



City of South San Francisco

P.O. Box 711 (City Hall,
400 Grand Avenue)
South San Francisco,
CA

Signature Report

Ordinance: ORD 1528-2016

File Number: 16-884

Enactment Number: ORD 1528-2016

Ordinance Amending Chapter 8.50 of the South San Francisco Municipal Code to ban smoking throughout multi-unit residences.

WHEREAS, according to the Center for Disease Control, scientific studies have concluded that cigarette smoking causes chronic lung disease, coronary heart disease, stroke, cancer of the lungs, larynx, esophagus, mouth, and bladder, and contributes to cancer of the cervix, pancreas, and kidneys; and

WHEREAS, the U.S. Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke and neither separating smokers from nonsmokers nor installing ventilation systems effectively eliminates secondhand smoke; and

WHEREAS, the United States Environmental Protection Agency (EPA) 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 to humans; and

WHEREAS, the California Air Resources Board has categorized secondhand smoke as a toxic air contaminant, putting it in the same category as the most toxic automotive and industrial air pollutants; and

WHEREAS, more than 450,000 people die in the United States from tobacco-related diseases every year, making it the nation's leading cause of preventable death; and

WHEREAS, exposure to secondhand smoke is a leading cause of preventable death in this country, killing over 41,000 non-smokers each year, including more than 7,000 deaths from lung cancer; and

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

WHEREAS, according to the American Lung Association, secondhand smoke exposure causes as many as 300,000 children in the United States to suffer from lower respiratory tract infections, such as pneumonia and bronchitis, exacerbates childhood asthma, and increases the risk of acute chronic middle ear infection in children; and

WHEREAS, California Health and Safety Code section 118910 explicitly authorizes a local entity to regulate or completely ban the smoking of tobacco; and

WHEREAS, the City of South San Francisco (“City”) adopted Ordinance No. 1010-1987 for the purpose of enacting Chapter 8.50, Regulation of Smoking (“Regulation of Smoking Ordinance”); and

WHEREAS, the City has since amended the Regulation of Smoking Ordinance to more effectively regulate smoking and protect public health within the City; and

WHEREAS, multi-unit residences are becoming increasingly common and are a critical tool in providing housing to South San Francisco residents; and

WHEREAS, the City desires to amend the Regulation of Smoking Ordinance in order to further protect the health and welfare of its residents and visitors.

NOW THEREFORE, the City Council of the City of South San Francisco does hereby ORDAIN as follows:

SECTION 1. AMENDMENTS

The City Council hereby amends Chapter 8.50 of the South San Francisco Municipal Code to read as follows. Sections and subsections that are not amended by this Ordinance are not included below, and shall remain in full force and effect.

8.50.020 Definitions.

“Common area” means every enclosed and every unenclosed area of a multi-unit residence where residents of more than one unit and/or their guests are entitled to enter or use, including, but not limited to, elevators, hallways, stairways, lobbies, lounges, recreation rooms, exercise facilities, shared restrooms, shared cooking or eating facilities, shared laundry rooms, community rooms, parking garages, swimming pools, playgrounds, pathways, and courtyards.

“Multi-unit residence” means any property with two (2) or more Units and has at least one or more shared walls, floors, or ceilings. Additionally, a property that has two (2) or more Units and has a shared ventilation system is considered a Multi-unit residence. A Multi-unit residence does not include the following:

- (1) a single-family residence with a detached in-law or secondary dwelling unit;
- (2) a single, contiguous residence in which rent is shared by the residents; and
- (3) a hotel or motel that meets the requirements of California Civil Code section 1940, subdivision (b)(2).

8.50.030 Smoking prohibited.

(a) Enclosed Places. Smoking shall be prohibited in the following enclosed places within the city except as otherwise permitted in Section 8.50.040, and except in such places in which smoking is already prohibited by state or federal law, in which case those laws apply:

(1) Places of Employment. Smoking is prohibited in all enclosed places of employment, as defined in this chapter and by California Labor Code Section 6404.5, as may be amended.

(2) Units within Multi-unit residences. Smoking is prohibited in all dwelling units contained within a Multi-unit residence. Units within Multi-unit residences with existing leases are exempt

from this prohibition until the date the existing lease agreement expires, or six months after this ordinance's effective date, whichever is sooner.

(3) City Buildings. Smoking is prohibited in all enclosed areas of any building or facility owned and occupied or leased and occupied by the city.

(4) City-Owned Enclosed Parking Structures. Smoking is prohibited in all city-owned enclosed parking structures.

(5) City Vehicles. Smoking is prohibited in all city-owned, leased and/or controlled vehicles.

(b) Unenclosed Places. Smoking shall be prohibited in the following unenclosed places within the city except in such places in which smoking is already prohibited by state or federal law, in which case those laws apply:

(1) Parks and Recreation Areas. Smoking is prohibited in all parks and recreation areas within the city, designated as parks and recreation (PR) on the South San Francisco Zoning Map.

(2) Outside of City Buildings. Smoking is prohibited within twenty feet of a main exit, entrance or operable window of any facility covered by subsection (a)(3).

(3) City-Owned Parking Lots. Smoking is prohibited at all city-owned parking lots.

(4) Downtown Core. Smoking is prohibited on all outdoor property along Grand Avenue between Spruce Avenue and Airport Boulevard. This prohibition extends in both directions down Cypress, Linden, Maple and Walnut Avenues where those streets intersect Grand Avenue, up to the beginning of Third Lane and Fourth Lane, respectively. Such prohibition includes, but is not limited to, sidewalks, benches, walkways, streets, and outdoor eating areas that are situated within the area prohibited by this subsection (b)(4).

(5) Designated Public Places. Smoking is prohibited in any open-air public places on city-owned property not otherwise covered by this section when designated by the city manager.

(c) Common areas. Smoking is prohibited in all Common areas of Multi-unit residences, except for outdoor designated smoking areas which shall be located more than 30 feet from an entrance/doorway and marked by conspicuous signage, or designated interior smoking areas in an area that is fully enclosed, separately ventilated, and not the only space available for a particular activity or service.

8.50.050 Posting of signs.

Posting of signs shall be the responsibility of the owner, operator, manager or other person having control of the place where smoking is prohibited by this chapter.

Except in facilities owned or leased by county, state, or federal governmental entities, "No Smoking" signs with letters of not less than one inch in height or the international "No Smoking" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) shall be clearly, sufficiently and conspicuously posted in every room, building or other place where smoking is regulated by this chapter, including, but not limited to, all entrances, all restrooms, all elevators, and at least one conspicuous place within an unenclosed area where smoking is prohibited. Signs of equivalent size and character reading "Smoking Permitted" may be posted where legally applicable. Alternative means of notification (individual place cards, film clips, etc.) may be employed, provided they are

equivalent to the aforementioned signs in their effect. The requirement to post signs pursuant to this section shall not apply to the inside the units of Multi-Unit Residences. Any owner, manager, operator, employer or employee or other person having control of a place where smoking is prohibited by this chapter shall not be deemed to be in violation of this chapter if signs have been posted in a manner consistent with the requirements of this section. For purposes of this chapter, the city manager or designee shall be responsible for the posting of signs in regulated facilities owned or leased in part by the city. Notwithstanding this provision, the presence or absence of signs shall not be a defense to the violation of any other provision of this chapter.

8.50.090 Use of electronic smoking devices-Restricted.

(a) Purpose and Intent. It is the intent of this section to provide individuals with a reasonable degree of protection from involuntary exposure to secondhand electronic smoking device vapor and to limit exposure of minors to an activity that may increase social acceptance of smoking activity by prohibiting smoking in certain specified areas. The compelling purpose and intent of this chapter includes, but is not limited to, generally promoting the health, safety, and welfare of all people in the community against the unknown health and societal effects of the use of electronic smoking devices.

(b) Definition-Electronic Smoking Device. "Electronic smoking device" means any electronic or battery-operated device or product that can be used by a person to simulate smoking through inhalation of vapor or aerosol from the device. This term includes every variation and type of such products or devices whether they are manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vapor pen, or any other product name or descriptor. The term does not include any medical inhaler prescribed by a licensed doctor or a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product and is being marketed and sold solely for the approved purpose.

(c) Use of Electronic Smoking Devices Prohibited. The use of electronic smoking devices is prohibited in the following places within the city:

(1) City Buildings. The use of electronic smoking devices is prohibited in all enclosed areas of any building or facility owned and occupied or leased and occupied by the city.

(2) City-Owned Parking Structures. The use of electronic smoking devices is prohibited in all city-owned parking structures.

(3) City Vehicles. The use of electronic smoking devices is prohibited in all city-owned, leased and/or controlled vehicles.

(4) Parks and Recreation Areas. The use of electronic smoking devices is prohibited in all parks and recreation areas within the city, designated as parks and recreation (PR) on the South San Francisco Zoning Map.

(5) Outside of City Buildings. The use of electronic smoking devices is prohibited within twenty feet of a main exit, entrance or operable window of any city facility or building covered by subsection (c)(1).

(6) City-Owned Parking Lots. The use of electronic smoking devices is prohibited at all

city-owned parking lots.

(7) Downtown Core. The use of electronic smoking devices is prohibited on all outdoor property along Grand Avenue between Spruce Avenue and Airport Boulevard. This prohibition extends in both directions down Cypress, Linden, Maple and Walnut Avenues where those streets intersect Grand Avenue, up to the beginning of Third Lane and Fourth Lane, respectively. Such prohibition includes, but is not limited to, sidewalks, benches, walkways, streets, and outdoor eating areas that are situated within the area prohibited by this subsection (b)(4).

(8) Designated Public Places. The use of electronic smoking devices is prohibited in any open-air public places on city-owned property not otherwise covered by this section when designated by the city manager.

(9) Units within Multi-Unit Residences. Units within Multi-unit residences. Use of Electronic smoking devices is prohibited in all dwelling units contained within a Multi-unit residence. Units within Multi-unit residences with existing leases are exempt from this prohibition until the date the existing lease agreement expires, or six months after this ordinance's effective date, whichever is sooner.

(10) Common areas. The use of electronic smoking devices is prohibited in all Common areas of Multi-unit residences, except for outdoor designated smoking areas which shall be located more than 30 feet from an entrance/doorway and marked by conspicuous signage, or designated interior smoking areas in an area that is fully enclosed, separately ventilated, and not the only space available for a particular activity or service.

(d) Unlawful Acts. It is unlawful for any person to use an electronic smoking device in a place within the city where such use is prohibited by this section.

(e) Violations. Any violation of this section shall be subject to the same penalties and enforcement as provided in Section 8.50.080.

SECTION 2. SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of South San Francisco hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

SECTION 3. PUBLICATION AND EFFECTIVE DATE

Pursuant to the provisions of Government Code Section 36933, a summary of this Ordinance shall be prepared by the City Attorney. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's Office a certified copy of this Ordinance. Within fifteen (15) days after the adoption of this Ordinance, the City Clerk shall (1) publish the summary, and (2) post in the City Clerk's Office a certified copy of the full text of this Ordinance along with the

names of those City Council members voting for and against this Ordinance or otherwise voting. This ordinance shall become effective six months from and after its adoption.

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Introduced at a regular meeting of the City Council of the City of South San Francisco, held the 28th day of September, 2016.

At a meeting of the City Council on 11/9/2016, a motion was made by Pradeep Gupta, seconded by Liza Normandy, that this Ordinance be adopted. The motion passed.

Yes: 4 Councilmember Normandy, Councilmember Matsumoto, Vice Mayor Gupta, and Mayor Addiego

Absent: 1 Councilmember Garbarino

Attest by _____
Krista Martinelli

Date _____