

Attachment A

ORDINANCE NO. 2026-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADDING CHAPTER 5.55 (TOBACCO RETAILER BUSINESSES) TO TITLE 5 (BUSINESS LICENSES AND REGULATIONS) AND AMENDING TITLE 20 (PLANNING AND ZONING) OF THE NEWPORT BEACH MUNICIPAL CODE RELATED TO OPERATION OF NEW TOBACCO RETAILER BUSINESSES AND THE RELOCATION OR PHYSICAL EXPANSION OF EXISTING TOBACCO RETAILER BUSINESSES, ALSO KNOWN AS SMOKE SHOPS

WHEREAS, Section 200 of the City Charter, of the City of Newport Beach (“City”), vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the City Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges or procedures granted or prescribed by any law of the State of California;

WHEREAS, pursuant to Government Code Section 65858, the City Council may adopt an interim urgency ordinance prohibiting any use that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time, if the members of the City Council by a majority vote find that there is a current and immediate threat to the public safety, health, and welfare of the community;

WHEREAS, tobacco retailer businesses, also known as smoke shops, have been a source of unlawful activities in the City, which, if not curtailed, present an immediate threat to the public health, safety, and welfare;

WHEREAS, the Newport Beach Police Department (“NBPD”) served warrants at local tobacco retailer businesses and found evidence of ongoing illegal drug sales to adults and minors;

WHEREAS, on May 15, 2024, NBPD detectives arrested a store clerk at Plugged N Smoke & Sneakers, located at 3555 East Coast Highway in Corona Del Mar, following a lengthy investigation that uncovered ongoing sales of illegal marijuana, controlled substances, and prohibited tobacco products to both minors and adults;

WHEREAS, on June 10, 2025, NBPD detectives served a search warrant at Tobacco and Accessories, located at 3617 East Coast Highway in Corona Del Mar, seizing over 454 pounds of illegal cannabis, psilocybin (magic mushrooms), nitrous oxide, and prohibited tobacco products;

WHEREAS, these two cases are part of a troubling trend that endangers the well-being of the City's residents, especially minors, highlighting the urgent need for swift and decisive action, as demonstrated by aggressive enforcement and stricter regulations recently adopted by neighboring cities like Anaheim, Orange, La Habra, and Redondo Beach;

WHEREAS, the City Council adopted interim Urgency Ordinance No. 2025-31 on September 23, 2025, which was subsequently extended by the adoption of Urgency Ordinance No. 2025-34 on November 28, 2025;

WHEREAS, pursuant to Government Code Section 65858(d), the City issued a report detailing the actions taken to alleviate the conditions necessitating extension of Ordinance No. 2025-31, which included obtaining community input and convening an inter-departmental task force to develop new regulations, enhance enforcement, and curb illegal tobacco sales to minors and sales involving illicit substances;

WHEREAS, on September 23, 2025, the City Council initiated an amendment of the Zoning Code pertaining to smoke shops, smoking lounges, and other tobacco related businesses;

WHEREAS, the Planning Commission held a public hearing on March 19, 2026, in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing. The Planning Commission unanimously voted to recommend the City Council adopt Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and amendments to Newport Beach Municipal Code Title 20 (Planning and Zoning);

WHEREAS, the City Council held a public hearing on May 12, 2026, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing; and

WHEREAS, the City Council desires to protect the public health, safety, and general welfare of the community by imposing restrictions, enforcement tools, and local licensing requirements for tobacco retailers, and finds that the adoption of Chapter 5.55 (Tobacco Retailer Businesses) to Title 5 (Business Licenses and Regulations) and amendments to Title 20 (Planning and Zoning) will encourage responsible tobacco retailing and discourage violations of tobacco-related laws, especially those which prohibit or discourage the sale or distribution of tobacco and nicotine products to youth.

NOW, THEREFORE, the City Council of the City of Newport Beach ordains as follows:

Section 1: Chapter 5.55 (Tobacco Retailer Businesses) is hereby added to Title 5 (Business Licenses and Regulations) of the Newport Beach Municipal Code as set forth in Exhibit "A," which is attached hereto and incorporated herein by this reference.

Section 2: Sections 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements), 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements), and 20.24.020 (Industrial Zoning District Land Uses and Permit Requirements) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code are hereby replaced in their entirety as set forth in Exhibit "B," which is attached hereto and incorporated herein by this reference.

Section 3: The definitions set forth in Exhibit "B" are hereby added to Section 20.70.020 (Definitions of Specialized Terms and Phrases) of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

Section 4: Upon the effective date of this Ordinance, Urgency Ordinance Nos. 2025-31 and 2025-34, are hereby repealed in their entirety and shall be of no further force or effect.

Section 5: The recitals provided in this ordinance are true and correct and are incorporated into the substantive portion of this ordinance.

Section 6: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7: The proposed action is statutorily and categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to Section 21080.17 of the Public Resources Code and pursuant to Section 15061(b)(3) of the CEQA guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. While this amendment would modify standards for tobacco retailer businesses and cigar lounges within the City, it does not authorize new development that would directly result in physical changes to the environment. There is no evidence or known special circumstances that amending the regulations for tobacco retailer businesses and cigar lounges would result in any new effects on the environment.

Section 8: Except as expressly modified in this ordinance, all other sections, subsections, terms, clauses and phrases set forth in the Newport Beach Municipal Code shall remain unchanged and shall be in full force and effect.

Section 9: The Mayor shall sign and the City Clerk shall attest to the passage of this ordinance. The City Clerk shall cause this urgency ordinance, or a summary thereof, to be published pursuant to all applicable laws including Charter Section 414. This ordinance shall be effective thirty (30) calendar days after its adoption.

This ordinance was introduced at a regular meeting of the City Council of the City of Newport Beach held on the 12th day of May, 2026, and adopted on the 26th day of May, 2026, by the following vote, to-wit:

AYES: _____

NAYS: _____

ABSENT: _____

Lauren Kleiman, Mayor

ATTEST:

Lena Shumway, City Clerk

**APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE**



Aaron C. Harp, City Attorney

Attachments: Exhibit A - Chapter 5.55 of Title 5 of the NBMC
Exhibit B - Sections 20.20.020, 20.22.020, 20.24.020, and 20.70.020
of Title 20 (Planning and Zoning) of the NBMC

Exhibit “A”

Chapter 5.55 Tobacco Retailer Businesses

Sections:

- 5.55.005 Findings and Purpose.
- 5.55.010 Definitions.
- 5.55.015 Requirements of Operation.
- 5.55.020 Application for Tobacco Retailer’s Permit.
- 5.55.025 Tobacco Retailer’s Permit Issuance and Renewal.
- 5.55.030 Prohibitions and Requirements.
- 5.55.035 Compliance Monitoring and Right of Entry.
- 5.55.040 Violations – Suspension, Revocation, and Seizure.
- 5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.
- 5.55.050 Enforcement.

5.55.005 Findings and Purpose.

It is the purpose and intent of this chapter to encourage responsible tobacco retailing and to discourage violations of tobacco-related laws, particularly those that prohibit or discourage the sale or distribution of tobacco products to minors. This chapter is not intended to expand or limit the scope of conduct regulated by federal or state law, nor to alter any penalties provided under such laws.

The restrictions and requirements of this chapter are further intended to reduce the burden on the Police Department and to allow for the more effective deployment of law enforcement resources toward the prevention of more serious crimes.

5.55.010 Definitions.

“Control” means the ability, directly or indirectly, to influence the management, policies, or operations of a business, whether through ownership, contract, financial arrangement, lease, employment relationship, or otherwise.

“Electronic smoking device” means any electronic or battery-operated device that simulates smoking and can be used to deliver an inhaled dose of nicotine or any other substance in aerosolized or vaporized form, including any component, part, or accessory used in the preparation or operation of such device. This term includes, but is not limited to, electronic cigarettes, cigars, cigarillos, pipes, vape pens, hookahs, vaporizers, and atomizers. It does not include nicotine replacement or cessation products approved by the United States Food and Drug Administration.

“Flavored tobacco product” shall have the same meaning as set forth in Section 6.30.010.

“Nitrous oxide” shall have the same meaning as set forth in Section 6.040.010.

“Permittee” means any person or proprietor who holds a valid tobacco retailer’s permit issued pursuant to this chapter.

“Proprietor” means any person with an ownership or managerial interest in a business. An ownership interest exists if a person, directly or indirectly, holds ten percent (10%) or more of the business’s stock, equity, or right to share in profits or residual distributions, excluding any security or debt interest. A managerial interest exists if a person exercises, or shares, control over the business’s day-to-day operations.

“Sell” or “sale” shall have the same meaning as set forth in Section 6.30.010.

“Smoke” or “Smoking” shall have the same meaning as set forth in Section 6.25.010.

“Tobacco paraphernalia” means cigarette papers or wrappers, blunt wraps as defined in California Penal Code Section 308, pipes, holders of smoking materials of all types, cigarette rolling machines, or any other instruments or items designed or marketed for the consumption, preparation, storing, use, smoking or ingestion of tobacco products.

“Tobacco product” shall have the same meaning as set forth in Section 6.30.010. Notwithstanding anything to the contrary in Section 6.30.010, “tobacco product” includes any component, part, or accessory intended to be used with a tobacco product, whether or not sold separately.

“Tobacco product flavor enhancer” has the meaning set forth in California Health and Safety Code Section 104559.5(a)(18).

“Tobacco retailer business” shall have the same meaning as set forth in Section 20.70.020.

“Tobacco retailing” shall mean the doing of any of the activities associated with a “tobacco retailer business” as defined in Section 20.70.020. This definition is without regard to the quantity of tobacco products or tobacco paraphernalia sold, offered for sale, exchanged, or offered for exchange.

“Tobacco retailer’s permit” means a permit issued by the Chief of Police authorizing a specific location to engage in tobacco retailing. Issuance of a permit does not constitute a determination of compliance with all applicable laws. A permit may be suspended or revoked pursuant to this chapter.

5.55.015 Requirements of Operation.

A. Tobacco Retailer's Permit Requirement. Except as provided in subsection (E), no person shall own, operate, or otherwise conduct a tobacco retailer business within the City without first obtaining and maintaining a valid tobacco retailer's permit for each location at which such business operates.

B. Zoning and Land Use Restrictions. Permits shall not be issued for locations that violate Title 20 or Title 21 of this Code and shall only be located in zoning districts where retail sales are a permitted use.

C. Prohibited Business Types. A tobacco retailer's permit shall not be issued or renewed for any premises licensed by the state for on-site alcohol consumption, or for any restaurant or business that offers food for on-site consumption.

D. Location Requirements. Tobacco retailer businesses shall comply with the following minimum separation requirements:

1. One thousand (1,000) feet from another permitted tobacco retailer business;
2. One thousand (1,000) feet from any public or private school, day care center, park, playground, hospital, beach, library, youth center, or other public facility; and
3. One thousand (1,000) feet from any residential zoning district or residential use.

Distances required by this subsection shall be measured in a straight line, without regard to intervening structures, from the closest property line of the parcel on which the tobacco retailer business is located to the closest property line of the zoning district, property, or use.

E. Nonconforming Use Exception. A tobacco retailer business lawfully operating as of the effective date of this chapter is exempt from the location and zoning requirements set forth in subsections (B), (C), and (D) of this section and may continue operating under the following conditions:

1. A tobacco retailer's permit application is filed within sixty (60) calendar days of the effective date of this chapter.
2. The tobacco retailer's permit is timely issued and renewed in accordance with Section 5.55.025.

3. After obtaining a permit, the tobacco retailer business does not cease operations for more than sixty (60) consecutive calendar days.

4. After obtaining a permit, the tobacco retailer business complies with Section 20.38.050.

F. Legal non-conforming. Except as otherwise provided in this chapter, a tobacco retailer's permit issued under subsection (E) of this section shall be treated as a legal nonconforming use pursuant to Section 20.38.050 of the Code and subject to its provisions and limitations.

G. Permit is Conditional. A tobacco retailer's permit confers a limited, revocable privilege to operate at the specified location and does not create a vested right or supersede any other applicable law.

5.55.020 Application for Tobacco Retailer's Permit.

A. Application Procedure.

1. Applications shall be submitted on forms provided by the City and include a non-refundable fee as set by City Council resolution.

2. Each application shall include, at minimum, the following:

a. Full legal name, date of birth, government-issued identification number, mailing address, phone number, and email for each proprietor;

b. Business name, address, phone number, and hours of operation;

c. Disclosure of any prior permit suspensions or revocations under this chapter, including dates and reasons;

d. Proof of a valid state tobacco retailer license from the California Department of Tax and Fee Administration;

e. Any other information deemed necessary by the Chief of Police for administration or enforcement purposes; and

f. A signed certification by each proprietor under penalty of perjury affirming the accuracy of the information provided and compliance with this chapter.

B. Change of Information. The applicant/permittee shall notify the Chief of Police in writing of any change to the information submitted in the application within ten (10) calendar days.

C. Non-Transferability. A tobacco retailer's permit is non-transferable and may not be assigned to any other person, proprietor, or location. Any attempted transfer is void. A new application is required for any change in ownership or location.

5.55.025 Tobacco Retailer's Permit Issuance and Renewal.

A. Tobacco Retailer's Permit Review and Issuance. The Chief of Police shall review each completed application and may conduct any investigation necessary to determine compliance with this chapter and applicable laws. A permit may be denied or not renewed upon a determination that any of the following conditions exist:

1. The application is materially incomplete or contains inaccurate, false, fraudulent, or misleading information.
2. Except as provided in Section 5.55.015, the applicant/proprietor seeks authorization for tobacco retailing that is prohibited, unlawful or violates this chapter or other applicable local, state, or federal law or regulation.
3. The applicant/proprietor has unresolved outstanding fines, penalties, fees, or taxes owed to the City in connection with tobacco retailing activities.
4. The applicant/proprietor has had a City tobacco retailer's permit or California tobacco retailer's license revoked in the preceding five (5) years.
5. Except as provided in this subsection, the business location has had a City tobacco retailer's permit or California tobacco retailer's license revoked within the preceding five (5) years.
 - a. The City Manager may waive or modify the restriction upon a determination that the purposes of this chapter would not be undermined, including, but not limited to, where there has been a bona fide change in ownership and adequate safeguards are in place to prevent future violations.
 - b. The applicant bears the burden of demonstrating that any transfer of ownership is bona fide and at arm's length. The City may require disclosure of prior ownership interests, management control, financial arrangements, and any other information necessary to determine whether a genuine change in control has occurred. A transfer shall not be deemed bona fide where the prior owner retains any direct or indirect ownership interest, financial interest, management role, or control over the business or its operations.

6. Issuance or renewal of the permit would be contrary to the public health, safety, or welfare, based on specific findings demonstrating a reasonable nexus between the proposed operation and potential harm.

Any approved permit may be subject to reasonable conditions that are related to ensuring compliance with this chapter and protecting public health, safety, and welfare.

B. Tobacco Retailer's Permit Term and Renewal.

1. A permit is valid for one (1) year from the date of issuance and shall be renewed annually to continue operation as a tobacco retailer business.
2. To maintain continuity, renewal applications should be submitted at least thirty (30) days before expiration.

Unless the City Manager determines there is good cause to grant an extension, a permit that is not timely renewed shall expire automatically at midnight on the expiration date. Upon expiration, all tobacco retailing shall immediately cease, and a new application shall be required.

5.55.030 Prohibitions and Requirements.

A. Compliance with Laws. Except as provided in Section 5.15.015 (E), a tobacco retailer business shall comply with all applicable local, state, and federal laws, including those relating to zoning, building, fire, public health, safety, and tobacco control.

B. Fixed Location Required. Tobacco retailing shall occur only from a fixed, permanent location. Retailing from vehicles, temporary structures, or mobile operations is prohibited.

C. Prohibited Products and Activities. The following items shall not be sold, distributed, displayed, furnished, administered, exchanged, given away, or possessed with the intent to sell or offered for sale by any tobacco retailer's business:

1. Nitrous oxide or any device used to dispense it as defined by local, state or federal law;
2. Cannabis, cannabis products, or edible cannabis products as defined in Chapter 10.70;
3. Flavored tobacco products and tobacco product flavor enhancers, as prohibited under local, state or federal law, including Chapter 6.30;

4. Imitation tobacco products, including, but not limited to, candy cigarettes and bubble gum cigars;

5. Disguised vape or electronic smoking devices, including, but not limited to, those made to look like USB drives, pens, markers, phone cases, watches, lipstick, remote keys or other non-tobacco items; and/or

6. Any product, device, or item that is designed, marketed, or reasonably intended to evade or circumvent the prohibitions set forth in this chapter.

D. Minimum Age of Employees. No person under the minimum legal age determined by the stricter of state or federal law for purchasing or possessing tobacco products may engage in or assist with tobacco retailing.

E. Government Identification. No tobacco product or tobacco paraphernalia shall be sold unless the tobacco retailer business first verifies, by examining valid government-issued photo identification, that the purchaser meets the minimum legal age, under the stricter of state or federal law, for purchasing or possessing tobacco products.

F. Storage. All tobacco products shall be stored in a manner that prevents direct customer access without employee assistance.

G. Packaging, Labeling, and Pricing.

1. Tobacco products shall be sold in the original manufacturer's packaging, compliant with all federal and state labeling, tax, and child-resistant packaging laws.

2. Prices shall be clearly displayed on the product or nearby shelf or signage.

H. Display of Licenses and Permits. The tobacco retailer's permit and all required state or federal licenses shall be prominently displayed within five (5) feet of the point of sale.

I. Premises Regulations.

1. A tobacco retailer business shall maintain a clearly designated front entrance for customers. All non-emergency public access shall occur through this entrance.

2. Front entrance doors of a tobacco retailer business shall remain unlocked during regular business hours.

J. Signage Compliance. A tobacco retailer business shall comply with all signage requirements in Title 20 of the Code and all applicable state and federal laws related to tobacco warnings, age restrictions, and advertising. No more than twenty (20) percent of the total transparent area of a tobacco retailer business storefront windows and doors may be covered by signage. All signage shall be placed to maintain a clear and unobstructed view of the interior of the premises including, but not limited to, the point-of-sale area, from the exterior.

5.55.035 Compliance Monitoring and Right of Entry.

The City may enter any permitted tobacco retailer during regular business hours, or at any other reasonable time, to conduct reasonable inspections to ensure compliance with this chapter and applicable laws. Inspections may be routine, unannounced, or complaint based. Refusal to permit entry, or any act that delays or interferes with an inspection, constitutes a violation of this chapter.

5.55.040 Violations – Suspension, Revocation, and Seizure.

A. Grounds for Enforcement. In addition to any other remedies provided by law, the Chief of Police or City Manager may suspend or revoke a tobacco retailer’s permit upon a finding, by a preponderance of the evidence, that one or more of the following has occurred:

1. The permittee or proprietor submitted a tobacco retailer permit application that contained false information;
2. The permittee, proprietor, or any employee has violated any provision of this chapter or any condition of the permit;
3. The permittee, proprietor, or any employee has violated any local, state, or federal law governing tobacco products or tobacco retailing; or
4. The permittee, proprietor, or any employee has been convicted of, or has pled guilty or no contest to, a violation of local, state, or federal law constituting a felony, and the violation is directly and substantially related to the operation of the tobacco retailer business.

Any decision to suspend or revoke a tobacco retailer’s permit may be appealed pursuant to Section 5.55.045.

B. Conditions During Suspension or Revocation. During a suspension or revocation period:

1. All tobacco products and related items shall be removed from customer view and stored in a secure, non-public area; and
2. A City-issued notice shall be posted at all public entrances and points of sale, stating the reason and duration of the enforcement action.

C. **Seizure.** Tobacco products and tobacco paraphernalia offered for sale are subject to immediate seizure by the Chief of Police if there is probable cause to believe that a violation of this chapter or any permit condition has occurred. The permittee and any other owner of the seized items shall be provided written notice of the seizure and informed of the right to appeal in accordance with Section 5.55.045. Seized items shall be forfeited unless the permittee or owner of the seized items successfully demonstrates, through the appeal process, that the items were not offered for sale in violation of this chapter.

Forfeited tobacco products and tobacco paraphernalia shall be destroyed after all administrative appeals have been exhausted and the time to seek judicial review pursuant to Chapter 1.10 or other applicable law has expired without the filing of a lawsuit, or, if such a lawsuit is filed, after final judgment is entered.

D. **Attribution of Employee Conduct.** For purposes of this section, violations by employees shall be attributed to the permittee.

5.55.045 Suspension, Revocation, Denial, Seizure, and Appeal.

A. **Notice of Action.** Fifteen (15) calendar days prior to the effective date of a denial, suspension, or revocation of a tobacco retailer's permit, or fifteen (15) calendar days following the seizure of items under this chapter, the Chief of Police shall provide written notice to the applicant or permittee. The notice shall include:

1. The specific grounds for the action;
2. A summary of the supporting facts and applicable code provisions; and
3. Instructions for requesting an administrative review pursuant to this section.

B. **Appeal.**

1. The applicant or permittee may request an administrative review by the City Manager within fifteen (15) calendar days of service of the notice of action in accordance with Section 1.08.080 by filing an appeal with the City Clerk.
2. The City Manager may affirm, modify, or reverse the decision, or impose conditions or alternative remedies, based on the record and any additional information deemed relevant to the purposes of this chapter.

3. Decisions under this section shall be upheld if supported by substantial evidence in the record.

4. The City Manager may consider the totality of the circumstances and the purposes of this chapter in making determinations.

5. The City Manager may consider any relevant evidence, whether or not it would be admissible in a court of law.

6. The decision of the City Manager shall be final as to the City but subject to judicial review pursuant to California Code of Civil Procedure Section 1094.5.

C. Failure to Participate. Failure of the appellant to appear at the appeal hearing shall be deemed a withdrawal of the appeal and a waiver of the right to exhaust administrative remedies.

5.55.050 Enforcement.

A. Suspension or Revocation of Tobacco Retailer's Permit. A violation of, or failure to comply with, any provision of this chapter may result in one or more of the following administrative actions, as determined by the Chief of Police or City Manager based on the severity and circumstances of the violation:

1. For the first violation within a five (5) year period, the tobacco retailer's permit may be suspended for up to one hundred and eighty (180) calendar days.

2. For the second violation within a five (5) year period, the tobacco retailer's permit shall be revoked.

B. Aggregation of Violations. For purposes of enforcement, violations occurring at multiple locations that have a common permittee, or proprietor may be aggregated and treated as violations of a single permittee where there is common ownership or control and a demonstrated pattern of noncompliance.

C. Remedies. The remedies provided in this chapter are in addition to any other remedies available under local, state, or federal law. Nothing in this chapter limits the City's authority to pursue any available legal remedy, including, but not limited to, nuisance abatement or, permit suspension or revocation, or enforcement under Chapter 20.68 of the Code.

D. City Manager Authority. The City Manager shall have authority to interpret, implement, and enforce this chapter, including the authority to impose conditions, grant modifications, and make determinations necessary to carry out its purposes. The City Manager shall determine the extent to which any provision of this chapter is preempted by state or federal law and may modify or suspend enforcement accordingly.

Exhibit “B”

20.20.020 Commercial Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-4 and 2-5 indicate the uses allowed within each zoning district and the permit required to establish the use, if any, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with “—” means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables (“Specific Use Regulations”) may include a reference to additional regulations that apply to the use.

<p align="center">TABLE 2-4 ALLOWED USES AND PERMIT REQUIREMENTS</p>	<p align="center">Commercial Office Zoning Districts Permit Requirements *</p>				
	<p align="center">P CUP MUP LTP —</p>	<p align="center">Permitted by Right</p> <p align="center"> Conditional Use Permit (Section 20.52.020) Minor Use Permit (Section 20.52.020) Limited Term Permit (Section 20.52.040) Not allowed * </p>			
<p>Land Use</p> <p align="center"> See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses. </p>	OA	OG	OM	OR	<p>Specific Use Regulations</p>
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	MUP	MUP	P	
Retail Sales (less than 10,000 sq. ft.) ⁴	MUP	P	P	P	
Retail Sales (10,000 sq. ft. or greater) ^{1,4}	CUP	—	—	—	
Pharmacy, Medical Supplies	P	P	P	P	
Other Uses					
Cigar Lounges ⁵	P	—	—	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

- (1) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.
- (2) Permitted or Minor Use Permit Required.
- a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.
- b. Except as provided in (2)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.
- c. A minor use permit shall be required for any use that maintains late hours.
- (3) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.
- (4) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.
- (5) Cigar Lounges are only permitted in the OA and OR Zoning District when located in a private room within, or attached to, a premium cigar retail sale establishment. A Cigar Lounge shall be restricted to persons aged twenty-one (21) years of age or older. Cigar Lounges shall be fire sprinklered and comply with all Building and Fire Codes. A Cigar Lounge shall provide adequate ventilation. A Cigar Lounge shall not be located within one thousand (1,000) feet of another Cigar Lounge.

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Retail Zoning Districts Permit Requirements *						
	P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *						
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	CC	CG	CM	CN	CV	CV-LV	Specific Use Regulations
Retail Trade Uses							
Alcohol Sales (off-sale)	MUP	MUP	MUP	MUP	MUP	MUP	Section 20.48.030
Alcohol Sales (off-	P	P	P	P	P	P	

TABLE 2-5 ALLOWED USES AND PERMIT REQUIREMENTS	Commercial Retail Zoning Districts Permit Requirements *						
	P Permitted by Right CUP Conditional Use Permit (Section 20.52.020) MUP Minor Use Permit (Section 20.52.020) LTP Limited Term Permit (Section 20.52.040) — Not allowed *						
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	CC	CG	CM	CN	CV	CV-LV	Specific Use Regulations
sale), Accessory Only							
Bulk merchandise	—	P	—	P	—	—	
Marine Rentals and Sales							
Boat Rentals and Sales	—	CUP	CUP	—	CUP	P	
Marine Retail Sales	P	P	P	—	P	P	
Retail Sales ⁵	P	P	P	P	—	—	
Visitor-Serving Retail	P	—	—	—	P	P	

Notes:

- (1) All development and the subdivision of land shall comply with the requirements of Title 19 (Subdivisions).
- (2) In the CG Zoning District, when 0.3/0.5 is shown on the Zoning Map, the FAR may be increased to a maximum of 0.5 when two or more legal lots are merged to accommodate larger commercial development projects in compliance with General Plan Policy LU 6.19.13 and Title 19 (Subdivisions).
- (3) Portions of legal lots that are submerged lands or tidelands shall be included in the land area of the lot for the purpose of calculating the allowable floor area for structures.
- (4) Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to 65 feet in height.
- (5) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

20.22.020 Mixed-Use Zoning Districts Land Uses and Permit Requirements.

A. Allowed Land Uses. Tables 2-8, 2-9, and 2-10 indicate the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with “—” means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables (“Specific Use Regulations”) may include a reference to additional regulations that apply to the use.

TABLE 2-8 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements				
	P CUP MUP LTP —	Permitted by Right Conditional Use Permit (Section 20.52.020) Minor Use Permit (Section 20.52.020) Limited Term Permit (Section 20.52.040) Not Allowed *			
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	MU-V	MU-MM (6)	MU-DW	MU- CV/15th St. (7)	Specific Use Regulations
Retail Trade Uses					
Alcohol Sales (off-sale)	MUP	MUP	—	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	P	P	
Marine Rentals and Sales					
Boat Rentals and Sales	CUP	P	—	CUP	
Marine Retail Sales	P	P	P	P	
Retail Sales ⁸	P	P	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-

Use Zoning Districts).

- (3) Not allowed on lots at street intersections unless part of a mixed-use or live-work structure.
- (4) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public after 11:00 p.m. any day of the week.
- (5) Permitted or Minor Use Permit Required.
 - a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.
 - b. Except as provided in (5)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.
 - c. A minor use permit shall be required for any use that maintains late hours.
- (6) Properties fronting on Coast Highway shall be developed with nonresidential uses as allowed in Table 2-9. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate multi-unit residential above the ground floor with nonresidential uses on the ground floor. See Table 2-10 (Development Standards for Vertical and Horizontal Mixed-Use Zoning Districts).
- (7) Mixed-use or commercial structures are required on lots at street intersections and are allowed, but not required, on other lots.
- (8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements		
	P	CUP	MUP
	Permitted by Right	Conditional Use Permit (Section 20.52.020)	Minor Use Permit (Section 20.52.020)
		Limited Term Permit (Section 20.52.040)	
	—	Not allowed *	
Retail Trade Uses			
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	MU-W1 (5)(6)	MU-W2	Specific Use Regulations
Alcohol Sales (off-sale)	MUP	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	P	

TABLE 2-9 ALLOWED USES AND PERMIT REQUIREMENTS	Mixed-Use Zoning Districts Permit Requirements		
	P	CUP	MUP
	Permitted by Right	Conditional Use Permit (Section 20.52.020)	Minor Use Permit (Section 20.52.020)
		Limited Term Permit (Section 20.52.040)	
	—	Not allowed *	
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	MU-W1 (5)(6)	MU-W2	Specific Use Regulations
Marine Rentals and Sales			
Boat Rentals and Sales	P	P	
Marine Retail Sales	P	P	
Retail Sales ⁸	P	P	
Visitor-Serving Retail	P	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(2) May only be located above a commercial use and not a parking use. Refer to Section 20.48.130 (Mixed-Use Projects) for additional development standards.

(3) Late Hours. Facilities with late hours shall mean facilities that offer service and are open to the public past 11:00 p.m. any day of the week.

(4) Permitted or Minor Use Permit Required.

a. For Take-Out Service – Fast Casual (up to 20 seats), a minor use permit shall be required for any use located within one hundred (100) feet of any residential zoning district.

b. Except as provided in (4)(a), a minor use permit shall be required for any use located within five hundred (500) feet of any residential zoning district.

c. A minor use permit shall be required for any use that maintains late hours.

(5) Approval of a minor site development review, in compliance with Section 20.52.080, shall be required prior to any development to ensure that the uses are fully integrated and that potential impacts from their differing activities are fully mitigated.

(6) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.

(7) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(8) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein

Section 20.24.020 Industrial Zoning District Land Uses and Permit Requirements.

A. Allowed Land Uses. Table 2-12 indicates the uses allowed within each zoning district and the permit required to establish each use, in compliance with Part 5 of this title (Planning Permit Procedures).

B. Prohibited Land Uses. Any table cell with “—” means that the listed land use is prohibited in that specific zoning district.

C. Applicable Regulations. The last column in the tables (“Specific Use Regulations”) may include a reference to additional regulations that apply to the use.

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning District Permit Requirements	
	P CUP MUP LTP —	Permitted by Right Conditional Use Permit (Section 20.52.020) Minor Use Permit (Section 20.52.020) Limited Term Permit (Section 20.52.040) Not allowed *
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	IG	Specific Use Regulations
Retail Trade Uses		
Alcohol Sales (off-sale)	MUP	Section 20.48.030
Alcohol Sales (off-sale), Accessory Only	P	
Building Materials and Services	P	
Contractor’s Storage Yards	MUP	

TABLE 2-12 ALLOWED USES AND PERMIT REQUIREMENTS	Industrial Zoning District Permit Requirements	
	P CUP MUP LTP —	Permitted by Right Conditional Use Permit (Section 20.52.020) Minor Use Permit (Section 20.52.020) Limited Term Permit (Section 20.52.040) Not allowed *
Land Use See Part 7 of this title for land use definitions. See Chapter 20.12 for unlisted uses.	IG	Specific Use Regulations
Marine Rentals and Sales		
Boat Rentals and Sales	MUP	
Marine Retail Sales	P	
Retail Sales ³	P	

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular zoning district, are not allowed, except as otherwise provided by Section 20.12.020 (Rules of Interpretation).

(1) Wine Tasting Room Hours of Operation. The permitted hours of operation shall be limited to Monday through Friday from 4:00 p.m. to 11:00 p.m., and Saturday and Sunday from 12:00 p.m. to 11:00 p.m.

(2) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(3) Tobacco Retail Businesses are subject to the standards of Chapter 5.55 (Tobacco Retailer Businesses) including but not limited to the distance requirements contained therein.

Section 20.70.020 Definitions of Specialized Terms and Phrases

C. "C" Definitions

"Cigar Lounge" means any person or establishment where the primary use or ancillary use is characterized by the sale and offering of smoking of premium cigars.

G. "G" Definitions

"Grocery store" means a retail establishment of which greater than 1/2 of the floor area is devoted to the sale of food items and small household goods intended for consumption or use off the

premises, excluding alcoholic beverages.

P. "P" Definitions

"Premium cigar" shall have the same meaning as set forth in Section 6.25.010.

S. "S" Definitions

"Sale of Premium Cigars" means an establishment primarily engaged in the exclusive sale, distribution, or exchange of premium cigars.

"Smoking lounge (land use)" means an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as hookah lounges, vape lounges, e-cigarette club, tobacco clubs, or tobacco bars.

T. "T" Definitions

"Tobacco retailer business" means any person or establishment who sells, offers for sale, distributes, furnishes, or otherwise exchanges, with or without compensation, a tobacco product, tobacco paraphernalia, or tobacco-related item, to a consumer or end user, whether conducted in a physical storefront, through mobile or temporary setups, or via online or delivery-based platforms operating within the City of Newport Beach. Does not include "Grocery Store," "Supermarket," "Hotel," "Motel," "Alcohol Sales (off-sale)," "Alcohol Sales (off-sale), Accessory Only," "Cigar Lounge," or the "Sale of Premium Cigars."