturing any animal that escapes.

G. Exercise. All efforts to exercise animals shall be documented on a "Daily Exercise Log." This log shall be open to inspection by the Chief of Police. Logs shall be maintained for a period of one year. (Ord. 2008-12 § 1 (part), 2008)

7.35.100 Indoor Kennel Standards.

Every person who owns, conducts, manages or operates a kennel shall comply with each of the following applicable conditions for indoor housing facilities:

A. Heating. Kennels shall be sufficiently heated when necessary to protect the animals from cold and to provide for their health and comfort.

B. Ventilation. Kennels shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such kennels shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be so ventilated as to minimize drafts, odors, and condensation of moisture. Auxiliary ventilation, such as exhaust fans or vents or air conditioning, shall be provided when the temperature at the level of the animals is eighty-five (85) degrees Fahrenheit or higher.

C. Lighting. Kennels shall have ample and well-distributed light by natural or artificial means adequate to permit routine observation of the animals and/or proper cleaning of the facilities.

D. Interior Surfaces. Interior surfaces of commercial kennels and non-profit kennels shall be constructed and maintained so that they are substantially impervious to moisture and may be readily sanitized.

E. Drainage. A suitable method shall be provided to rapidly eliminate excess water at commercial kennels and non-profit kennels. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors therefrom. If closed drainage systems are used, they shall be equipped with traps and installed in accordance with plumbing codes and applicable ordinances and regulations so as to prevent any backup of sewage onto the floor of the room. (Ord. 2008-12 § 1 (part), 2008)

7.35.110 Outdoor Kennel Standards.

Every person who owns, conducts, manages or operates a kennel shall comply with each of the following conditions for outdoor housing facilities:

A. When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to allow animals kept outdoors to protect themselves from the direct rays of the sun.

B. The animals shall be provided with access to shelter to allow them to remain dry during inclement weather.

C. When the atmospheric temperature falls below fifty (50) degrees Fahrenheit, sufficient clean bedding material or other means of protection from the weather shall be provided for those animals not acclimated thereto. (Ord. 2008-12 § 1 (part), 2008)

7.35.120 Kennels for Dogs.

Every person who owns, conducts, manages or operates a commercial kennel or non-profit kennel housing dogs shall comply with each of the following conditions:

A. Exterior Enclosed. The exterior of the commercial kennel or non-profit kennel area shall be completely fenced or otherwise enclosed.

B. Run Sizes. All commercial kennels or non-profit kennels housing dogs shall have runs. Each single run shall have a minimum floor area of sixteen (16) square feet, not including the housing area, and the width shall be not less than three linear feet. Each dog confined in such run shall be provided a minimum square footage of floor space equal to twice the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, expressed in square feet.

C. Run Construction. Runs shall be constructed to effectively enclose the dogs housed therein. Construction shall permit ready observation and handling of dogs confined, and also for ease of cleaning. Dogs belonging to different owners shall not be housed or penned together without the written approval of all owners concerned. All runs shall be constructed as follows:

1. Concrete, asphalt, or other nonporous material, with a slope to a drain or gutter of not less than onefourth (1/4) inch per foot; such drain or gutter shall be connected to an approved sewerage system as required by the California Plumbing Code;

2. Pea gravel or other suitable material of sufficient thickness, and over an adequately porous base to assure that all liquids are readily drained away (no matter from what source) and that solid material can be readily removed and properly disposed of. The finding of heavy concentrations or parasite eggs in samples taken from the upper three inches of the run floor shall be adequate evidence that the cleaning and sanitation of the run is not being satisfactorily accomplished; or

3. Any manner which assures that all waste material can be easily removed and/or washed away, and that the run and surrounding area is sanitary and free from parasitic buildup.

D. Commercial Kennels Boarding Dogs not Owned by the Operator or Owner of the Commercial Kennel. All commercial kennels shall require an owner's written statement that his dog(s) is immunized against distemper, hepatitis, and leptospirosis before accepting dogs for boarding or breeding.

E. Housing Size. Primary enclosures must also comply with one of the following:

1. Regular Housing. The run must be contiguous with the enclosure, or other shelter acceptable to the Chief of Police which is continuously accessible and shall provide each dog housed therein a minimum square footage such that the dog can turn about freely and easily stand, jump, sit, or lie in a comfortable position.

2. Temporary Housing. For animals being transported in a vehicle, held at a pet show, or otherwise temporarily housed for not more than seventy-two (72) hours, or as otherwise specified by the Chief of Police, the house (cage, crate, etc.) must provide sufficient space to allow each dog to turn freely and to easily stand, sit, and lie in a comfortable position. After each twelve (12) hours of confinement in such an enclosure, the dog must be removed to an exercise area of not less than sixteen (16) square feet, for at least one full hour. The finding of a dog being forced to lie in its own excrement shall be considered evidence that the provisions of this section are being violated.

F. Housing Construction. All primary enclosures shall be structurally sound and maintained in good repair to protect the dogs from injury, to contain them and to keep predators out. They shall be constructed and maintained so as to enable the dogs contained therein to remain dry and clean, and to permit regular and effective sanitation. The dogs contained therein shall have convenient access to clean drinking water. If the floor is solid and the dog cannot exit at will, there shall be newspapers, shavings, or other absorbent material on the floor. (Ord. 2008-12 § 1 (part), 2008)

7.35.130 Cat Enclosure Construction.

Every person who owns, conducts, manages or operates a commercial kennel or non-profit kennel housing cats shall comply with each of the following conditions:

A. Enclosures shall be constructed to effectively enclose the cats housed therein.

B. Construction shall permit ready observation and handling of cats confined, and also ease of cleaning.

C. There shall be elevated solid resting shelves or surfaces of adequate size to comfortably hold all occupants of the enclosure at the same time.

D. Enclosures shall be floored in any manner which assures that all waste material can be easily removed and/or washed away, and that the enclosure and surrounding area is sanitary and free from parasitic buildup.

E. The enclosure shall contain clean drinking water and a receptacle containing sufficient clean litter to contain the excreta. (Ord. 2008-12 § 1 (part), 2008)

7.35.140 Rabies Vaccination.

It is the responsibility of the operator or on duty manager to be able to prove at any time that all dogs on the premises, which are over four months of age, have been properly vaccinated against rabies. (Ord. 2008-12 § 1 (part), 2008)

7.35.150 Identification.

A commercial kennel or non-profit kennel operator must maintain some type of animal or cage identification system by which the records required to be maintained in the office can be related to individual animals.

A. For dogs required to be individually licensed, this shall consist of: (1) the license tag either on the dog; (2) the license tag number recorded and placed nearby so that it is readily identifiable with the dog to which it belongs; or (3) if the dog is not licensed, that fact shall be clearly noted on the kennel record.

B. For a dog staying on a temporary basis, which is not required to be individually licensed, the custodian must have in his/her possession some identification and evidence of his/her relationship to the owner thereof. (Ord. 2008-12 § 1 (part), 2008)

7.35.160 Fees.

The City Council shall establish by resolution, and from time to time may amend, the fees for the administration of this chapter. Fees required by this chapter shall be in addition to any required under any other chapter of this Code. Non-profit kennels shall not be charged any fees associated with the administration of this chapter. (Ord. 2008-12 § 1 (part), 2008)

7.35.170 New/Existing Permittees.

A. Commencing on the effective date of the ordinance codified in this chapter, all permits are to be issued in accordance with the provisions of this chapter. Any operator who does not have a permit, shall obtain a permit within ninety (90) days of the effective date of the ordinance codified in this chapter.

B. Existing operator's permits shall continue in effect until expiration or one year after the effective date of the ordinance codified in this chapter, whichever is sooner. (Ord. 2008-12 § 1 (part), 2008)

7.35.180 Transfer and Duration of Permits.

A. No permit issued hereunder shall be transferable to any other person or kennel.

B. Operator's permits shall be for a period of three years provided that the operator continues to meet the requirements set out in this chapter.

C. Applications for the next ensuing permit shall be filed with the Chief of Police before the expiration of the existing permit. Temporary permits will not be issued and renewal applications must be filed no later than sixty (60) calendar days prior to the expiration of the permit to prevent a lapse of the permit.

D. Renewal applications shall require such information as may be required by the Chief of Police to update the information contained in the original permit application. The applicant shall accompany the application for renewal with the appropriate filing fee established by resolution of the City Council. (Ord. 2008-12 § 1 (part), 2008)

7.35.190 Suspension, Revocation, Denial and Appeal.

A. Violation and Noncompliance. The Chief of Police may deny an application for a permit, may refuse to renew a permit or may revoke or suspend an existing permit on the grounds that the applicant or permit holder has failed to comply with the permit conditions, based on the grounds set forth in Section <u>7.35.050</u> of this chapter or other requirements of this chapter. If a suspended permit lapses during the suspension period, a new application must be made at the end of the suspension period. In any such case, the applicant or permit holder shall have the right to appeal to an Administrative Hearing Officer in the time and manner set forth in this section.

B. Notice. When the Chief of Police concludes that grounds for denial, suspension, revocation or refusal to renew an existing permit, the Chief of Police shall serve the applicant or permit holder, either personally or by certified mail addressed to the business or residence address of applicant or permit holder, with a notice of denial or notice of intent to suspend, revoke or refuse to renew existing permit. This notice shall state the reasons for the proposed action, the effective date of the decision, the right of the applicant or permit holder to appeal the decision to an Administrative Hearing Officer, and the decision will be final if no appeal is filed within the time permitted.

C. Appeal.

1. The right to appeal to an Administrative Hearing Officer shall terminate upon the expiration of fifteen (15) calendar days of the date of mailing of the notice. The notice of appeal is to be sent to the Police Department of the City of Newport Beach.

2. In the event an appeal is timely filed, the suspension or revocation shall not be effective until a final decision has been rendered by the Administrative Hearing Officer. If no appeal is filed, the suspension or revocation shall become effective upon expiration of the period for filing appeals.

3. Procedures for appeals to an Administrative Hearing Officer shall be the same as the appeal procedures set forth in Chapter <u>1.05</u> of this Code, except as expressly set forth in this section. (Ord. 2008-12 § 1 (part), 2008)

The Newport Beach Municipal Code is current through Ordinance 2019-12, passed July 23, 2019.

Disclaimer: The City Clerk's Office has the official version of the Newport Beach Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

AMENDMENTS TO THE ZONING ORDINANCE AND COASTAL LAND USE IMPLEMENTING ORDINANCE TO ADD ANIMAL KENNEL AS AN ALLOWED USE IN CERTAIN ZONING DISTRICTS

CITY COUNCIL OCTOBER 8, 2019

Background

- Currently animal kenneling only allowed within Animal Hospitals
- City Council requested staff to research provisions for allowing animal kennels as a stand-alone use in the City
- Staff requests additional direction on specific provisions
- The code amendments must be reviewed by the Planning Commission prior to consideration by City Council

Current Regulations

Definition of Kennel

- Lot or premises on which four (4) or more dogs or cats or kept or boarded
- Currently only allowed incidental to an animal hospital
- Animal related uses are only allowed in the Commercial and MU Zones
- The majority of current animal uses require a Conditional Use Permit (CUP)

Current Regulations continued

Example of current Zoning Code

10-2.620 Land use regulations: C-2, C-2A, and C-2B commercial zones, and C-2-PD pedestrian-oriented commercial zone.

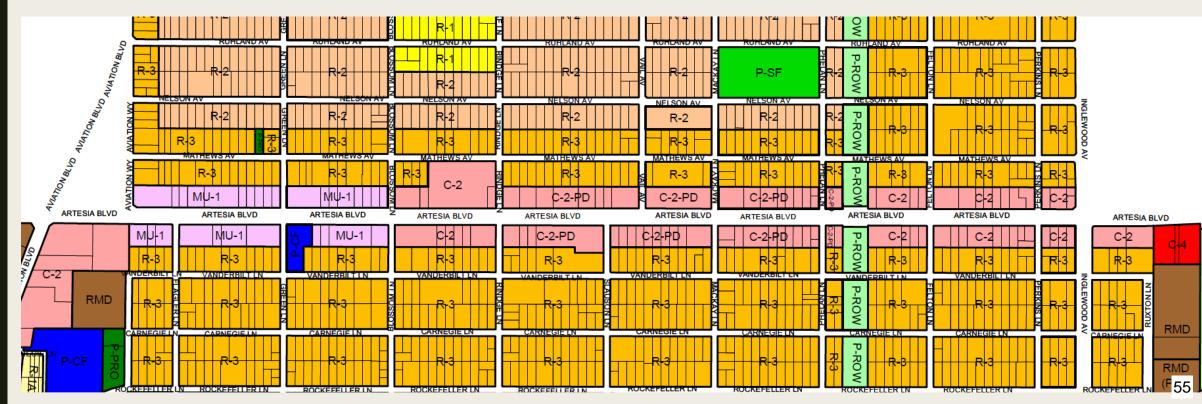
In the following schedule the letter "P" designates use classifications permitted in the specified zone and the letter "C" designates use classifications permitted subject to approval of a Conditional Use Permit, as provided in Section 10-2.2506. Where there is neither a "P" nor a "C" indicated under a specified zone, or where a use classification is not listed, that classification is not permitted. The "Additional Regulations" column references regulations located elsewhere in the Municipal Code.

Use Classifications	C-2	C-2A	C-2B	C-2-PD	Additional Regulations See Section:
Commercial Uses				1	
Ambulance services	C	C	C	<u>1</u>	
Animal sales and services:			2		
Animal feed and supplies	Р	Р	Р	Р	
Animal grooming	P C C	С	P C C	P C	
Animal hospitals	C	С	С		
Animal sales	C	С	С	C	
Artist's studios	Р	P	Р	P	
Banks and savings and loans	P	Р	Р	Р	
with drive-up service	C	С	С	C	
Bars and cocktail lounges	C	C	C	C	10-2.1600
Body art studios	C	C	C	C	10-2.1630
Building material sales	C	C	С		
Business and trade schools	C	C	C	C	
Check-cashing businesses	C	C	С	C	10-2.1600
Commercial printing	Р	Р	Р		
Commercial printing, limited	Р	Р	Р	P	
Commercial recreation	C	C	С	C	10-2.1600
Communications facilities	C	C	С	C	
Drive-up services	с	С	С	C	

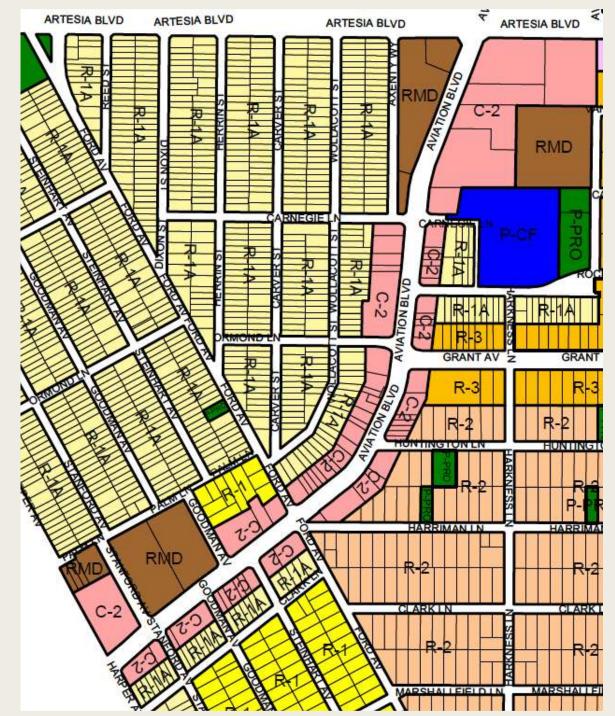
- California Health and Safety Code regulates pet boarding facilities
- Staff report provides background on other cities' regulations
- Most cities require a CUP
- In some municipalities kennels are allowed in industrial zones in addition to commercial zones
- Some cities require a buffer distance from residential properties
- Certain cities also incorporate conditions related to noise attenuation, staffing, enclosure safety, sanitation

Effect of a residential buffer zone in Redondo Beach:

- Artesia Blvd



- Effect of a residential buffer
 zone in Redondo Beach:
 - Aviation Blvd

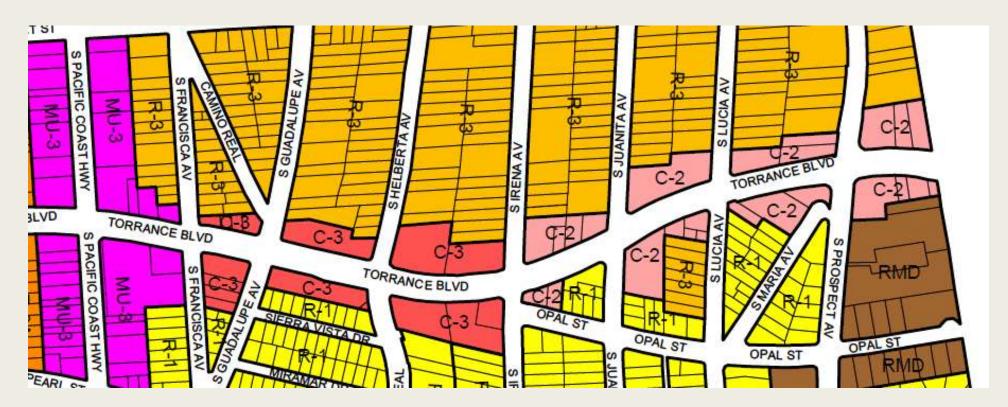


Effect of a residential buffer zone in Redondo Beach: S PCH



Effect of a residential buffer zone in Redondo Beach:

- Torrance Blvd



Effect of a residential buffer zone in Redondo Beach:

- Manhattan Beach Blvd



Recommendation

Staff recommends the following provisions:

- \circ Staff recommends animal kennels require a CUP
- Zoning Districts to include Commercial, Mixed-Use, and Industrial
- Alternative to a residential buffer zone of minimum separation between animal kennel businesses, if Council deems necessary
- \circ $\,$ Incorporating the CA Public Health Code by reference

Provide direction to staff regarding Council interest in regulations for:

- Noise attenuation/sound proofing
- o Sanitation/waste disposal
- Staffing levels and if certifications should be required
- Limitation on number of animals per square foot
- o Exercise requirements
- Any other requirements or conditions City Council deems important

Direct Staff to prepare Ordinances for review by Planning Commission

From:	A Bark Idea		
To:	<u>CityClerk</u>		
Subject:	Dog Kenneling N2		
Date:	Tuesday, October 1, 2019 3:40:11 PM		
Attachments:	Dog Kenneling N2.pdf		

ATTN: Email is from an external source; Stop, Look, and Think before opening attachments or links.

To whom it may concern,

I have attached a document that addresses any and all concerns I feel the city of Redondo Beach may have with allowing dog kenneling. I am sorry I will not be able to attend the city council meeting tonight. Thank you for your time.

Cami Barth

To the city of Redondo Beach,

My name is Cami Barth, owner of A Bark Idea, and I am trying to adjust the dog kenneling code in the city of Redondo Beach to allow dog kenneling. I am sorry I am not able to attend the City Council meeting this evening. I am taking an exam early tomorrow morning in order to become CCPDT certified. This dog training certification is the only certification that is recognized in North America by veterinarians and dog professionals. I am eager to open a boutique board and train facility in Redondo Beach. I would like to address a few topics in regards to what it would look like for the city of Redondo Beach if I were to open my store here. Firstly, I would like to bring up the issue of noise. Barking is a learned bad behavior amongst dogs when they play. Considering I would like to open a boarding and training facility and I am a certified dog trainer, barking will not be tolerated. I have the tools to teach the dogs an alternative behavior instead of barking.

In addition, I am looking to open a boutique style facility, which means I will have a limited amount of dogs. Many of the dog daycares in the South Bay take up to 100 dogs at a time. From my education, this is a stressful environment for many dogs and can contribute to barking. I am not trying to open a cage free daycare. Again, from my education, dogs need to have quiet time in order to be the best dogs they can be. I am planning on opening a facility that will allow each dog to have his or her own designated space. This will create a calm environment for the dogs that will result in more relaxed pups. In addition to each dog having his or her own designated space, each space will have an appropriate sized crate in case of an emergency. The safest place for a dog to be during an emergency is in a crate. During emergencies, many dogs run away due to survival instincts.

Another topic I would like to address is waste and sanitation. The dog daycares in the South Bay use trash bins for dog waste. I know Redondo Beach has trash bins, so that is where I assume the dog waste will go. I have already been in touch with a veterinarian in regards to how to keep my store safe and clean for the dogs. I will be using KennelSol, which is a germicidal cleaner and deodorizer that is safe to use around dogs. Before accepting any new dogs into my facility I will be strict about receiving and reviewing any and all documents from the dogs vet making sure a new dog is up to date on all vaccinations and is on flea medications. Prior to accepting any new adult dog I will go over the dogs history. Any dog that has a bite history with a dog or person will not be permitted to stay in my facility. In addition to having the proper medical documents and aggression history on a new dog, I will enforce that the dog must be licensed. This will help Redondo Beach keep better tract of the dogs in their city. I am trained to recognize any and all symptoms that require emergency medical treatment if a dog is sick while staying in my facility. I am also trained how to properly prevent dogfights and notice warning signs that a dog may be too stressed or in need of a break from the other dogs. If a dogfight were to break out, I am equipped with the proper tools and education on what to do and how to keep everyone and the other dogs safe.

The people of Redondo Beach should be able to leave their furry family members in their home city, instead of having to go to the neighboring cities of Redondo Beach for dog kenneling. My biggest priority is the safety of the dogs. Safety not only means running a clean facility, but also the well being of each and every dog that will stay with me.



Administrative Report

Council Action Date: 10/8/2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

<u>TITLE</u>

DISCUSSION AND POSSIBLE ACTION REGARDING IMPLEMENTING A CITY-WIDE SMOKING BAN IN PUBLIC EXCEPT FOR DESIGNATED SMOKING AREAS, DISALLOWING POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS, AND ESTABLISHING A LOCAL TOBACCO RETAIL PERMIT AND PROCESS FOR ALL TOBACCO RETAILERS IN THE CITY

A. INTRODUCE BY TITLE ONLY ORDINANCE NO. O-3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS. FOR INTRODUCTION AND FIRST READING;

OR

- B. INTRODUCE BY TITLE ONLY ORDINANCE NO. O-3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS AND DISALLOWING POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS. FOR INTRODUCTION AND FIRST READING;
 - AND
- C. INTRODUCE BY TITLE ONLY ORDINANCE NO. 0-3194-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS. FOR INTRODUCTION AND FIRST READING.

EXECUTIVE SUMMARY

In response to a Strategic Plan objective, staff has prepared draft ordinances to establish a City-wide smoking ban in public places and implement a local tobacco retail permit. The City Council discussed the draft ordinances at three meetings, provided direction, and supported the City-wide smoking ban with the exception of designated areas and the Local Tobacco Retail Permit Ordinance.

BACKGROUND

On September 18, 2018, May 7, 2019 City Council discussed potential tobacco regulations. The 64

meetings included testimony from representatives of the Beach Cities Health District, the Coalition for Tobacco Free Los Angeles County, Los Angeles County Department of Public Health, Asian American Drug Abuse Program, along with City residents. After discussion, the Council was favorable to establishing tobacco regulations utilizing a stepped approach, where stricter regulations could be implemented over time, if needed. City Council directed staff to prepare ordinances for a local retail tobacco control permit and smoke free public places. Draft ordinances were reviewed by City Council on September 3rd and October 1st, 2019. Based on feedback from each of those meetings, staff incorporated requested changes to the drafts and proposed ordinances are being presented tonight for reintroduction and first reading.

City-wide Smoking Ban in Public Places

Existing law prohibits smoking in public parks and the pier. Based on City Council direction, the new ordinance would expand the prohibition and defines additional public areas where smoking would be prohibited. The proposed ordinance would define "Public place as "any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public." The smoking ban would include areas within twenty (20) feet of any door, window, opening, or vent into a public place. Residential property and moving vehicles are excluded from the ban. Violations would be punishable by infraction.

Additionally, the ordinance includes an updated definition of "smoking" and "smoke" to include electronic smoking devices and marijuana smoke.

City Council was supportive of providing an option for commercial businesses to create a designated smoking area and the ordinance contains language for this provision.

Staff has prepared two (2) ordinances for City Council consideration. The first ordinance reflects the provisions specified by Councilmember Emdee's motion, carried unanimously (1) changing the provisions of the designated smoking area(s) to be approved in the city; (2) deeming tobacco smoke a nuisance and (3) adding a private right of action for enforcement of the provisions of the ordinance. The second ordinance was prepared pursuant to the City Council's direction to staff. At the "Mayor and Council Referrals to Staff" portion of the meeting, Councilmember Nehrenheim made a motion for city staff to return with an ordinance banning possession of tobacco products on school property for persons under twenty-one (21) years of age. After some clarification, Councilmember Nehrenheim further specified that he would like the penalty for violation to be an "educational program." As Mr. Webb stated during this discussion, the City Attorney's office and Police Department had begun working on this item prior to the Council's direction on October 1, 2019. As such, the City Attorney's Office had language available to add to the existing public smoking ordnance which would meet the criteria of Councilman Nehrenheim's motion. That ordinance is the second ordinance presented for first reading and adoption.

Local Tobacco Retail Permit

Also consideration this evening, is an ordinance establishing a local tobacco retail permit. The local permit is a valuable mechanism that allows the City to establish its own stricter local tobacco regulations and helps fund enforcement.

N.1., File #19-0329

By implementing a local tobacco retail permit ordinance, the current 43 tobacco retailers, and any new, would be required to obtain and maintain an annual Tobacco Retail Permit with the City of Redondo Beach, in addition to their City Business License. Tobacco retailers include any business location where tobacco, tobacco products, and tobacco paraphernalia are sold.

Provisions included in the tobacco retail permit are:

- Defining "tobacco products" to include electronic smoking devices
- Prohibiting the sale of all flavored tobacco products
- No sales to minors
- Banning self-service displays
- Requiring an inspection once a year
- Allowing undercover enforcement
- Non-transferrable

At the September 3, 2019 meeting, discussion occurred among City Council regarding the extent to which flavored products should be banned. The proposed ordinance presented that evening excluded mint, spearmint, wintermint, and menthol from the sale prohibition, based on the assumption that those were not typical flavors which are attractive to youth. However, after public testimony to the contrary and further discussion, Council provided direction to staff to include mint and menthol variations in the definition of "flavored" and ban the sale of all flavored tobacco products. Further discussion on October 1, 2019 resulted in direction from Council to allow an exemption from the flavor ban provision specifically to hookah lounges that allow only patrons 21-years of age and older or active military 18-years of age and older to enter the location. These hookah lounges will be allowed to sell flavored products for both consumption at the location and off-site (i.e. retail sales to customers). All other retailers within the City must comply with the flavor ban.

Enforcement would be administrative, with written notices for initial violations that would allow the business to take corrective actions. Non-compliance, or further violations, will result in a 60-day suspension, then a 90-day suspension for further violation, and potential revocation for continued violations.

Based on the City Council's direction, current tobacco retailers will have a one (1) year grace period to comply with this ordinance.

Annual Permit Fee

After adoption of the Tobacco Retail Permit Ordinance, an annual permit fee will be established within the City's Master Fee Schedule, by separate Resolution, in an amount not to exceed the City's reasonable costs of permit administration, including staff time for inputting, processing, monitoring, and enforcing. A proposed resolution with the recommended fee amount will be presented to City Council at a future meeting with an administrative report detailing other municipalities' fees and the basis for the City's proposed fee.

COORDINATION

The preparation of the administrative report and ordinances have been coordinated with the City Attorney's Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department's portion of the adopted 2019-20 Annual Budget and is part of the department's annual work program.

Fiscal impact of a Tobacco Retail Permit will be assessed upon adoption of a resolution establishing the permit fee.

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS

- Ordinance City-wide smoking ban with exception of designated smoking areas
- Ordinance City-wide smoking ban with exception of designated smoking areas and disallowing possession and use by minors on school grounds
- Ordinance Local Tobacco Retail Permit
- October 1, 2019 City Council Administrative Report
- Public Comment Letters

ORDINANCE NO. O-3193-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS

WHEREAS, thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, many adult cigarette smokers want to quit smoking. In 2015, Nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking and more than 5 in 10 (55.4%) adult cigarette smokers had made a quit attempt in the past year; and

WHEREAS, laws which ban smoking in public places aid those who are trying to quit smoking by making it more difficult to smoke outside and seeing fewer smokers; and

WHEREAS, tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and

WHEREAS, more than 440,000 people die in the United States from tobaccorelated diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

WHEREAS, The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure; and

WHEREAS, secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and

WHEREAS, secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and

WHEREAS, according to the CDC, Smoking leads to disease and disability and harms nearly every organ of the body and is the leading cause of preventable death; and

WHEREAS, 84% of Californians are non-smokers and there is no Constitutional right to smoke; and

WHEREAS, California law declares that anything that is injurious to health or obstructs the free use of property so at to interfere with the comfortable enjoyment of life or property is a nuisance; and

WHEREAS, local governments have broad latitude to declare nuisances and are not constrained by prior definitions of nuisance; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes aremarketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts WarnAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, a study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously." *McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health*; and

WHEREAS, between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research*; and

WHEREAS, recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. CBS News. "Electronic Cigarette Explodes in Serious Injuries." Man's Mouth, Causes February 16, 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." http://fox13now.com/2013/12/09/e-cigarette-explodes-while-2013. December 9, charging; and

WHEREAS, cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, according to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, to aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, a reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and WHEREAS, the adoption of this smoking prohibition would lead to a reduction in smoking waste that is deposited into the storm drain system by eliminating the areas in the public right-of-way that area available for smoking; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and tobacco licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, City staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, after robust discussion of the City Council and participation of the public, the City Council directed staff to draft an ordinance banning smoking in public rights of way and private property that is accessible to the public; and

WHEREAS, the City Council further provided that violations of this ordinance would constitute an infraction; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and electronic smoking devices (or esd's); and

WHEREAS, the City Council further specified the enforcement and penalty provisions of the ordinance, providing annual inspections as well as a 60, then 90-day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, on September 3, 2019 the City Council directed staff to bring back ordinances to: (1) create a local tobacco retail permit, regulating the businesses in the City that sell tobacco products and (2) disallow smoking in public except in designated smoking areas; and

WHEREAS, on October 1, 2019 the City Council further refined its direction to (1) change the exemption for sales of flavored tobacco products to solely include licensed hookah businesses and (2) to amend the provisions of the designated smoking areas, deem second-hand smoke a nuisance and create a private right of action for enforcement; and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; to declare smoking tobacco in public a nuisance; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.101 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.101 Definitions

(a) "Designated Smoking Area" means an area designated by a business where patrons or employees are permitted to smoke, as defined in subsection (e) of this Section.

(b) "Employee" means any person who is employed by, or retained as an independent contractor by, any Employer, or any person who volunteers his services for a business or Employer.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(e) "Place of employment" means any area under the legal or de facto control of an employer that an employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

(f) "Public place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

(g) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(h) "Smoking" means the release of gases, particles, or vapors into the air as the result of combustion, electrical ignition, or vaporization and/or inhaling, exhaling, burning or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation.

(i) "Tobacco product" means:

(1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(2) Any electronic smoking device, with or without nicotine.

(3) Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.102 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.102 Prohibition of Smoking.

(a) Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited in the following locations:

(1) Public places;

(2) The interior of places of employment, including those regulated by California Labor Code Section 6404.5;

(3) Any area within five feet (5') of any door, window, opening, or vent, into a public place.

(b) Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code:

- (1) Private residential property, other than those used as a child-care or healthcare facility subject to State licensing requirements.
- (2) Within a moving vehicle
- (3) As provided in Section 5-9.105.

(c) No person shall dispose of any smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for smoking waste."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.103 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.103 Designated Smoking Area

(a) A business owner in the City may request, with the permission of the property owner or landlord, the creation of a designated smoking area to be located on their property. The business owner may make an application to the Community Development Department to create a Designated Smoking Area which must comply with the following restrictions:

(1) The Designated Smoking Area must be located completely within the business' property line;

(2) The Designated Smoking Area must not be within five feet (5') of any door, window, opening, or vent, into a public place or private residence;

(3) The Employer must post a sign or signs outside the retail location that clearly, sufficiently and conspicuously informs the public that it is a designated smoking area; the signage must be compliant with Zoning Code Title 10, Chapter 2, Article 6 or Title 10, Chapter 5, Article 6, as applicable;

(4) The Designated Smoking Area must contain appropriate trash receptacles for smoking;

(5) The Designated Smoking Area can be created and be no more than twentyfive (25%) percent of the total outdoor area of the premises on which it is located; (6) The Designated Smoking Area may not include outdoor areas used by children; including, but not limited to, playgrounds and other areas improved or designated for play or swimming;

(7) The Designated Smoking Area must have a clearly marked perimeter;

(8) The Designated Smoking Area must be identified by conspicuous signs;

(9) If the requirements for the Designated Smoking Area cannot be satisfied due to unique circumstance affecting a business or property, the City Manager or designee may approve a smoking area that meets the requirements of this section to the extent practicable. If in his judgement such an area cannot be designed, the City Manager or designee may determine that such a smoking area is not appropriate at a particular location and not designate a smoking area at that location.

(b) An approved Designated Smoking Area will be issued a permit for the creation and maintenance of the area. Each Designated Smoking Area permit shall be prominently displayed in a publicly visible place at the permitted location.

(c) A permit fee for the issuance and maintenance of a Designated Smoking Area permit shall be set by resolution."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.104 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.104 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.105 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.105 Penalties

(a) Each separate violation of this chapter is an infraction punishable in accordance with Chapter 1-2.03 of this code.

(b) The City Council declares that exposing other persons to second-hand smoke constitutes a public nuisance and may be remedied as such.

(c) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.106 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.106 Private Right of Action.

(a) Pursuant to California Civil Code Section 3501 et seq., any person injured by a violation of this chapter may bring a civil action to enforce this chapter by way of a conditional judgment or an injunction. Upon proof of a violation, a court shall issue a conditional judgment or an injunction.

(b) Notwithstanding any legal or equitable bar against a person seeking relief on its own behalf, a person may bring an action to enforce this chapter solely on behalf of the general public. When a person brings an action solely on behalf of the general public, nothing about such an action shall act to preclude or bar the person from bringing a subsequent action based upon the same facts but seeking relief on his, her or its own behalf.

(c) Nothing in this chapter prohibits a person from bringing a civil action in small claims court to enforce this chapter, so long as the amount in demand and the type of relief sought are within the jurisdictional requirements of that court."

SECTION 7. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 8. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 9. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Easy Reader, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. O-3193-19 was duly introduced at a regular meeting of the City Council held on the 8th day of October, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 15th day of October, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk

ORDINANCE NO. O-3193-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS AND DISALLOWING POSSESSION AND USE OF TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS

WHEREAS, thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, many adult cigarette smokers want to quit smoking. In 2015, Nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking and more than 5 in 10 (55.4%) adult cigarette smokers had made a quit attempt in the past year; and

WHEREAS, laws which ban smoking in public places aid those who are trying to quit smoking by making it more difficult to smoke outside and seeing fewer smokers; and

WHEREAS, tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and

WHEREAS, more than 440,000 people die in the United States from tobaccorelated diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

WHEREAS, The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure; and

WHEREAS, secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and

WHEREAS, secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and

WHEREAS, according to the CDC, Smoking leads to disease and disability and harms nearly every organ of the body and is the leading cause of preventable death; and

WHEREAS, 84% of Californians are non-smokers and there is no Constitutional right to smoke; and

WHEREAS, California law declares that anything that is injurious to health or obstructs the free use of property so at to interfere with the comfortable enjoyment of life or property is a nuisance; and

WHEREAS, local governments have broad latitude to declare nuisances and are not constrained by prior definitions of nuisance; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes are marketed and sold to young people and are readily accessible online and via mall kiosks.

U.S. Food and Drug Administration. News Release, FDA and Public Health Experts Warn About Electronic Cigarettes. July 22, 2009. www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, a study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously." *McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health*; and

WHEREAS, between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research*; and

WHEREAS, recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. CBS News. "Electronic Cigarette Explodes in Man's Mouth, Causes Serious Injuries." February 16. 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." December 2013. http://fox13now.com/2013/12/09/e-cigarette-explodes-while-9. charging; and

WHEREAS, cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, according to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, to aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, a reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, the adoption of this smoking prohibition would lead to a reduction in smoking waste that is deposited into the storm drain system by eliminating the areas in the public right-of-way that area available for smoking; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and tobacco licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, City staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, after robust discussion of the City Council and participation of the public, the City Council directed staff to draft an ordinance banning smoking in public rights of way and private property that is accessible to the public; and

WHEREAS, the City Council further provided that violations of this ordinance would constitute an infraction; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and electronic smoking devices (or esd's); and

WHEREAS, the City Council further specified the enforcement and penalty provisions of the ordinance, providing annual inspections as well as a 60, then 90-day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, on September 3, 2019 the City Council directed staff to bring back ordinances to: (1) create a local tobacco retail permit, regulating the businesses in the City that sell tobacco products and (2) disallow smoking in public except in designated smoking areas; and

WHEREAS, on October 1, 2019 the City Council further refined its direction to (1) change the exemption for sales of flavored tobacco products to solely include licensed hookah businesses and (2) to amend the provisions of the designated smoking areas, deem second-hand smoke a nuisance and create a private right of action for enforcement; and

WHEREAS, on October 1, 2019 the City Council in its referrals to staff, voted unanimously to direct staff to bring back an ordinance disallowing possession or use of tobacco products on school grounds; and

WHEREAS, pursuant to California Government Code Section 7597, the City may locally "adopt and enforce additional smoking and tobacco control ordinances, regulations or policies" that are more restrictive than those provided by the state; and

WHEREAS, pursuant to the City Council's referral and our authority to do so pursuant to state law, staff has prepared this ordinance, which includes such provisions as directed; and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; to declare smoking tobacco in public a nuisance; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.101 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.101 Definitions

(a) "Designated Smoking Area" means an area designated by a business where patrons or employees are permitted to smoke, as defined in subsection (e) of this Section.

(b) "Employee" means any person who is employed by, or retained as an independent contractor by, any Employer, or any person who volunteers his services for a business or Employer.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part,

or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(e) "Place of employment" means any area under the legal or de facto control of an employer that an employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

(f) "Public place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

(g) "School" shall mean any public school in the Redondo Beach Unified School District or private school within the City. The definition of School includes private schools which are privately owned schools offering instruction in the several branches of learning and study required to be taught in the public schools by the Education Code of the State of California, providing for the education of children in kindergarten or grades 1 through 12 inclusive."

(h) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(i) "Smoking" means the release of gases, particles, or vapors into the air as the result of combustion, electrical ignition, or vaporization and/or inhaling, exhaling, burning

or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation.

(j) "Tobacco product" means:

(1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(2) Any electronic smoking device, with or without nicotine.

(3) Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.102 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.102 Prohibition of Smoking.

(a) Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited in the following locations:

- (1) Public places;
- (2) The interior of places of employment, including those regulated by California Labor Code Section 6404.5;

(3) Any area within five feet (5') of any door, window, opening, or vent, into a public place.

(b) Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code:

- (1) Private residential property, other than those used as a child-care or healthcare facility subject to State licensing requirements.
- (2) Within a moving vehicle
- (3) As provided in Section 5-9.105.

(c) No person shall dispose of any smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for smoking waste."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.103 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.103 Designated Smoking Area

(a) A business owner in the City, with the permission of the property owner or landlord, may request the creation of a designated smoking area to be located on their property. The business owner may make an application to the Community Development Department to create a Designated Smoking Area which must comply with the following restrictions:

(1) The Designated Smoking Area must be located completely within the business' property line;

(2) The Designated Smoking Area must not be within five feet (5') of any door, window, opening, or vent, into a public place or private residence;

(3) The Employer must post a sign or signs outside the retail location that clearly, sufficiently and conspicuously informs the public that it is a designated smoking area. The signage must be compliant with Zoning Code Title 10, Chapter 2, Article 6 or Title 10, Chapter 5, Article 6, as applicable;

(4) The Designated Smoking Area must contain appropriate trash receptacles for smoking;

(5) The Designated Smoking Area can be created and be no more than twentyfive (25%) percent of the total outdoor area of the premises on which it is located;

(6) The Designated Smoking Area may not include outdoor areas used by children; including, but not limited to, playgrounds and other areas improved or designated for play or swimming;

- (7) The Designated Smoking Area must have a clearly marked perimeter;
- (8) The Designated Smoking Area must be identified by conspicuous signs;

(9) If the requirements for the Designated Smoking Area cannot be satisfied due to unique circumstance affecting a business or property, the City Manager or designee may approve a smoking area that meets the requirements of this section to the extent practicable. If in his judgement such an area cannot be designed, the City Manager or designee may determine that such a smoking area is not appropriate at a particular location and not designate a smoking area at that location.

(b) An approved Designated Smoking Area will be issued a permit for the creation and maintenance of the area. Each Designated Smoking Area permit shall be prominently displayed in a publicly visible place at the permitted location. (c) A permit fee for the issuance and maintenance of a Designated Smoking Area permit shall be set by resolution."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.104 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.104 Other applicable laws.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.105 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.105 Penalties

(a) Each separate violation of this chapter is an infraction punishable in accordance with Chapter 1-2.03 of this code.

(b) The City Council declares that exposing other persons to second-hand smoke constitutes a public nuisance and may be remedied as such.

(c) The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.106 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.106 Private Right of Action.

(a) Pursuant to California Civil Code Section 3501 et seq., any person injured by a violation of this chapter may bring a civil action to enforce this chapter by way of a conditional judgment or an injunction. Upon proof of a violation, a court shall issue a conditional judgment or an injunction.

(b) Notwithstanding any legal or equitable bar against a person seeking relief on its own behalf, a person may bring an action to enforce this chapter solely on behalf of the general public. When a person brings an action solely on behalf of the general public, nothing about such an action shall act to preclude or bar the person from bringing a subsequent action based upon the same facts but seeking relief on his, her or its own behalf.

(c) Nothing in this chapter prohibits a person from bringing a civil action in small claims court to enforce this chapter, so long as the amount in demand and the type of relief sought are within the jurisdictional requirements of that court."

SECTION 7. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.107 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.107 Underage Tobacco Possession and Use on School Grounds.

(a) Any person under the age of twenty-one (21), who possess, or knowingly accepts or receives from any person, a tobacco product on the ground of a school is guilty of a public offense.

(b) Any person under the age of twenty-one (21) who violates commits a noncriminal violation, punishable by:

(1) For a first violation, an offender must perform sixteen (16) hours of community service and attend a joint police department and school-approved anti-tobacco and nicotine program.

(2) For a second and subsequent violation(s), an offender must perform twenty-four (24) hours of community service and attend a joint police department and school-approved anti- tobacco and nicotine program."

SECTION 8. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 9. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 10. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Easy Reader, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

ORDINANCE NO. 0-3193-19 ADDING CHAPTER 9, ARTICLE 1 TO TITLE 5 OF RBMC BANNING SMOKING IN PUBLIC IN THE CITY EXCEPT IN DESIGNATED SMOKING AREAS AND REGULATING POSSESSION AND TOBACCO PRODUCTS BY MINORS ON SCHOOL GROUNDS PAGE 11 STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. O-3193-19 was duly introduced at a regular meeting of the City Council held on the 8th day of October, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 15th day of October, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk

ORDINANCE NO. O-3194-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS

WHEREAS, Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States, causing an estimated 31,200 structure fires and 830 deaths in 2001; and

WHEREAS, The tobacco industry spends billions of dollars each year on cigarette and smokeless tobacco advertising and promotions; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes are
marketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts Warn
AboutAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, A study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously."

McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health; and

WHEREAS, Between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research*; and

WHEREAS, Recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. CBS News. "Electronic Cigarette Explodes in Man's Mouth. Causes Serious Iniuries." Februarv 16. 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." http://fox13now.com/2013/12/09/e-cigarette-explodes-while-December 9, 2013. charging; and

WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and cigarette licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, on May 7, 2019, the City Council provided specific direction for staff to draft an ordinance disallowing smoking in public places and a local tobacco retailer regulation ordinance; and

WHEREAS, the City Council specified the requirements for issuance of a local tobacco retail permit as well as enforcement requirements providing that staff perform annual inspections as well as a 60, then 90-day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and regulating the sales of electronic smoking devices (or esd's); and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.201 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.201 Definitions.

(a) "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the

transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter, is not an arm's length transaction.

(b) "Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Enforcement official" means any member of the Redondo Beach Code Enforcement Division, the Redondo Beach Police Department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County Sheriff's Department, or their designees.

(e) "Package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

(f) "Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(g) "Self-service display" means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or retailer's agent or employee. A vending machine is a form of self-service display.

(h) "Smoking" means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation that facilitates the release of gases, particles, or vapors into the air.

(i) "Tobacco paraphernalia" means any item designed for the consumption, use, or preparation of tobacco products.

(k) "Tobacco product" means:

(1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(2) Any electronic smoking device, with or without nicotine.

(3) Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(I) "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(m) "Tobacco retail permit" means a valid and current permit issued by the City of Redondo Beach allowing a retail location to sell tobacco products."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.202 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.202 Tobacco Retailer Permit Required and Permit Shall be Displayed.

(a) It shall be unlawful for any person to act as a retailer of tobacco products and/or electronic smoking devices without first obtaining and maintaining a valid tobacco retailer permit pursuant to the provisions of this chapter for each location at which that activity is to occur.

(b) It shall be a violation of this chapter for any retailer to violate any local, state, or federal law applicable to tobacco products, electronic smoking devices, or the retailing of such products.

(c) Each tobacco retailer permit shall be prominently displayed in a publicly visible place at the permitted location."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.203 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.203 Tobacco Retail Permit Requirements

(a) **Tobacco Permit Eligibility.**

(1) No retailer permit may be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.

(2) No retailer permit may be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.

(3) No permit may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the Redondo Beach Zoning Ordinance.

(b) Application Procedure.

(1) Any person seeking a permit pursuant to this chapter shall submit a completed application, on a city-approved form, to the Community Development Department.

(2) The application for a permit under this chapter shall be submitted in the name of each and every business owner proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each business owner or an authorized agent thereof.

(3) Said application shall contain the following information:

i. The name, address, and telephone number of each business owner seeking a permit.

ii. The business name, address, and telephone number of the single, fixed location for which a permit is sought.

iii. A single name and mailing address of an agent authorized by the business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subsection (C)(2) of this section.

iv. Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer's license by the California Department of Tax and Fee Administration.

v. Whether any business owner or any agent of the business owner was previously issued a permit pursuant to this chapter which was at any time suspended or revoked, and, if so, the dates of the suspension period or the date of the revocation.

vi. Such other information as the Community Development Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this chapter.

(4) An applicant or agent thereof shall inform the Community Development Department in writing of any change in the information submitted on an application for a tobacco retailer registration within ten (10) business days of a change.

(5) The City Council may establish by resolution the amount of an application fee for the tobacco retailer permit in an amount not to exceed the City's reasonable cost of providing the services required by this chapter, in which case the City shall accept no application unless accompanied by payment of such fee.

(6) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.204 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.204 **Permit Issuance.**

(a) Upon the receipt of a completed application for a tobacco retailer permit and the corresponding application fee, if any, the Finance Department, with consultation of Community Development Department for location requirements, shall issue a permit unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

(1) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

(2) The application seeks authorization for tobacco retailing at a location prohibited by Section 5-9.203.

(3) The applicant has had a permit issued pursuant to this chapter revoked within the preceding twelve (12) months.

(4) The application seeks authorization for tobacco retailing that is otherwise prohibited pursuant to this chapter, that is unlawful pursuant to this Code (including without limitation the Redondo Beach Zoning Ordinance and business license regulations), or that is unlawful pursuant to any other law.

(5) The applicant is indebted to the city for any unpaid fee or fine.

(b) A decision to deny issuance of a retailer permit, or to revoke a retailer permit that has been wrongly issued, can be appealed to a hearing officer, subject to the following requirements and procedures. The hearing officer shall be designated by the City Manager.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action.

(2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) Term & Renewal

(1) A tobacco retailer permit issued pursuant to this chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this chapter. The expiration date of each tobacco retailer permit shall be shown on the permit itself and each tobacco retailer permit shall expire at midnight on the expiration date.

(2) Each tobacco retailer who seeks to renew a permit issued pursuant to this chapter shall submit a renewal application on a City-approved form and tender any applicable fees to the Finance Department no later than thirty (30) calendar days prior to the expiration of the permit. Any permit issued pursuant to this chapter that is not timely renewed shall expire and become null and void at the end of its term.

(3) An application to renew a permit issued pursuant to this chapter may be denied by the Community Development Department upon the grounds set forth in Subsection (a) of this Section. An appeal of such a decision shall follow the procedures set forth in Subsection (b) of this Section.

(d) **Permit is Non-Transferable.** A permit issued pursuant to this chapter may not be transferred from one (1) person to another or from one (1) location to another. A change in business owner, business name, or location shall render the permit null and void, and shall require a new permit to be obtained in accordance with the provisions of this chapter."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.205 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.205 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 twenty-one (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 thirty (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 twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location where the tobacco product may be consumed or purchased."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.206 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.206 Self Service Tobacco Purchases Prohibited.

No tobacco product or electronic smoking device shall be sold, offered for sale, or distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including but not limited to, machines or devices that use remote control locking mechanisms."

SECTION 7. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.207 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.207 Packaging and Labeling.

(a) No tobacco retailer shall sell any tobacco product to any consumer unless such product:

(1) is sold in the original manufacturer's package intended for sale to consumers; and

(2) conforms to all applicable federal labeling requirements."

SECTION 8. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.208 is hereby added to the Redondo Beach Municipal code and shall read as follows: "Section 5-9.208 Compliance Monitoring and Enforcement

(a) Compliance Monitoring and Enforcement.

(1) Compliance checks shall be conducted so as to allow enforcement officials to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco. The Chief of Police may also conduct compliance checks to determine compliance with other laws applicable to tobacco retailing.

(2) During business hours, enforcement officials shall have the right to enter any place of business for which a permit is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes.

(3) Enforcement officials shall inspect each tobacco retailer at least one (1) time per every twelve (12) month period.

(b) This Chapter does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws."

SECTION 9. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.209 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.209 Penalties for Violation

(a) The penalties for violations shall be as follows:

(1) The retailer's permit shall be suspended for sixty (60) days for the first violation of the provisions of this ordinance.

(2) The retailer's permit shall be suspended for ninety (90) days for the second violation of the provisions of this ordinance.

(3) The retailer's permit shall be revoked for the third violation of the provisions of this ordinance.

(b) Appeals. If a tobacco retailer seeks to challenge a decision to suspend or revoke their tobacco retail permit, that decision can be appealed to a hearing officer designated by the City Manager. The appeal shall be subject to the following requirements and procedures.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action. (2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) **New license after revocation.** Notwithstanding any other provision of this chapter, no tobacco retailer's license shall be issued to a tobacco retailer (or business owner thereof) whose license has previously been revoked pursuant to this chapter for a period of twelve (12) months from the date of the prior revocation, unless ownership of the business at the location has been transferred in an arm's length transaction."

SECTION 10. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.210 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.210 Permit Conveys a Limited, Conditional Privilege.

Nothing in this Chapter shall be construed to grant any person obtaining and maintaining a retailer permit any status or right other than the limited, conditional privilege to act as a retailer at the location in the City identified on the face of the permit."

SECTION 11. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 12. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 13. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Easy Reader, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption. PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No.O-3194-19 was duly introduced at a regular meeting of the City Council held on the 8th day of October, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 15th day of October, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk



Administrative Report

Council Action Date:10/1/2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

<u>TITLE</u>

DISCUSSION AND POSSIBLE ACTION REGARDING A CITY-WIDE SMOKING BAN IN PUBLIC PLACES AND IMPLEMENTING A LOCAL TOBACCO RETAIL PERMIT.

ADOPT BY TITLE ONLY ORDINANCE NO. 3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS. FOR SECOND READING AND ADOPTION.

RE-INTRODUCE BY TITLE ONLY ORDINANCE NO. 3194-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS. FOR RE-INTRODUCTION AND FIRST READING

EXECUTIVE SUMMARY

In response to a Strategic Plan objective, staff has prepared draft ordinances to establish a City-wide smoking ban in public places and implement a local tobacco retail permit. The City Council discussed the draft ordinances on September 3, 2019 and supported the City-wide smoking ban with the exception of designated areas and directed staff to revise the proposed Local Tobacco Retail Permit Ordinance. The City-wide smoking ban is being presented for second reading and adoption.

After the September 3, 2019 hearing, the City received a letter from the National Association of Tobacco Outlets (NATO), which is included in the public comment letters attached to this administrative report. The letter requests that the local tobacco retail permit ordinance be reintroduced for first reading, stating that the addition of more flavored products was a substantive change to the original draft ordinance presented. The revised ordinance has been brought back this evening for first reading in order to provide an opportunity for additional public input and comment.

BACKGROUND

On September 18, 2018, May 7, 2019 City Council discussed potential tobacco regulations. The meetings included testimony from representatives of the Beach Cities Health District, the Coalition for Tobacco Free Los Angeles County, Los Angeles County Department of Public Health, Asian American Drug Abuse Program, along with City residents. After discussion, the Council was favorable to establishing tobacco regulations utilizing a stepped approach, where stricter regulations could be implemented over time, if needed. City Council directed staff to prepare ordinances for *ε*104

local retail tobacco control permit and smoke free public places. Draft ordinances were introduced at the City Council meeting of September 3, 2019.

City-wide Smoking Ban in Public Places

Existing law prohibits smoking in public parks and the pier. Based on City Council direction, the new ordinance would expand the prohibition and defines additional public areas where smoking would be prohibited. The proposed ordinance would define "Public place as "any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public." The smoking ban would include areas within twenty (20) feet of any door, window, opening, or vent into a public place. Residential property and moving vehicles are excluded from the ban. Violations would be punishable by infraction.

Additionally, the ordinance includes an updated definition of "smoking" and "smoke" to include electronic smoking devices and marijuana smoke.

At the September 3, 2019 meeting, City Council was presented with two versions of the proposed ordinance, one being a City-wide ban with no exceptions, the second allowing commercial locations to create designated smoking areas for employees and patrons. After discussion, City Council was supportive of the ordinance allowing for designated smoking areas, and is presented at this time for second reading and adoption.

Local Tobacco Retail Permit

Also, for further consideration this evening, is an ordinance establishing a local tobacco retail permit. The local permit is a valuable mechanism that allows the City to establish its own stricter local tobacco regulations and helps fund enforcement.

By implementing a local tobacco retail permit ordinance, the current 43 tobacco retailers, and any new, would be required to obtain and maintain an annual Tobacco Retail Permit with the City of Redondo Beach, in addition to their City Business License. Tobacco retailers include any business location where tobacco, tobacco products, and tobacco paraphernalia are sold.

Provisions included in the tobacco retail permit are:

- Defining "tobacco products" to include electronic smoking devices
- Prohibiting the sale of all flavored tobacco products
- No sales to minors
- Banning self-service displays
- Requiring an inspection once a year
- Allowing undercover enforcement
- Non-transferrable

At the September 3, 2019 meeting, discussion occurred among City Council regarding the extent to which flavored products should be banned. The proposed ordinance presented that evening excluded mint, spearmint, wintermint, and menthol from the sale prohibition, based on the assumption that those were not typical flavors which are attractive to youth. However, after public 105

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testimony to the contrary and further discussion, Council voted to include mint and menthol variations in the definition of "flavored" and ban the sale of all flavored tobacco products. Locations which allow only patrons 21-years of age and older or active military 18-years of age and older would be excluded from the provisions.

After the hearing, the City received a letter from the National Association of Tobacco Outlets (NATO), included in the public comment letters attached to this administrative report. The letter requests that the local tobacco retail permit ordinance be re-introduced for first reading, stating that addition of more flavored products was a substantive change to the original draft ordinance presented. The revised ordinance has been brought back this evening for first reading in order to provide an opportunity for additional public input and comment.

Enforcement would be administrative, with written notices for initial violations that would allow the business to take corrective actions. Non-compliance, or further violations, will result in a 60-day suspension, then a 90-day suspension for further violation, and potential revocation for continued violations.

Annual Permit Fee

An annual permit fee will be established within the City's Master Fee Schedule, by separate Resolution, in an amount not to exceed the City's reasonable costs of permit administration, including staff time for inputting, processing, monitoring, and enforcing. A proposed resolution with the recommended fee amount will be presented to City Council at second reading and adoption of the ordinance.

Grace Period to Comply

Based on the City Council's direction, current tobacco retailers will have one (1) year to comply with obtaining the local retail permit

COORDINATION

The preparation of the administrative report and ordinances have been coordinated with the City Attorney's Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department's portion of the adopted 2019-20 Annual Budget and is part of the department's annual work program.

Fiscal impact of a Tobacco Retail Permit will be assessed upon adoption of a resolution establishing the permit fee

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS

- Ordinance City-wide smoking ban with the exception of designated smoking areas
- Ordinance Local Tobacco Retail Permit
- September 3, 2019 City Council Administrative Report
- Public Comment Letters
- PowerPoint Presentation

ORDINANCE NO. O-3193-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, Many adult cigarette smokers want to quit smoking. In 2015, Nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking and more than 5 in 10 (55.4%) adult cigarette smokers had made a quit attempt in the past year; and

WHEREAS, laws which ban smoking in public places aid those who are trying to quit smoking by making it more difficult to smoke outside and seeing fewer smokers; and

WHEREAS, Tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and

WHEREAS, More than 440,000 people die in the United States from tobaccorelated diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

WHEREAS, The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, Secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure; and

WHEREAS, Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and WHEREAS, Secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and

WHEREAS, According to the CDC, Smoking leads to disease and disability and harms nearly every organ of the body; and

WHEREAS, According to the CDC, Smoking is the leading cause of preventable death; and

WHEREAS, 84% of Californians are non-smokers and there is no Constitutional right to smoke; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes aremarketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts WarnAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, A study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously."

McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health; and

WHEREAS, Between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research*; and

WHEREAS, Recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. *CBS News.* "Electronic Cigarette Explodes in Man's Mouth, Causes Serious Injuries." February 16, 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." December 9, 2013. http://fox13now.com/2013/12/09/e-cigarette-explodes-whilecharging; and

WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, the adoption of this smoking prohibition would lead to a reduction in smoking waste that is deposited into the storm drain system by eliminating the areas in the public right-of-way that area available for smoking; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and tobacco licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, after robust discussion of the City Council and participation of the public, the City Council directed staff to draft an ordinance banning smoking in public rights of way and private property that is accessible to the public; and

WHEREAS, the City Council further provided that violations of this ordinance would constitute an infraction; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and electronic smoking devices (or esd's); and

WHEREAS, the City Council further specified the enforcement and penalty provisions of the ordinance, providing annual inspections as well as a 60, then 90 day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS: SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.101 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.101 **Definitions.**

(a) "Designated Smoking Area" means an area designated by a business where patrons or employees are permitted to smoke, as defined in subsection (e) of this Section

(b) "Employee" means any person who is employed by, or retained as an independent contractor by, any Employer, or any person who volunteers his services for a business or Employer.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(e) "Place of employment" means any area under the legal or de facto control of an employer that an employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

(f) "Public place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

(g) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(h) "Smoking" means the release of gases, particles, or vapors into the air as the result of combustion, electrical ignition, or vaporization and/or inhaling, exhaling, burning or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.102 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.102 Prohibition of Smoking.

(a) Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited in the following locations:

- (1) Public places;
- (2) The interior of places of employment, including those regulated by California Labor Code Section 6404.5;

(3) Any area within twenty feet (20') of any door, window, opening, or vent, into a public place, except for such areas on private residential property.

(b) Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code:

- (1) Private residential property, other than those used as a child-care or health-care facility subject to State licensing requirements.
- (2) Within a moving vehicle
- (3) As provided in Section 5-9.105.

(c) No person shall dispose of any smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for smoking waste."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.103 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.103 **Penalties.** Each separate violation of this chapter is an infraction punishable in accordance with Chapter 1-2.03 of this code."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.104 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.104 **Other applicable laws.** This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.105 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.105 Designated Smoking Area.

(a) The owner of a property located in the City may request the creation of a designated smoking area to be located on their property. The business may make an application to the Community Development Department to create a Designated Smoking Area which must comply with the following restrictions:

(1) The Designated Smoking Area must be located completely within the business' property line;

(2) The Designated Smoking Area must not be within twenty feet (20') of any door, window, opening, or vent, into a public place or private residence;

(3) The Employer must post a sign or signs outside the retail location that clearly, sufficiently and conspicuously informs the public that it is a designated smoking area. The signage must be compliant with Zoning Code Title 10, Chapter 2, Article 6 or Title 10, Chapter 5, Article 6, as applicable.

(4) The designated smoking area must contain appropriate trash receptacles for smoking.

(b) An approved Designated Smoking Area will be issued a permit for the creation and maintenance of the area. Each Designated Smoking Area permit shall be prominently displayed in a publicly visible place at the permitted location.

(c) A permit fee for the issuance and maintenance of a Designated Smoking Area permit shall be set by resolution."

SECTION 6. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 7. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have

passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 8. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 1st day of October, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. O-3193-19 was duly introduced at a regular meeting of the City Council held on the 3rd day of September, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 1st day of October, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk

ORDINANCE NO. 3194-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS

WHEREAS, Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States, causing an estimated 31,200 structure fires and 830 deaths in 2001; and

WHEREAS, The tobacco industry spends billions of dollars each year on cigarette and smokeless tobacco advertising and promotions; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes are
marketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts Warn
AboutAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, A study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously."

McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health; and

WHEREAS, Between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research*; and

WHEREAS, Recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. CBS News. "Electronic Cigarette Explodes in Man's Mouth. Causes Serious Iniuries." Februarv 16. 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." http://fox13now.com/2013/12/09/e-cigarette-explodes-while-December 9, 2013. charging; and

WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and cigarette licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, on May 7, 2019, the City Council provided specific direction for staff to draft an ordinance disallowing smoking in public places and a local tobacco retailer regulation ordinance; and

WHEREAS, the City Council specified the requirements for issuance of a local tobacco retail permit as well as enforcement requirements providing that staff perform annual inspections as well as a 60, then 90-day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and regulating the sales of electronic smoking devices (or esd's); and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.201 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.201 **Definitions.**

(a) "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the

transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter, is not an arm's length transaction.

(b) "Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Enforcement official" means any member of the Redondo Beach Code Enforcement Division, the Redondo Beach Police Department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County Sheriff's Department, or their designees.

(e) "Package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

(f) "Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(g) "Self-service display" means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or retailer's agent or employee. A vending machine is a form of self-service display.

(h) "Smoking" means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation that facilitates the release of gases, particles, or vapors into the air.

(i) "Tobacco paraphernalia" means any item designed for the consumption, use, or preparation of tobacco products.

(k) "Tobacco product" means:

(1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(2) Any electronic smoking device, with or without nicotine.

(3) Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(I) "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(m) "Tobacco retail permit" means a valid and current permit issued by the City of Redondo Beach allowing a retail location to sell tobacco products."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.202 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.202 Tobacco Retailer Permit Required and Permit Shall be Displayed.

(a) It shall be unlawful for any person to act as a retailer of tobacco products and/or electronic smoking devices without first obtaining and maintaining a valid tobacco retailer permit pursuant to the provisions of this chapter for each location at which that activity is to occur.

(b) It shall be a violation of this chapter for any retailer to violate any local, state, or federal law applicable to tobacco products, electronic smoking devices, or the retailing of such products.

(c) Each tobacco retailer permit shall be prominently displayed in a publicly visible place at the permitted location."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.203 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.203 Tobacco Retail Permit Requirements

(a) **Tobacco Permit Eligibility**.

(1) No retailer permit may be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.

(2) No retailer permit may be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.

(3) No permit may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the Redondo Beach Zoning Ordinance.

(b) Application Procedure.

(1) Any person seeking a permit pursuant to this chapter shall submit a completed application, on a city-approved form, to the Community Development Department.

(2) The application for a permit under this chapter shall be submitted in the name of each and every business owner proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each business owner or an authorized agent thereof.

(3) Said application shall contain the following information:

i. The name, address, and telephone number of each business owner seeking a permit.

ii. The business name, address, and telephone number of the single, fixed location for which a permit is sought.

iii. A single name and mailing address of an agent authorized by the business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subsection (C)(2) of this section.

iv. Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer's license by the California Department of Tax and Fee Administration.

v. Whether any business owner or any agent of the business owner was previously issued a permit pursuant to this chapter which was at any time suspended or revoked, and, if so, the dates of the suspension period or the date of the revocation.

vi. Such other information as the Community Development Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this chapter.

(4) An applicant or agent thereof shall inform the Community Development Department in writing of any change in the information submitted on an application for a tobacco retailer registration within ten (10) business days of a change.

(5) The City Council may establish by resolution the amount of an application fee for the tobacco retailer permit in an amount not to exceed the City's reasonable cost of providing the services required by this chapter, in which case the City shall accept no application unless accompanied by payment of such fee.

(6) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.204 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.204 **Permit Issuance.**

(a) Upon the receipt of a completed application for a tobacco retailer permit and the corresponding application fee, if any, the Finance Department, with consultation of Community Development Department for location requirements, shall issue a permit unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

(1) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

(2) The application seeks authorization for tobacco retailing at a location prohibited by Section 5-9.203.

(3) The applicant has had a permit issued pursuant to this chapter revoked within the preceding twelve (12) months.

(4) The application seeks authorization for tobacco retailing that is otherwise prohibited pursuant to this chapter, that is unlawful pursuant to this Code (including without limitation the Redondo Beach Zoning Ordinance and business license regulations), or that is unlawful pursuant to any other law.

(5) The applicant is indebted to the city for any unpaid fee or fine.

(b) A decision to deny issuance of a retailer permit, or to revoke a retailer permit that has been wrongly issued, can be appealed to a hearing officer, subject to the following requirements and procedures. The hearing officer shall be designated by the City Manager.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action.

(2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) Term & Renewal

(1) A tobacco retailer permit issued pursuant to this chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this chapter. The expiration date of each tobacco retailer permit shall be shown on the permit itself and each tobacco retailer permit shall expire at midnight on the expiration date.

(2) Each tobacco retailer who seeks to renew a permit issued pursuant to this chapter shall submit a renewal application on a City-approved form and tender any applicable fees to the Finance Department no later than thirty (30) calendar days prior to the expiration of the permit. Any permit issued pursuant to this chapter that is not timely renewed shall expire and become null and void at the end of its term.

(3) An application to renew a permit issued pursuant to this chapter may be denied by the Community Development Department upon the grounds set forth in Subsection (a) of this Section. An appeal of such a decision shall follow the procedures set forth in Subsection (b) of this Section.

(d) **Permit is Non-Transferable.** A permit issued pursuant to this chapter may not be transferred from one (1) person to another or from one (1) location to another. A change in business owner, business name, or location shall render the permit null and void, and shall require a new permit to be obtained in accordance with the provisions of this chapter."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.205 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.205 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 twenty-one (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 thirty (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, or coffee, 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 retailer that permits only patrons twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location where the tobacco product is sold."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.206 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.206 Self Service Tobacco Purchases Prohibited.

No tobacco product or electronic smoking device shall be sold, offered for sale, or distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including but not limited to, machines or devices that use remote control locking mechanisms."

SECTION 7. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.207 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.207 Packaging and Labeling.

(a) No tobacco retailer shall sell any tobacco product to any consumer unless such product:

(1) is sold in the original manufacturer's package intended for sale to consumers; and

(2) conforms to all applicable federal labeling requirements."

SECTION 8. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.208 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.208 Compliance Monitoring and Enforcement

(a) Compliance Monitoring and Enforcement.

(1) Compliance checks shall be conducted so as to allow enforcement officials to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco. The Chief of Police may also conduct compliance checks to determine compliance with other laws applicable to tobacco retailing.

(2) During business hours, enforcement officials shall have the right to enter any place of business for which a permit is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes.

(3) Enforcement officials shall inspect each tobacco retailer at least one (1) time per every twelve (12) month period.

(b) This Chapter does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws."

SECTION 9. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.209 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.209 Penalties for Violation

(a) The penalties for violations shall be as follows:

(1) The retailer's permit shall be suspended for sixty (60) days for the first violation of the provisions of this ordinance.

(2) The retailer's permit shall be suspended for ninety (90) days for the second violation of the provisions of this ordinance.

(3) The retailer's permit shall be revoked for the third violation of the provisions of this ordinance.

(b) Appeals. If a tobacco retailer seeks to challenge a decision to suspend or revoke their tobacco retail permit, that decision can be appealed to a hearing officer designated by the City Manager. The appeal shall be subject to the following requirements and procedures.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action. (2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) **New license after revocation.** Notwithstanding any other provision of this chapter, no tobacco retailer's license shall be issued to a tobacco retailer (or business owner thereof) whose license has previously been revoked pursuant to this chapter for a period of twelve (12) months from the date of the prior revocation, unless ownership of the business at the location has been transferred in an arm's length transaction."

SECTION 10. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.210 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.210 Permit Conveys a Limited, Conditional Privilege.

Nothing in this Chapter shall be construed to grant any person obtaining and maintaining a retailer permit any status or right other than the limited, conditional privilege to act as a retailer at the location in the City identified on the face of the permit."

SECTION 11. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 12. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 13. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3194-19 was duly introduced at a regular meeting of the City Council held on the 1st day of October, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 15th day of October, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk



Administrative Report

Council Action Date:9/3/2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

<u>TITLE</u>

DISCUSSION AND POSSIBLE ACTION REGARDING ESTABLISHING A CITY-WIDE SMOKING BAN IN PUBLIC PLACES AND IMPLEMENTING A LOCAL TOBACCO RETAIL PERMIT.

(A) INTRODUCE BY TITLE ONLY ORDINANCE NO. 3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY;

OR

(B) INTRODUCE BY TITLE ONLY ORDINANCE NO. 3193-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS; AND

INTRODUCE BY TITLE ONLY ORDINANCE NO. 3194-19 ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS

EXECUTIVE SUMMARY

In response to a Strategic Plan objective, staff gave a presentation to the City Council on May 7, 2019 outlining options to implement a local tobacco retail permit and City-wide smoking ban in public places. The City Attorney's office has prepared the ordinances based on City Council's direction.

BACKGROUND

On September 18, 2018 and May 7, 2019, City Council discussed potential tobacco regulations. The meetings included testimony from representatives of the Beach Cities Health District, the Coalition for Tobacco Free Los Angeles County, Los Angeles County Department of Public Health, Asian American Drug Abuse Program, along with City residents. After discussion, the Council was favorable to establishing tobacco regulations utilizing a stepped approach, where stricter regulations could be implemented over time, if needed. City Council directed staff to prepare ordinances for a local retail tobacco control permit and smoke free public places.

City-wide Smoking Ban in Public Places

Existing law prohibits smoking in public parks and the pier. Based on City Council direction, the new ordinance would expand the prohibition and defines additional public areas where smoking would be prohibited. The proposed ordinance would define "Public place as "any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public. "The smoking ban would include areas within twenty (20) feet of any door, window, opening, or vent into a public place. Residential property and moving vehicle are excluded from the ban. Violations would be punishable by infraction.

Additionally, the ordinance includes an updated definition of "smoking" and "smoke" to include electronic smoking devices and marijuana smoke.

At the May 7, 2019 meeting, City Council discussed allowing businesses to have the option of creating a designated smoking area for employees and patrons. If Council is supportive of this, staff has drafted a second version of the ordinance which creates a procedure for businesses to pursue this option.

The Beach Cities Health District (BCHD), along with other public health agencies, are supportive of the City's action to ban smoking in public places, similar to ordinances already adopted by Manhattan Beach and Hermosa Beach. BCHD has expressed its support of the City's efforts and has offered assistance with community outreach and education. BCHD provided examples to City staff of other cities' informational materials to help model our own public education campaign.

Local Tobacco Retail Permit

Also for consideration this evening is an ordinance establishing a local tobacco retail permit.

By implementing a local tobacco retail permit ordinance, the current 43 tobacco retailers, and any new, would be required to obtain and maintain an annual Tobacco Retail Permit with the City of Redondo Beach, in addition to their City Business License. Tobacco retailers include any business location where tobacco, tobacco products, and tobacco paraphernalia are sold.

Provisions included into a tobacco retail permit are:

- Defining "tobacco products" to include electronic smoking devices
- Banning of certain flavored tobacco products
- No sales to minors
- Banning self-service displays
- Requiring an inspection once a year
- Allowing undercover enforcement
- Non-transferrable

Enforcement would be administrative, with written notices for initial violations that would allow the business to take corrective actions. Non-compliance, or further violations, will result in a 60-day suspension, then a 90-day suspension for further violation, and potential revocation for continued violations.

N.1., File #19-0013

Annual Permit Fee

An annual permit fee will be established within the City's Master Fee Schedule, by separate Resolution, in an amount not to exceed the City's reasonable costs of permit administration, including staff time for inputting, processing, monitoring, and enforcing. A proposed resolution with the recommended fee amount will be presented to City Council at second reading and adoption of the ordinance.

Grace Period to Comply

Based on the City Council's direction, current tobacco retailers will have six (6) months to comply with obtaining the local retail permit.

COORDINATION

The preparation of the administrative report and ordinances have been coordinated with the City Attorney's Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department's portion of the adopted 2019-20 Annual Budget and is part of the department's annual work program.

Fiscal impact of a Tobacco Retail Permit will be assessed upon adoption of a resolution establishing the permit fee.

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS

Ordinance City-wide Smoking Ban (A) Ordinance City-wide Smoking Ban with the exception of Designated Smoking Areas (B) Ordinance Local Tobacco Retail Permit Administrative Report May 7, 2019 Minutes excerpt City Council May 7, 2019

ORDINANCE NO. 3193-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, Many adult cigarette smokers want to quit smoking. In 2015, Nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking and more than 5 in 10 (55.4%) adult cigarette smokers had made a quit attempt in the past year; and

WHEREAS, laws which ban smoking in public places aid those who are trying to quit smoking by making it more difficult to smoke outside and seeing fewer smokers; and

WHEREAS, Tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and

WHEREAS, More than 440,000 people die in the United States from tobaccorelated diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

WHEREAS, The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, Secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is second hand smoke exposure; and

WHEREAS, Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and WHEREAS, Secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and

WHEREAS, According to the CDC, Smoking leads to disease and disability and harms nearly every organ of the body; and

WHEREAS, According to the CDC, Smoking is the leading cause of preventable death; and

WHEREAS, 84% of Californians are non-smokers and there is no Constitutional right to smoke; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes aremarketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts WarnAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

WHEREAS, A study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously." *McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health*; and

WHEREAS, Between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research;* and

WHEREAS, Recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. *CBS News. "Electronic Cigarette Explodes in Man's Mouth, Causes Serious Injuries." February 16, 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." December 9, 2013. http://fox13now.com/2013/12/09/e-cigarette-explodes-whilecharging*; and

WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, the adoption of this smoking prohibition would lead to a reduction in smoking waste that is deposited into the storm drain system by eliminating the areas in the public right-of-way that area available for smoking; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and tobacco licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, after robust discussion of the City Council and participation of the public, the City Council directed staff to draft an ordinance banning smoking in public rights of way and private property that is accessible to the public; and

WHEREAS, the City Council further provided that violations of this ordinance would constitute an infraction; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and electronic smoking devices (or esd's); and

WHEREAS, the City Council further specified the enforcement and penalty provisions of the ordinance, providing annual inspections as well as a 60, then 90 day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.101 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.101 **Definitions.**

(a) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any

such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(b) "Employee" means any person who is employed by, or retained as an independent contractor by, any Employer, or any person who volunteers his services for a business or Employer.

(c) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(d) "Place of employment" means any area under the legal or de facto control of an employer that an employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

(e) "Public place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

(f) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(g) "Smoking" means the release of gases, particles, or vapors into the air as the result of combustion, electrical ignition, or vaporization and/or inhaling, exhaling, burning or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.102 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.102 **Prohibition of Smoking.**

(a) Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited in the following locations:

- (1) Public places;
- (2) Places of employment, including those regulated by California Labor Code Section 6404.5;

(3) Any area within twenty feet (20') of any door, window, opening, or vent, into a public place, except for such areas on private residential property.

(b) Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code:

- (1) Private residential property, other than those used as a child-care or health-care facility subject to State licensing requirements.
- (2) Within a moving vehicle.

(c) No person shall dispose of any smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for smoking waste."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.103 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.103 **Penalties.** Each separate violation of this chapter is an infraction punishable in accordance with Chapter 1-2.03 of this code."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.104 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.104 **Other applicable laws.** This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

SECTION 5. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 6. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase

thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 7. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 17th day of September, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3193-19 was duly introduced at a regular meeting of the City Council held on the 3rd day of September, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 17th day of September, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk

ORDINANCE NO. 3193-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 1, TO TITLE 5 TO DISALLOW SMOKING IN PUBLIC PLACES IN THE CITY WITH THE EXCEPTION OF DESIGNATED SMOKING AREAS

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, Many adult cigarette smokers want to quit smoking. In 2015, Nearly 7 in 10 (68.0%) adult cigarette smokers wanted to stop smoking and more than 5 in 10 (55.4%) adult cigarette smokers had made a quit attempt in the past year; and

WHEREAS, laws which ban smoking in public places aid those who are trying to quit smoking by making it more difficult to smoke outside and seeing fewer smokers; and

WHEREAS, Tobacco use and exposure to secondhand smoke cause death and disease and impose great social and economic costs; and

WHEREAS, More than 440,000 people die in the United States from tobaccorelated diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, The World Health Organization estimates that by 2030, tobacco will account for 10 million deaths per year, making it the greatest cause of death worldwide; and

WHEREAS, The United States Environmental Protection Agency has found secondhand smoke to be a risk to public health and has classified secondhand smoke as a group A carcinogen, the most dangerous class of carcinogen; and

WHEREAS, Secondhand smoke is responsible for an estimated 38,000 deaths among non-smokers each year in the United States, which includes 3,000 lung cancer deaths and 35,000 deaths due to heart disease; and

WHEREAS, 87.9% of non-smokers showed detectable levels of cotinine (a metabolite of nicotine) in their blood, the most likely source of which is secondhand smoke exposure; and

WHEREAS, Secondhand smoke exposure adversely affects fetal growth with elevated risk of low birth weight and increased risk of Sudden Infant Death Syndrome in infants of mothers who smoke; and WHEREAS, Secondhand smoke exposure causes as many as 300,000 children in the United States under the age of 18 months to suffer lower respiratory tract infections, such as pneumonia and bronchitis; exacerbates childhood asthma; and increases the risk of acute, chronic, middle-ear infections in children; and

WHEREAS, According to the CDC, Smoking leads to disease and disability and harms nearly every organ of the body; and

WHEREAS, According to the CDC, Smoking is the leading cause of preventable death; and

WHEREAS, 84% of Californians are non-smokers and there is no Constitutional right to smoke; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes aremarketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts WarnAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm; and

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WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, the adoption of this smoking prohibition would lead to a reduction in smoking waste that is deposited into the storm drain system by eliminating the areas in the public right-of-way that area available for smoking; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and tobacco licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

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WHEREAS, the City Council further specified the enforcement and penalty provisions of the ordinance, providing annual inspections as well as a 60, then 90 day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.101 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.101 **Definitions**.

(a) "Designated Smoking Area" means an area designated by a business where patrons or employees are permitted to smoke, as defined in subsection (e) of this Section

(b) "Employee" means any person who is employed by, or retained as an independent contractor by, any Employer, or any person who volunteers his services for a business or Employer.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Employer" means any person, partnership, corporation, association, nonprofit or other entity who or which employs or retains the service of one or more Employees.

(e) "Place of employment" means any area under the legal or de facto control of an employer that an employee or the general public may enter in the normal course of operations, but regardless of the hours of operation, including, for example, indoor and outdoor work areas, construction sites, vehicles used in employment or for business purposes, taxis, employee lounges, conference and banquet rooms, bingo and gaming facilities, long-term health facilities, warehouses, and any private residences subject to state licensing requirements that are used as child-care or health-care facilities.

(f) "Public place" means any public place, or any private place open to the general public regardless of any fee or age requirement, including, for example, streets, sidewalks, plazas, bars, restaurants, clubs, stores, stadiums, farmers' markets, bus shelters, ATM or ticket lines, theaters, parking lots, parks, playgrounds, taxis, and buses. This also shall include outdoor dining areas open to the general public.

(g) "Smoke" means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term "smoke" includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

(h) "Smoking" means the release of gases, particles, or vapors into the air as the result of combustion, electrical ignition, or vaporization and/or inhaling, exhaling, burning

or carrying any lighted, heated or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.102 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.102 **Prohibition of Smoking.**

(a) Except as otherwise provided by this chapter or by state or federal law, smoking is prohibited in the following locations:

- (1) Public places;
- (2) The interior of places of employment, including those regulated by California Labor Code Section 6404.5;

(3) Any area within twenty feet (20') of any door, window, opening, or vent, into a public place, except for such areas on private residential property.

(b) Smoking is permitted in the following locations within the City, unless otherwise provided by state or federal law or this Code:

- (1) Private residential property, other than those used as a child-care or healthcare facility subject to State licensing requirements.
- (2) Within a moving vehicle
- (3) As provided in Section 5-9.105.

(c) No person shall dispose of any smoking waste, including but not limited to any part of a cigarette, cigar, pipe, or tobacco product, in an area in which smoking is prohibited by this chapter or other law, except in specific receptacles designated by the City for smoking waste."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.103 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.103 **Penalties.** Each separate violation of this chapter is an infraction punishable in accordance with Chapter 1-2.03 of this code."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.104 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.104 **Other applicable laws.** This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.105 is hereby added to the Redondo Beach Municipal Code and shall read as follows:

"Section 5-9.105 **Designated Smoking Area.**

(a) The owner of a property located in the City may request the creation of a designated smoking area to be located on their property. The business may make an application to the Community Development Department to create a Designated Smoking Area which must comply with the following restrictions:

(1) The Designated Smoking Area must be located completely within the business' property line;

(2) The Designated Smoking Area must not be within twenty feet (20') of any door, window, opening, or vent, into a public place or private residence;

(3) The Employer must post a sign or signs outside the retail location that clearly, sufficiently and conspicuously informs the public that it is a designated smoking area. The signage must be compliant with Zoning Code Title 10, Chapter 2, Article 6 or Title 10, Chapter 5, Article 6, as applicable.

(4) The designated smoking area must contain appropriate trash receptacles for smoking.

(b) An approved Designated Smoking Area will be issued a permit for the creation and maintenance of the area. Each Designated Smoking Area permit shall be prominently displayed in a publicly visible place at the permitted location.

(c) A permit fee for the issuance and maintenance of a Designated Smoking Area permit shall be set by resolution."

SECTION 6. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 7. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 8. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 17th day of September, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3193-19 was duly introduced at a regular meeting of the City Council held on the 3rd day of September, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 17th day of September, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk

ORDINANCE NO. 3194-19

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, ADDING MUNICIPAL CODE CHAPTER 9, ARTICLE 2, TO TITLE 5 TO CREATE A LOCAL TOBACCO RETAIL PERMIT AND APPROVAL PROCESS

WHEREAS, Cigarettes, cigars, pipes and other smoking materials are the leading cause of fire deaths in the United States, causing an estimated 31,200 structure fires and 830 deaths in 2001; and

WHEREAS, The tobacco industry spends billions of dollars each year on cigarette and smokeless tobacco advertising and promotions; and

WHEREAS, The U.S. Food and Drug Administration conducted laboratory analysis of electronic cigarette samples and found they contained carcinogens and toxic chemicals to which users and bystanders could potentially be exposed; and

WHEREAS, Electronic cigarettes, commonly known as e-cigarettes, e-cigars, ecigarillos, e-pipes, and e-hookahs, are battery operated devices, designed to be used in the same manner as conventional tobacco products, and some of which are designed to look like conventional cigarettes. Electronic cigarettes employ the use of a cartridge, generally containing up to twenty (20) milligrams of nicotine, to deliver vaporized nicotine to users. Some cartridges used by electronic cigarettes can be re-filled with liquid nicotine solution, creating the potential for exposure to dangerous concentrations of nicotine. Yamin, C.K., Bitton A., and Bates, D.W. "E-Cigarettes: A Rapidly Growing Internet Phenomenon." Annals of Internal Medicine, 153:607-609, 2010; and

WHEREAS, The FDA has raised concerns that electronic cigarettes, which are often marketed in appealing flavors, can increase nicotine addiction among young people and may lead youth to try conventional tobacco products. U.S. Food and Drug Administration. *E-Cigarette: Questions and Answers. 2010 www.fda.gov/forconsumers/consumerupdates/ucm225210. htm*; and

WHEREAS, The FDA has also raised concerns that electronic cigarettes aremarketed and sold to young people and are readily accessible online and via mall kiosks.U.S. Food and Drug Administration. News Release, FDA and Public Health Experts WarnAboutElectronicCigarettes.July22,2009.www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm173222.htm;

WHEREAS, A study published in the Journal of Environmental and Public Health suggests that electronic cigarettes "may have the capacity to 're-normalize' tobacco use in a demographic that has had significant denormalization of tobacco use previously."

McMillen, R., Maduka, J., and Winickoff, .J. "Use of Emerging Tobacco Products in the United States." Journal of Environmental and Public Health; and

WHEREAS, Between 2010 and 2011, rates of both awareness and use of unregulated electronic cigarettes by adults increased significantly. *King, B.A., Alam, S., and Promoff, G., et al. "Awareness and Ever Use of Electronic Cigarettes Among U.S. Adults, 2010-2011." Nicotine and Tobacco Research;* and

WHEREAS, Recent newspaper reports from across the nation indicate that electronic cigarettes have a propensity for exploding while charging or in use. These explosions have caused severe burns and physical injuries to users. Additionally, these explosions have caused property damage. CBS News. "Electronic Cigarette Explodes in Man's Serious Iniuries." Mouth. Causes Februarv 16. 2012. http://www.cbsnews.com/news/electronic-cigarette-explodes-in-mans-mouthcauses-serious-injuries; Fox 13 News. "E-Cigarette Explodes While Charging." http://fox13now.com/2013/12/09/e-cigarette-explodes-while-December 9, 2013. charging; and

WHEREAS, Cigarette butts and other smoking waste are commonly littered and blown out of trash receptacles so that such waste migrates to the storm drain system and eventually pollutes the ocean and beaches; and

WHEREAS, Smoking waste pollutes the marine environment, negatively impacting water quality and harming marine wildlife that often mistake smoking waste for food; and

WHEREAS, According to the State Water Resources Control Board: "Storm water pollution in Los Angeles County has significant impacts on the region's water quality, while also posing risks to the health and safety of residents, degrading natural resources, threatening the area's tourist driven economy and lowering property values in local neighborhoods"; and

WHEREAS, To aid in the protection of the marine environment and protect public health, the Los Angeles Regional Water Quality Control Board adopted a resolution incorporating a zero trash Total Maximum Daily Load (TMDL) for Debris for Nearshore and Offshore Santa Monica Bay; and

WHEREAS, A reduction in cigarette litter will advance compliance with Federal, State, and City clean water mandates, including with the Total Maximum Daily Loads and other requirements of the National Pollutant Discharge Elimination System, and reduce pollution in the nearby marine environment and at the City's beaches; and

WHEREAS, Thousands of young people start smoking cigarettes every day. In fact, each day, about 2000 people younger than 18 years smoke their first cigarette and over 300 people younger than 18 years become daily cigarette smokers; and

WHEREAS, on September 18, 2018, the City Council considered a number of options regarding the regulation of smoking and cigarette licensure in the City; and

WHEREAS, at that meeting, a majority of the City Council voted to direct city staff to draft regulations to make the City of Redondo Beach a "smoke-free city" and to create a tobacco retail permit ordinance; and

WHEREAS, however, upon review, the direction from the City Council was not sufficiently clear to draft proposed ordinances. As such, city staff took the item back to the City Council for further consideration and direction on May 7, 2019; and

WHEREAS, pursuant to California Health & Safety Code Section 118910, the City is permitted to locally regulate tobacco sales and use; and

WHEREAS, on May 7, 2019, the City Council provided specific direction for staff to draft an ordinance disallowing smoking in public places and a local tobacco retailer regulation ordinance; and

WHEREAS, the City Council specified the requirements for issuance of a local tobacco retail permit as well as enforcement requirements providing that staff perform annual inspections as well as a 60, then 90-day suspension for the first two (2) violations and permit revocation for the third violation; and

WHEREAS, the City Council also directed staff to enact an ordinance creating a local tobacco retail permit process, disallowing the sales of flavored tobacco products and regulating the sales of electronic smoking devices (or esd's); and

WHEREAS, It is the intent of the City Council in enacting this Ordinance to provide for the public health, safety, and welfare by discouraging the inherently dangerous behavior of smoking around non-tobacco users; by protecting children from exposure to smoking where they live and play; by protecting the public from nonconsensual exposure to secondhand smoke and the potential health risks related to a-cigarettes; by preventing the re-normalization of smoking that results from the expanded use of a-cigarettes; and by reducing smoking waste to protect the marine environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF REDONDO BEACH, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.201 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.201 **Definitions.**

(a) "Arm's length transaction" means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two (2) informed and willing parties, neither of which is under any compulsion to participate in the

transaction. A sale between relatives, related companies or partners, or a sale for which a significant purpose is avoiding the effect of the violations of this chapter, is not an arm's length transaction.

(b) "Consumer" means a person who purchases a tobacco product for consumption and not for sale to another.

(c) "Electronic smoking device" means an electronic device that can be used to deliver an inhaled dose of nicotine, or other substances, including any component, part, or accessory of such device, whether or not sold separately. This definition includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor, including any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" does not include any product specifically approved by the United States Food and Drug Administration for use in the mitigation, treatment, or prevention of disease, where such product is marketed and sold solely for such an approved purpose.

(d) "Enforcement official" means any member of the Redondo Beach Code Enforcement Division, the Redondo Beach Police Department, the California Department of Health Services, the California Alcohol Beverage Control Department, and the Los Angeles County Sheriff's Department, or their designees.

(e) "Package" means a pack, box, carton, or container of any kind or, if no other container, any wrapping (including cellophane) in which a tobacco product is sold or offered for sale to a consumer.

(f) "Sale" means any transfer, exchange, barter, gift, offer for sale, or distribution for a commercial purpose, in any manner or by any means whatsoever.

(g) "Self-service display" means the open display or storage of tobacco products in a manner that is physically accessible in any way to the general public without the assistance of the retailer or employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or retailer's agent or employee. A vending machine is a form of self-service display.

(h) "Smoking" means the combustion, electrical ignition or vaporization and/or inhaling, exhaling, burning, or carrying any lighted, heated, or ignited cigar, cigarette, cigarillo, pipe, hookah, electronic smoking device, or any plant product intended for human inhalation that facilitates the release of gases, particles, or vapors into the air.

(i) "Tobacco paraphernalia" means any item designed for the consumption, use, or preparation of tobacco products.

(k) "Tobacco product" means:

(1) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus; and

(2) Any electronic smoking device, with or without nicotine.

(3) Notwithstanding any provision of subsections (1), (2) and (3) of this definition to the contrary, "tobacco product" includes any component, part, or accessory of a tobacco product, whether or not sold separately. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(I) "Tobacco retailer" means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, tobacco, tobacco products or tobacco paraphernalia. "Tobacco retailing" shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(m) "Tobacco retail permit" means a valid and current permit issued by the City of Redondo Beach allowing a retail location to sell tobacco products."

SECTION 2. AMENDMENT OF CODE. Title 5, Chapter 9, Article 2, Section 5-9.202 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.202 Tobacco Retailer Permit Required and Permit Shall be Displayed.

(a) It shall be unlawful for any person to act as a retailer of tobacco products and/or electronic smoking devices without first obtaining and maintaining a valid tobacco retailer permit pursuant to the provisions of this chapter for each location at which that activity is to occur.

(b) It shall be a violation of this chapter for any retailer to violate any local, state, or federal law applicable to tobacco products, electronic smoking devices, or the retailing of such products.

(c) Each tobacco retailer permit shall be prominently displayed in a publicly visible place at the permitted location."

SECTION 3. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.203 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.203 Tobacco Retail Permit Requirements

(a) **Tobacco Permit Eligibility.**

(1) No retailer permit may be issued to authorize retailing at other than a fixed location. For example, retailing by persons on foot or from vehicles is prohibited.

(2) No retailer permit may be issued to authorize retailing at a temporary or recurring temporary event. For example, retailing at flea markets and farmers' markets is prohibited.

(3) No permit may be issued under this chapter to authorize tobacco retailing at any location that violates any provision of the Redondo Beach Zoning Ordinance.

(b) Application Procedure.

(1) Any person seeking a permit pursuant to this chapter shall submit a completed application, on a city-approved form, to the Community Development Department.

(2) The application for a permit under this chapter shall be submitted in the name of each and every business owner proposing to conduct retail tobacco sales for each location at which retail tobacco sales are being proposed and shall be signed by each business owner or an authorized agent thereof.

(3) Said application shall contain the following information:

i. The name, address, and telephone number of each business owner seeking a permit.

ii. The business name, address, and telephone number of the single, fixed location for which a permit is sought.

iii. A single name and mailing address of an agent authorized by the business owner to receive all communications and notices required by, authorized by, or convenient to the enforcement of this chapter. If an authorized agent is not supplied, each business owner shall be understood to consent to the provision of notice at the business address specified in subsection (C)(2) of this section.

iv. Proof that the location for which a tobacco retailer permit is sought has been issued a valid state tobacco retailer's license by the California Department of Tax and Fee Administration.

v. Whether any business owner or any agent of the business owner was previously issued a permit pursuant to this chapter which was at any time suspended or revoked, and, if so, the dates of the suspension period or the date of the revocation.

vi. Such other information as the Community Development Department deems necessary for the administration or enforcement of this chapter as specified on the application form required by this chapter.

(4) An applicant or agent thereof shall inform the Community Development Department in writing of any change in the information submitted on an application for a tobacco retailer registration within ten (10) business days of a change.

(5) The City Council may establish by resolution the amount of an application fee for the tobacco retailer permit in an amount not to exceed the City's reasonable cost of providing the services required by this chapter, in which case the City shall accept no application unless accompanied by payment of such fee.

(6) All information specified in an application pursuant to this section shall be subject to disclosure under the California Public Records Act (Government Code Section 6250 et seq.) or any other applicable law, subject to the laws' exemptions."

SECTION 4. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.204 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.204 **Permit Issuance.**

(a) Upon the receipt of a completed application for a tobacco retailer permit and the corresponding application fee, if any, the Finance Department, with consultation of Community Development Department for location requirements, shall issue a permit unless substantial evidence demonstrates that one (1) or more of the following bases for denial exists:

(1) The information presented in the application is inaccurate or false. Intentionally supplying inaccurate or false information shall be a violation of this chapter.

(2) The application seeks authorization for tobacco retailing at a location prohibited by Section 5-9.203.

(3) The applicant has had a permit issued pursuant to this chapter revoked within the preceding twelve (12) months.

(4) The application seeks authorization for tobacco retailing that is otherwise prohibited pursuant to this chapter, that is unlawful pursuant to this Code (including without limitation the Redondo Beach Zoning Ordinance and business license regulations), or that is unlawful pursuant to any other law.

(5) The applicant is indebted to the city for any unpaid fee or fine.

(b) A decision to deny issuance of a retailer permit, or to revoke a retailer permit that has been wrongly issued, can be appealed to a hearing officer, subject to the following requirements and procedures. The hearing officer shall be designated by the City Manager.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action.

(2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) Term & Renewal

(1) A tobacco retailer permit issued pursuant to this chapter shall be valid for one (1) year after the date of issuance, unless it is revoked earlier in accordance with the provisions of this chapter. The expiration date of each tobacco retailer permit shall be shown on the permit itself and each tobacco retailer permit shall expire at midnight on the expiration date.

(2) Each tobacco retailer who seeks to renew a permit issued pursuant to this chapter shall submit a renewal application on a City-approved form and tender any applicable fees to the Finance Department no later than thirty (30) calendar days prior to the expiration of the permit. Any permit issued pursuant to this chapter that is not timely renewed shall expire and become null and void at the end of its term.

(3) An application to renew a permit issued pursuant to this chapter may be denied by the Community Development Department upon the grounds set forth in Subsection (a) of this Section. An appeal of such a decision shall follow the procedures set forth in Subsection (b) of this Section.

(d) **Permit is Non-Transferable.** A permit issued pursuant to this chapter may not be transferred from one (1) person to another or from one (1) location to another. A change in business owner, business name, or location shall render the permit null and void, and shall require a new permit to be obtained in accordance with the provisions of this chapter."

SECTION 5. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.205 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.205 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 twenty-one (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 thirty (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 (with the exception of mint, menthol, spearmint or wintergreen), including but not limited to strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, 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 retailer that permits only patrons twenty-one (21) years of age or older, or active duty military personnel who are eighteen (18) years of age or older, to enter the location where the tobacco product is sold."

SECTION 6. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.206 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.206 Self Service Tobacco Purchases Prohibited.

No tobacco product or electronic smoking device shall be sold, offered for sale, or distributed to the public from a vending machine or appliance, or any other coin or token operated mechanical device designed or used for vending purposes, including but not limited to, machines or devices that use remote control locking mechanisms."

SECTION 7. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.207 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.207 Packaging and Labeling.

(a) No tobacco retailer shall sell any tobacco product to any consumer unless such product:

(1) is sold in the original manufacturer's package intended for sale to consumers; and

(2) conforms to all applicable federal labeling requirements."

SECTION 8. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.208 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.208 Compliance Monitoring and Enforcement

(a) Compliance Monitoring and Enforcement.

(1) Compliance checks shall be conducted so as to allow enforcement officials to determine, at a minimum, if a tobacco retailer is complying with laws regulating youth access to tobacco. The Chief of Police may also conduct compliance checks to determine compliance with other laws applicable to tobacco retailing.

(2) During business hours, enforcement officials shall have the right to enter any place of business for which a permit is required by this chapter for the purpose of making reasonable inspections to observe and enforce compliance with the provisions of this chapter and any other applicable regulations, laws, and statutes.

(3) Enforcement officials shall inspect each tobacco retailer at least one (1) time per every twelve (12) month period.

(b) This Chapter does not expand or reduce the degree to which the acts regulated by federal or state law are criminally proscribed or alter the penalties provided by such laws."

SECTION 9. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.209 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.209 Penalties for Violation

(a) The penalties for violations shall be as follows:

(1) The retailer's permit shall be suspended for sixty (60) days for the first violation of the provisions of this ordinance.

(2) The retailer's permit shall be suspended for ninety (90) days for the second violation of the provisions of this ordinance.

(3) The retailer's permit shall be revoked for the third violation of the provisions of this ordinance.

(b) Appeals. If a tobacco retailer seeks to challenge a decision to suspend or revoke their tobacco retail permit, that decision can be appealed to a hearing officer designated by the City Manager. The appeal shall be subject to the following requirements and procedures.

(1) All appeals must be in writing, state the grounds asserted for relief and the relief sought, and filed with the City Manager or his or her designee within ten (10) calendar days of receipt of notice of the appealed action. If such an appeal is made, it shall stay enforcement of the appealed action. (2) After the conclusion of the hearing, the hearing officer shall issue a written decision. Any decision rendered by the hearing officer shall be a final administrative decision.

(c) **New license after revocation.** Notwithstanding any other provision of this chapter, no tobacco retailer's license shall be issued to a tobacco retailer (or business owner thereof) whose license has previously been revoked pursuant to this chapter for a period of twelve (12) months from the date of the prior revocation, unless ownership of the business at the location has been transferred in an arm's length transaction. "

SECTION 10. AMENDMENT OF CODE. Title 5, Chapter 9, Article 1, Section 5-9.210 is hereby added to the Redondo Beach Municipal code and shall read as follows:

"Section 5-9.210 Permit Conveys a Limited, Conditional Privilege.

Nothing in this Chapter shall be construed to grant any person obtaining and maintaining a retailer permit any status or right other than the limited, conditional privilege to act as a retailer at the location in the City identified on the face of the permit."

SECTION 11. INCONSISTENT PROVISIONS. Any provisions of the Redondo Beach Municipal Code, or appendices thereto, or any other ordinances of the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 12. SEVERANCE. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 13. PUBLICATION AND EFFECTIVE DATE. This ordinance shall be published by one insertion in The Beach Reporter, the official newspaper of said city, and same shall go into effect and be in full force and operation from and after thirty (30) days after its final passage and adoption.

PASSED, APPROVED AND ADOPTED this 17th day of September, 2019.

Mayor William C. Brand

APPROVED AS TO FORM:

ATTEST:

Michael W. Webb, City Attorney

Eleanor Manzano, CMC, City Clerk

STATE OF CALIFORNIA)COUNTY OF LOS ANGELES) ssCITY OF REDONDO BEACH)

I, Eleanor Manzano, City Clerk of Redondo Beach, California, do hereby certify that the foregoing Ordinance No. 3194-19 was duly introduced at a regular meeting of the City Council held on the 3rd day of September, 2019, and was duly approved and adopted at a regular meeting of said City Council held on the 17th day of September, 2019, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Eleanor Manzano, CMC City Clerk



Administrative Report

Council Action Date: May 7, 2019

To: MAYOR AND CITY COUNCIL

From: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

Subject: PROVISIONS FOR ORDINANCES TO ESTABLISH A CITY-WIDE SMOKING BAN IN PUBLIC PLACES AND IMPLEMENT A TOBACCO RETAIL PERMIT

RECOMMENDATION

1. Discuss options and provide direction for an ordinance to establish a City-wide smoking ban in public places for tobacco and cannabis;

- 2. Discuss options and provide direction for an ordinance to implement a tobacco retail permit; and
- 3. Direct staff to prepare the ordinances.

EXECUTIVE SUMMARY

In response to a Strategic Plan objective, staff has prepared the following report outlining options to implement a local tobacco retail permit and City-wide smoking ban in public places. Staff requests that City Council provide direction on the specific provisions for each ordinance.

BACKGROUND

On September 18, 2018, City Council held a discussion on potential tobacco regulations. The meeting included testimony from representatives of the Beach Cities Health District, the Coalition for Tobacco Free Los Angeles County, Los Angeles County Department of Public Health, Asian American Drug Abuse Program, along with City residents. After discussion, the Council was favorable to establishing tobacco regulations utilizing a stepped approach, where stricter regulations could be implemented over time, if needed. City Council directed staff to prepare ordinances for a local retail tobacco control license and smoke free public places. Staff is requesting that Council provide additional direction on the specific provisions for each ordinance.

City-wide Smoking Ban in Public Places

Currently, Redondo Beach only has a smoke-free recreational area policy which does not specifically include Electronic Smoking Devices (ESDs) and cannabis. In Hermosa Beach and Manhattan Beach, smoking bans in public places have been implemented in conjunction with campaigns that educate the community and engage local businesses. The Beach Cities Health District would support City efforts in such a campaign.

There are two policy approaches to comprehensive outdoor smoking ordinances, inclusive and listing. The inclusive approach would ban smoking in all public places in the community, similar to what Hermosa Beach and Manhattan Beach have adopted. The listing approach limits the ban to specified locations where smoking is prohibited. To be considered a comprehensive ordinance by the American Lung

Association, at least 5 of the following 7 areas must be included: dining areas, entryways, public events, recreational areas, service areas, sidewalks, and outdoor worksites. Additionally, the policy may include an updated definition of "smoking" and "smoke" to include ESDs and cannabis.

In addition to the inclusion of ESDs and cannabis in the definition of "smoking", staff recommends that the City Council provide direction on the definition for "public place," which may include, but not limited to, the following:

- Streets and sidewalks
- Public parking lots
- Plazas
- Exterior patio areas of restaurants and/or bars and outdoor dining areas
- Exterior areas of commercial private property

Currently, staff recommends the exclusion of private residential property from the smoking ban, similar to the City of Manhattan Beach ordinance.

Further, staff requires direction from the City Council regarding the penalty for violations, that could be criminal or civil. A criminal violation may be can range from an infraction, a misdemeanor or a woblette, which would allow for the violation to be charged as either an infraction or a misdemeanor. Civil citations may also be utilized, but are not an ideal enforcement option as the City does have as robust an internal due process system for the processing of civil citations.

Local Tobacco Retail Permit

Local tobacco retail permits target retailers to prevent youth access to tobacco products. Currently, over 140 California jurisdictions, including 44 Los Angeles County jurisdictions, have passed local retail permitting. These local regulations have shown to be effective in reducing the illegal sale of tobacco products to minors. The permit typically includes a fee for administration of the permit and enables local jurisdictions to implement penalties for violations, including sale to minors.

Under the current State regulations, tobacco retailers must possess a valid Cigarette and Tobacco Products Retailers License from the California Department of Tax and Fee Administration (CDTFA). The CDTFA database shows 43 active tobacco retailers within Redondo Beach.

By implementing a local tobacco retail permit ordinance, the 43 retailers, and any new, would be required to obtain and maintain an annual Tobacco Retail Permit for the City of Redondo Beach, in addition to their City Business License. Tobacco retailers include any business location where tobacco, tobacco products, and tobacco paraphernalia are sold.

Provisions can be included into a tobacco retail permit such as:

- Defining "tobacco products" to include ESDs
- Banning of certain flavored tobacco products
- Limiting sales of other tobacco products or sale of drug paraphernalia
- Banning the sale of alcoholic beverages for consumption on premises
- Banning self-service displays
- Non-transferrable

In developing the ordinance, staff requests direction from the City Council in the following areas:

Annual Permit Fee

An annual permit fee would be established within the City's Master Fee Schedule in an amount not to

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exceed the City's reasonable costs of permit administration, including staff time for inputting, processing, and monitoring. Staff recommends an annual permit fee between \$35 - \$55, which would cover the fully-loaded staff cost of processing.

Grace Period to Comply

Staff requests direction from City Council on a fair length of time to bring current 43 tobacco retailers into compliance. Options can include a set length of time (i.e. within six months) or can coincide with each individual business' renewal date of their City Business License.

Penalties for Violations

There are various options for enforcement when violations occur. The City can choose to implement administrative enforcement, with written notices for violations. This would allow for the business to make corrective actions. Continued violations may lead to suspension and/or revocation of the tobacco retail permit, after an administrative hearing process. With this option, City Council would provide direction as to the number of violations that would constitute grounds for suspension and/or revocation.

A second option would be to implement criminal citations, where a violations may be cited as infractions or misdemeanors or an initial infraction, with subsequent violations graduating to misdemeanors with associated fines and penalties (a woblette). Continued violations may also lead to suspension and/or revocation.

COORDINATION

The preparation of the administrative report and options for each ordinance have been coordinated with the City Attorney's Office.

FISCAL IMPACT

The cost of preparing this report is included within the Community Development Department's portion of the adopted 2018-19 Annual Budget and is part of the department's annual work program.

Fiscal impact of a Tobacco Retail Permit will be assessed upon direction from the City Council related to the fee amount.

SUBMITTED BY:

Brandy Forbes, Community Development Director

APPROVED BY:

Joe Hoefgen, City Manager

ATTACHMENTS:

- D September 18, 2018 City Council Administrative Report
- D September 18, 2018 City Council Minutes
- D City of Manhattan Beach Smoking Ban in Public Places Ordinance
- <u>City of Hermosa Beach Tobacco Retail License Ordinance</u>
- List of Redondo Beach Tobacco Retailers

Substitute Motion by Councilmember Nehrenheim, seconded by Councilmember Loewenstein, to authorize the City Manager to execute the grant application and certifications for submission to the U.S. Department of Housing and Urban Development (HUD), authorize the Mayor and/or City Manager to execute the CDBG funding agreement upon HUD's approval of the Action Plan, and to approve Option #2. Motion failed with the following vote:

AYES: Nehrenheim, Loewenstein NOES: Horvath, Gran, Emdee ABSENT: None

M. ITEMS CONTINUED FROM PREVIOUS AGENDAS - NONE

N. ITEMS FOR DISCUSSION PRIOR TO ACTION

N.1 DISCUSSION AND POSSIBLE ACTION ON PROVISIONS FOR ORDINANCES TO ESTABLISH A CITY-WIDE SMOKING BAN IN PUBLIC PLACES AND IMPLEMENT A TOBACCO RETAIL PERMIT. CONTACT: BRANDY FORBES, COMMUNITY DEVELOPMENT DIRECTOR

Community Development Director Forbes gave a report and reviewed the following:

- Background
- City-Wide Smoking Ban in Public Places
- Local Tobacco Retail Permit
- Recommendation

Senior Deputy City Attorney Jillian Martins spoke on the following:

- Provide staff with specific direction on the following:
 - o City-wide smoking ban
 - Definition of public place or a list of specified locations
 - Inclusion or exclusion of ESDs and cannabis
 - Civil or criminal
 - o Local tobacco retail permit.
 - o Direct staff to prepare the ordinances

Mayor Brand called for public comment.

Michael Olivarez, Advocacy Manager of Lung Force, American Lung Association, supported the City's efforts regarding nicotine addiction which is very dangerous, noted a rise again because of the reinvention, expressed concern with costly and deadly impacts of nicotine addiction, and supported the measure.

Elizabeth Jacoby, Policy Coordinator County of Los Angeles Public Health, gave a report, spoke on addiction, noted new users from new electronic smoking devices which are not safe, a significant increases in tobacco use, gave statistics and studies and reviewed strategies from the County of Los Angeles Public Health.

Motion by Councilmember Nehrenheim, seconded by Councilmember Loewenstein, to receive and file documentation presented by Ms. Jacoby. Motion carried unanimously.

Marie Gambon, Redondo Beach, spoke on issues regarding smoking and youth access, electronic vaping, epidemic proportions, ages have become younger, and asked for the licensing ordinance.

Dr. Andrew Lesser, District 1, stated he quit smoking four years ago after smoking for 35 years, noted increased difficulty of smoking in public places helped him quit, and expressed concern with the ESD's which don't help smokers quit. He expressed concern with the ads for ESD's which are just as dangerous as tobacco. He said cigarettes are an addiction and supported saving the youth from smoking, to include ESD's and to ban smoking and vaping in public places.

Jacqueline Sun, Beach Cities Health District, spoke on exposure to secondhand smoke, economic burdens of smoking-related illnesses, emissions from ESD's and cannabis, stated pollutants are harmful, and vaping is continuing to be a trend among the youth. She said the ordinances will allow citation of youth on campus, and giving more tools. She suggested directing to the Manhattan Beach ordinance where smoking isn't allowed and best practices. She spoke on tobacco retail licensing which is a tool to address youth access, reviewed smoking among students at RUHS, and stated products are being marketed to youth with flavors.

Motion by Councilmember Loewenstein, seconded by Councilmember Nehrenheim, to extend Ms. Sun's time. Motion carried unanimously.

Ms. Sun reviewed best practices and fees, suggested considering the opportunity to limit proximity to schools and young-sensitive areas and ban flavors, and supported community education and technical support.

Craig Cadwallader, Surfrider Foundation SB Chapter, supported a comprehensive outdoor ban such as in Manhattan Beach rather than a listing which failed in Hermosa Beach, expressed concern with the number of cigarette butts in the area, and noted impacts from cigarettes. He supported passing the ordinances.

In response to Councilmember Gran regarding the bars on the street in Hermosa Beach and Manhattan Beach, Mr. Cadwallader stated designated areas didn't work and are difficult to implement. He also said Beverly Hills had a smoking ban in place which did not affect the businesses, and statistics show that businesses improved without the smoking.

Susan Humola supported a ban on smoking in multi-housing and pointed out that their balconies are very close to each other and smoke comes into their home at all hours.

Senior Deputy City Attorney Martins noted legal issue as they relate to private residences, but stated she could review options for regulating common areas or banning smoking in multi-unit residential.

Sam Humola, 565 Esplanade, expressed concern with smoking exposure from cigarettes and marijuana in multi-unit condos and apartments, and suggested a public hearing for residents to weigh-in.

Rolf Strutzenberg stated Manhattan Beach did a good job with their ordinance.

There being no one else wishing to comment, Mayor Brand closed the public comment period.

In response to Councilmember Horvath regarding defining public places, Senior Deputy City Attorney Martins stated it is important to inclusively define a public place if the intention is to enact a comprehensive ban. She reviewed examples in the Manhattan Beach ordinance, and stated she is looking for direction regarding a definition as broad and expansive as in Manhattan Beach or more narrow such as solely publicly owned areas/public rights-of-way. In response to Councilmember Loewenstein, Senior Deputy City Attorney Martins stated beaches and parks are already included. She also said the use of cigarettes, ESD's and cannabis should all be disallowed together.

Councilmember Horvath supported a comprehensive ban that would be broad such as in Manhattan Beach, to include ESD's and cannabis and an infraction such as already set up in the City. He supported a comprehensive approach for a local tobacco retail permit including the banning of flavored products. He stated TRL's should have a one-time warning/suspension of a license for a 30 or 60 day period and if compliance is still not met, a revocation hearing of a permit would start.

In response to Councilmember Horvath regarding adding in a buffer to cover potential enforcement compliance costs, Senior Deputy City Attorney Martins stated the main concern is to tie specific costs for enacting the tobacco retail license process. She also referred to the grace period to comply, stated there are currently 43 tobacco retailers in the City, and suggested a sixmonth grace period.

Councilmember Horvath pointed out that Beverly Hills is discussing whether or not to disallow sales of all tobacco products throughout their city.

In response to Mayor Brand regarding alcohol consumption in conjunction with a permit, Senior Deputy City Attorney Martins stated the current state requirements regarding hookah lounges cannot sell alcohol at the same location where tobacco is allowed. She said this would add a clarifying local regulation ensuring that alcohol consumption is not allowed at the same location.

In response to Councilmember Gran, Senior Deputy City Attorney Martins stated as part of the permit fee, two annual inspections by code enforcement personnel would be included. She said enforcement costs can also be included in an annual license fee and as a cost recovery mechanism.

Councilmember Gran asked about public places and people coming out on the sidewalk and smoking on private property. Senior Deputy City Attorney Martins explained that with the Manhattan Beach definition, private property accessible to the public is considered a public place and smoking is disallowed. She suggested having designated smoking areas that are permitted.

Planning Analyst Lina Portolese stated Manhattan Beach's ordinance is more restrictive and includes public open areas and places of employment.

Councilmember Gran suggested allowing businesses or places to permit a small area for smoking. He also supported a stepped approach and looking at the majority of people.

Councilmember Nehrenheim supported allowing smoking in certain areas per the businesses. He also referred to enforcement for the tobacco retail license and suggested the first violation be a 30-day suspension, the second violation a 90-day suspension and the third violation to undertake to revoke the license. He also reviewed the recommendations in the staff report.

Councilmember Endee noted government overreach versus what society would want, and suggested making a stand that the City is a nonsmoking city, and believed the City doesn't have the resources for penalizing. She suggested more of a civil issue, and believed there will be self-regulation. She also supported the retail licensing permit and to allow a small smoking designated area for businesses.

In response to Councilmember Loewenstein regarding paraphemalia, Planning Analyst Lina Portolese explained this would include rolling papers, little cigars, flavored products, pipes, etc. MINUTES – CITY COUNCIL MEETING Tuesday, May 7, 2019 Page 18 Senior Deputy City Attorney Martins believed that paraphernalia was intended as a broad term and suggested Council could limit the sales of certain smoking devices.

Councilmember Loewenstein did not support banning certain paraphernalia, stated the point of a smoking ban is the impact on everybody else, expressed concern with the number of cigarette butts in the harbor, supported banning smoking in public areas, and suggested eventually looking at a ban in private places.

Senior Deputy City Attorney Martins clarified that an infraction is a citation that only comes with a fine, stated it is difficult to collect any kind of fine with a civil penalty, and suggested an infraction based enforcement process for the city-wide smoking ban. She also noted the retail permit process proposed by Councilmember Horvath would be an administrative/civil process, suspending the license either once or twice and then revoking the license.

Councilmember Loewenstein supported enforcement, putting in effort and resources which could be tracked.

Councilmember Gran supported having a designated permitted area for smoking.

Councilmember Loewenstein supported a total ban.

Mayor Brand believed our right to breathe clean area far supersedes those who want to smoke, supported having an infraction, noted that the police will enforce at their discretion, stated he didn't expect full enforcement, and noted the City is behind the curve with other cities.

In response to Mayor Brand regarding the status of leaf blowers, Community Development Director Forbes stated the City has issued approximately 1,000 notices of leaf blower violations and will be issuing citations by code enforcement.

Councilmember Horvath stated education and branding will need to take place with the ban, and believed an infraction system may be easier to enforce. He also did not support smoking outside of businesses, and stated he can go either way on the civil or infraction and the paraphemalia.

Motion by Councilmember Horvath, seconded by Councilmember Loewenstein, to support a citywide comprehensive smoking ban using the Manhattan Beach listing of public places with some specificity, with the inclusion of ESD's and cannabis, and having a stepped infraction as a penalty; for the Local Tobacco Retail Permit, to include everything listed under staff recommendation with paraphernalia being clearly youth oriented products; and to have a one-time 60-day suspension with a second violation resulting in a potential revocation of the permit.

Friendly Amendment by Councilmember Gran to include a stepped approach and having a designated smoking area outside. Councilmembers Horvath and Loewenstein accepted the amendment.

Friendly Amendment by Councilmember Nehrenheim to have a 60-day suspension, 90-day suspension, and then a revocation process, to remove "banning alcohol consumption in conjunction with a permit" and to have an inspection once a year. Councilmembers Horvath and Loewenstein accepted the amendment.

Motion carried unanimously (5-0).

Motion by Councilmember Nehrenheim, seconded by Councilmember Loewenstein, to defer Item N2 and to complete Items P1 through P4 on the agenda. Motion carried unanimously. MINUTES - CITY COUNCIL MEETING Tuesday, May 7, 2019 Page 19

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Public Communication Received by City Clerk's Office: 9/6/2019

Sender:

Mark Nelson

The smoking ban for Redondo is much needed. However, second hand smoke from adjoining buildings, whether single or multifamily, or from outdoor areas is a significant problem as well as noted by a recent Nextdoor post and a few dozen replies.

A good model ordinance is found with more protections can be found at <u>https://www.codepublishing.com/CA/Dublin/Dublin05/Dublin0556.html</u>

The important addition is:

Secondhand smoke—Declaration of nuisance. Secondhand smoke constitutes a nuisance. Notwithstanding any other provisions of this chapter, a private citizen may bring a legal action to abate secondhand smoke as a nuisance.

Could you please consider a change or amendment to your 5-0 voted version of the smoking ban?

Thank you!



September 10, 2019

VIA EMAIL

Hon. Bill Brand, Mayor
Hon. Laura Emdee, Council Member
Hon. John Gran, Council Member
Hon. Christian Horvath, Council Member
Hon. Todd Loewenstein, Council Member
Hon. Nils Nehrenheim, Council Member
415 Diamond Street
Redondo Beach, CA 90277

RE: September 3, 2019 Agenda Item Regarding a Local Tobacco Retail Permit

Dear Mayor Brand and Council Members Emdee, Gran, Horvath, Lewenstein and Nehrenheim:

As the Executive Director and Legal Counsel for the National Association of Tobacco Outlets, Inc., I am writing regarding the procedure that was used for the above-referenced agenda item.

California State Law requires that if a non-urgent ordinance is introduced for first reading, and is significantly changed before second reading (other than for corrections of typographical or clerical errors), the ordinance must be reintroduced. [See California Government Code Section 36934; see also League of California Cities, Ordinances and Resolutions: Practice Tips for Effective Legislation, Section D(3) "Alterations (other than for typographical or clerical errors) prior to second reading require re-introduction for all non-urgency ordinances." https://www.cacities.org/getattachment/530f101f-f778-47cf-8995-3fca3e8ba129/LR-Foley.aspx.] Indeed, the Redondo Beach legal counsel advised the city council members of the same statutory requirements at the September 3rd hearing.

A lengthy and at times confusing discussion ensued among the members of the Council, including passage of the introduced ordinance, a mayor's veto (which was determined to be improper from the dais), a reconsideration of the introduced ordinance, and purported substantive amendments to the introduced ordinance well beyond typographical or error corrections (including what would amount to extending the ban on flavored tobacco products beyond the originally introduced

17595 Kenwood Trail, Minneapolis, MN 55044 1-866-869-8888 www.natocentral.org

ordinance.) Apparently, the intent is to bring some additional amendments on a future consent agenda, that is, without any opportunity for debate of language never published. For this reason, we believe it is incumbent upon the Mayor and City Council to reintroduce the ordinance for first reading before further proceeding. To do otherwise simply deprives the regulated community and the citizens of Redondo Beach of a meaningful way of addressing the ordinance as it would actually be passed.

It was clear from comments of both Council Members and city staff that there was confusion about what was discussed. At the end of the adoption, the mayor himself stated that he was not quite sure exactly what had transpired but relied on the clerk having captured the essence of actions. This does not pass the test of open government that Redondo Beach is bound by. The concern that the hearing had gone long and there were other items to deal with on your agenda cannot be a justification to avoid the mandated process. In fact, the long hearing and the confusion among council members and city staff suggests that this issue requires more focused reflection than a rush to adopt an uncertain, confusing ordinance.

We would greatly appreciate the opportunity for additional, non-repetitive and thoughtful input from all interested persons before adopting this ordinance.

We appreciate you considering our concerns and look forward to hearing from you.

Sincerely,

Thomas Briant

NATO Executive Director and Legal Counsel

ANR AMERICANS FOR NONSMOKERS' RIGHTS

September 12, 2019

Mayor Bill Brand Redondo Beach 415 Diamond Street Redondo Beach, CA 90277

Dear Mayor Brand and members of the City Council,

On behalf of our members in Redondo Beach, Americans for Nonsmokers' Rights wishes to express our support for expanding the city's smokefree air protections to prohibit smoking in outdoor public places, especially spaces where people work and gather such as outdoor dining areas, shopping centers, parks and recreation areas, outdoor public events, transit stops, and commercial areas.

Smoking in outdoor areas is not just a nuisance; it's also a health hazard. **Outdoor places** where people gather can have significant levels of exposure to secondhand smoke, and nonsmokers deserve protection from breathing toxic smoke. The U.S. Surgeon General concluded that there is no safe level of exposure to secondhand smoke, and even small amounts of tobacco smoke in short periods of time can be harmful.

Communities are choosing to adopt smokefree laws for outdoor public places not only to reduce exposure to secondhand smoke for employees and the public, but also to have healthier spaces for recreation and physical activity, decrease costly and environmentally harmful cigarette butt waste, reduce fire risk, and create better social environments for youth by setting the example that tobacco use is not the norm.

Redondo Beach would be in good company by having smokefree outdoor public places where people work and gather. Numerous communities throughout California have already adopted similar laws, including more than 125 that have smokefree outdoor dining, more than 200 that have smokefree parks, and more than 60 that have smokefree beaches. These figures only include the strongest local laws that do not include smoking areas.

We recommend that the Council adopt the proposed ordinance that does not include an exemption for designated smoking areas. Allowing businesses to create designated smoking areas may be counter-productive by concentrating smoking and keeping it visible, and may not have an impact on reducing secondhand smoke exposure. In particular, trash receptacles for tobacco waste can be seen as a green light to encourage smoking in the area.

We also encourage the Council to consider adopting an ordinance for 100% smokefree multi-unit housing in order to protect the health and safety of all multi-unit residents and to help ensure everyone's right to a smokefree living environment. Smokefree multi-unit housing is a powerful way to have a broad, positive community impact by reducing secondhand

exposure where many people spend much of their time—especially children, the elderly, and people with disabilities—and can suffer from persistent levels of exposure.

Given these facts, Americans for Nonsmokers' Rights encourages Redondo Beach to adopt the proposed ordinance to expand smokefree protections to outdoor public places without designated smoking areas, and to consider bringing smokefree air to multi-unit housing to create healthier, safer living environments for Redondo Beach residents.

Thank you for your leadership and desire to make Redondo Beach the best place to live, work, and visit. Please feel free to contact us at 510-841-3032 if you have any questions, comments, or feedback.

Sincerely,

Cynthia Hallett

Cynthia Hallett, MPH President and CEO

Americans for Nonsmokers' Rights is a national, member-based, not-for-profit organization based in Berkeley, CA that is dedicated to helping nonsmokers breathe smokefree air since 1976.

INTRODUCE ORDINANCES ESTABLISHING A CITY-WIDE SMOKING BAN AND IMPLEMENTING A LOCAL TOBACCO RETAIL PERMIT

CITY COUNCIL OCTOBER 1, 2019

Background

- City Council held discussions on September 18, 2018, May 7, 2019, and September 3, 2019
- City Council directed staff to prepare the following ordinances:
 - o City-wide smoking ban in public places
 - o Local tobacco retail permit
- These actions are supported by community advocates including the Beach Cities Health District and LA County Department of Public Health

City-Wide Smoking Ban in Public Places

- Defines public places and includes private property areas that are open to the general public
- Includes areas within 20 feet of any door, window, opening or vent into a public place
- Residential property and moving vehicles are excluded from the ban
- Definition of smoking includes electronic smoking devices and marijuana
- Allows businesses to create a designated smoking area for patrons and employees and establishes a permit process for this approval
- Violations are punishable by infraction

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Local Tobacco Retail Permit

- Requires tobacco retailers to obtain and maintain an annual Tobacco Retail Permit with the City
- Provisions include:
 - Defining tobacco products to include ESDs
 - o Banning sales of all flavored products including mint, menthol, spearmint, and wintergreen
 - Banning self-service displays
 - Banning sales to anyone under 21 years of age
 - Establishing application process and requirements
 - Require an inspection by City officials once a year
 - o Allows undercover enforcement
 - o Non-transferable
- 1-year grace period for the 43 current retailers to comply
- Establishes administrative enforcement and penalty for violations

Recommendation

- Adopt by title only an ordinance adding Municipal Code Chapter 9, Article 1, to Title 5 to disallow smoking in public places in the City except for designated smoking areas
- Re-introduce by title only an ordinance adding Municipal Code Chapter 9, Article 2, to Title 5 to create a local tobacco retail permit and approval process

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Public Communication Received by City Clerk's Office: 9/6/2019

Sender:

Mark Nelson

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September 10, 2019

VIA EMAIL

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Hon. Laura Emdee, Council Member
Hon. John Gran, Council Member
Hon. Christian Horvath, Council Member
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Hon. Nils Nehrenheim, Council Member
415 Diamond Street
Redondo Beach, CA 90277

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Thomas Briant

NATO Executive Director and Legal Counsel

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September 12, 2019

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Communities are choosing to adopt smokefree laws for outdoor public places not only to reduce exposure to secondhand smoke for employees and the public, but also to have healthier spaces for recreation and physical activity, decrease costly and environmentally harmful cigarette butt waste, reduce fire risk, and create better social environments for youth by setting the example that tobacco use is not the norm.

Redondo Beach would be in good company by having smokefree outdoor public places where people work and gather. Numerous communities throughout California have already adopted similar laws, including more than 125 that have smokefree outdoor dining, more than 200 that have smokefree parks, and more than 60 that have smokefree beaches. These figures only include the strongest local laws that do not include smoking areas.

We recommend that the Council adopt the proposed ordinance that does not include an exemption for designated smoking areas. Allowing businesses to create designated smoking areas may be counter-productive by concentrating smoking and keeping it visible, and may not have an impact on reducing secondhand smoke exposure. In particular, trash receptacles for tobacco waste can be seen as a green light to encourage smoking in the area.

We also encourage the Council to consider adopting an ordinance for 100% smokefree multi-unit housing in order to protect the health and safety of all multi-unit residents and to help ensure everyone's right to a smokefree living environment. Smokefree multi-unit housing is a powerful way to have a broad, positive community impact by reducing secondhand

exposure where many people spend much of their time—especially children, the elderly, and people with disabilities—and can suffer from persistent levels of exposure.

Given these facts, Americans for Nonsmokers' Rights encourages Redondo Beach to adopt the proposed ordinance to expand smokefree protections to outdoor public places without designated smoking areas, and to consider bringing smokefree air to multi-unit housing to create healthier, safer living environments for Redondo Beach residents.

Thank you for your leadership and desire to make Redondo Beach the best place to live, work, and visit. Please feel free to contact us at 510-841-3032 if you have any questions, comments, or feedback.

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Cynthia Hallett

Cynthia Hallett, MPH President and CEO

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Council Action Date: 10/8/2019

To: MAYOR AND CITY COUNCIL

From: STEPHEN PROUD, WATERFRONT & ECONOMIC DEVELOPMENT DIRECTOR

<u>TITLE</u>

DISCUSSION REGARDING THE TEMPORARY USE OF PROPERTY ON MOLE B BY NORTHROP GRUMMAN FOR THE LOADING AND TRANSPORT OF EQUIPMENT FOR THE TERM OCTOBER 18, 2019 - OCTOBER 20, 2019

EXECUTIVE SUMMARY

Northrop Grumman and the City are negotiating a license agreement that will provide Northrop Grumman with the ability to use property on Mole B in King Harbor on a temporary basis for the loading and transportation of equipment to San Diego from their North Redondo Beach Campus. The operation is scheduled to take place over a two-day period - commencing at 5pm on October 18 th and concluding at 5pm on October 20th. In consideration for the City's agreement to provide access, Northrop Grumman will reimburse City costs associated with the operational and administrative oversight of the operation. Additionally, Northrop Grumman will repair or replace, at its cost, any damaged or modified infrastructure as a result of their operation.

BACKGROUND

Northrop Grumman operates out of a campus located in North Redondo Beach. Under contract with the United States Navy, Northrop Grumman has assembled a large piece of equipment that needs to be transported to Naval Station San Diego. Northrop Grumman has evaluated their options for transport of the equipment and determined that King Harbor is the best option to load the equipment onto a barge for transport.

The City and Northrop Grumman are negotiating a license agreement that would allow for the transportation and loading of the equipment to take place between 5pm Friday October 18th and 5pm Sunday October 20th. This timing will allow for staging, transportation and loading to occur over a two -day window - with the movement of the equipment through the City streets happening in the late-night early morning hours. The equipment will be transported via semi-truck and loaded onto specially equipped barges in the harbor that will be moored just off Mole B, at the western terminus of Marina Way. The equipment will be transported via Marina Way, Harbor Drive, Beryl Street, and Pacific Coast Highway during the night time hours. Certain medians, fixtures and equipment may need to be modified or removed to provide access for the equipment during transportation. Northrop Grumman will, at its own cost, fix and/or replace any fixtures, medians, landscaping, or equipment that has to be removed or modified during transportation.

N.2., File #19-0344

Northrop Grumman will compensate the City for actual costs associated with the operation, as well as any administrative costs, including engineering and legal work associated with the project.

COORDINATION

The Waterfront and Economic Development Department collaborated with the City Attorney's Office, the City Manager's Office, the Public Works Department, Police Department and Fire Department to develop this report.

FISCAL IMPACT

The license agreement under negotiation will provide for compensation to the City for direct City costs and administrative costs associated with the project.

APPROVED BY:

Joe Hoefgen, City Manager



Council Action Date: 10/8/2019

To: CITY COUNCIL

From: BILL BRAND, MAYOR

<u>TITLE</u>

DISCUSSION AND CONSIDERATION OF MAYOR APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS

EXECUTIVE SUMMARY

City Council approval of applicant provided in attached memorandum for appointment to various City Boards and Commissions. Additional recommendations may be forthcoming from Mayor Brand as a Blue Folder item for Council's consideration on October 8, 2019.

ATTACHMENTS

Mayor Brand Appointment Recommendation - 10/8/19

MAYOR BRAND 2019 BOARDS & COMMISSION APPOINTEES OCTOBER 8, 2019

APPOINTEE	QUALIFICATIONS	DISTRICT	TERM EFFECTIVE/EXPIRATION	
Historical Commission				
Lori Zaremski		5	10/01/2019	9/30/2023



R.1., File #19-0304

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: BS 168564



F.2., File #19-0353

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: AES Southland Development, LLC et al. v. City of Redondo Beach, et al. Case No. BS157037



F.3., File #19-0354

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case:

Public Utilities Commission of the State of California, Rulemaking 16-02-007, Order Instituting Rulemaking to Develop an Electricity Integrated Resource Planning Framework and to Coordinate and Refine Long-Term Procurement Planning Requirements



R.4., File #19-0357

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1)

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: BC682833



R.5., File #19-0358

Council Action Date: 10/8/2019

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.9(d)(1).

Name of case: Redondo Beach Waterfront, LLC v. City of Redondo Beach, et al. Case Number: 19STCV13547



R.6., File #19-0335

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED POTENTIAL LITIGATION - The Closed Session is authorized by the attorney-client privilege, Government Code Section 54956.9(d)(4)

One potential case



R.7., File #19-0336

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH LEGAL COUNSEL AND LABOR NEGOTIATOR - The Closed Session is authorized by the Government Code Sec. 54957.6.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Diane Strickfaden, Director of Human Resources

EMPLOYEE ORGANIZATIONS: Redondo Beach Police Officers Association and Redondo Beach Firefighters Association



R.8., File #19-0339

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 900 Pacific Coast Highway, Redondo Beach, CA 90277 (APN#: 4186-031-101)

NEGOTIATING PARTY: David Lawrence on behalf of Carwell LLC



R.9., File #19-0340

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the attorney-client privilege, Government Code Sec. 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 110-151 Fisherman's Wharf, Redondo Beach, CA 90277 (Portions of APN#: 7505-002-934)

NEGOTIATING PARTY: Next Century Power, LLC - Leo Pustilnikov



R.10., File #19-0341

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: Portions of APNs: 7503-029-900, 7503-029-902, 7503-033-903, 7503-033-905, 7505-002-908, 7505-002-914, 7505-002-932

NEGOTIATING PARTY: Leo Pustilnikov



R.11., File #19-0342

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR -The Closed Session is authorized by the Government Code Section 54956.8.

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 300 N. Harbor Drive, Redondo Beach, CA 90277 (Former Gold's Gym, APN: 7503-034-024)

NEGOTIATING PARTY: Leo Pustilnikov



R.12., File #19-0343

Council Action Date: 10/8/2019

<u>TITLE</u>

CONFERENCE WITH REAL PROPERTY NEGOTIATOR - The Closed Session is authorized by the Government Code Section 54956.8

AGENCY NEGOTIATOR: Joe Hoefgen, City Manager Mike Witzansky, Assistant City Manager Stephen Proud, Waterfront and Economic Development Director

PROPERTY: 208 Yacht Club Way, Redondo Beach, CA 90277 (portions of APN's: 7503-003-900; 7503-013-822; 7503-003-901)

NEGOTIATING PARTY: Maryann Guthrie, MCL