

## **PLANNING COMMISSION RESOLUTION – EXHIBIT A**

### **DRAFT CITY COUNCIL ORDINANCE**

**An Ordinance Amending Title 20 of the South San Francisco Municipal Code to make minor revisions, corrections, and clarifications to ensure consistency throughout the Municipal Code, to remove “Hookah Bar/Smoking Lounge” from the Commercial Use Classifications under Section 20.620.040, and determining that the proposed Zoning amendments are exempt from CEQA.**

WHEREAS, in 2008, the City enacted South San Francisco Municipal Code (SSFMC) Chapter 6.46 titled “Tobacco Retailer Permit,” which adopts San Mateo County Ordinance Code (SMCOC) Chapter 4.98 “Tobacco Retailer Permit” by reference and thereby serves as the mechanism for the County’s enforcement of Tobacco Retailer Permits in the City; and

WHEREAS, in 2012, the City enacted SSFMC Chapter 20.420 “Prohibition on new significant tobacco retailers,” which prohibits establishment of a new business whose principal or core is selling tobacco products and/or paraphernalia from operating in the City; and

WHEREAS, on September 25, 2019, the City Council added Title 6, Chapter 6.47 of the SSFMC pertaining to the sale of tobacco, flavored tobacco, and electronic smoking devices, including an exemption for significant tobacco retailers that were lawfully established prior to the effective date of Chapter 20.420, on January 1, 2020; and

WHEREAS, effective June 22, 2023, the County Board of Supervisors repealed the former SMCOC Chapter 4.98 (Tobacco Retailer Permit) and enacted a new Chapter 4.98, which strengthens enforcement, requires two inspections per year of all retailers, establishes retail restrictions for new businesses, updates the definitions of tobacco products to include synthetic nicotine and to align with the state’s definition of tobacco products, including flavored tobacco products, and prohibits issuing new tobacco retailer permits for any location within 1,000 feet of a “youth populated area” or within 500 feet of an existing tobacco retailer; and

WHEREAS, pursuant to the County’s newly adopted SMCOC Chapter 4.98, cities that want County Health to administer the tobacco retailer permit within their jurisdiction must pass an ordinance adopting the County’s newly adopted ordinance verbatim or in its entirety by reference, with no changes or additions; and

WHEREAS, although the City already adopted SMCOC Chapter 4.98 by reference in 2008 (pursuant to SSFMC Chapter 6.46), City staff recommended amending SSFMC Section 6.46.010 to add language explicitly authorizing the Chief of San Mateo County Health or their designee to administer and enforce SMCOC Chapter 4.98 in order to reaffirm its adoption by reference of SMCOC Chapter 4.98, re-establish the County’s authorization to enforce SMCOC Chapter 4.98 within the City’s jurisdiction thereby strengthening and streamlining enforcement, and raise awareness of the County’s newly adopted Tobacco Retailer Permit Ordinance; and

WHEREAS, on March 26, 2025, the City Council waived reading and introduced an Ordinance to amend South San Francisco Municipal Code (SSFMC) Title 6, Chapter 6.46 titled “Tobacco Retailer Permit” to adopt by reference Title 4, Chapter 4.98 of the San Mateo County Ordinance Code (SMCOC), and repealing in its entirety Title 6, Chapter 6.47 (Sales of Flavored Tobacco Products, Pharmacy Sales of Tobacco Products, and Sales of Electronic Smoking Devices Prohibited), and on May 14, 2025, the City Council waived reading, held public hearing and adopted the Ordinance; and

WHEREAS, Chapter 20 currently contains a use classification for “Hookah Bar / Smoking Lounge” which consists of businesses serving flavored tobacco or other products for on-site smoking, and such uses are no longer permitted under SMCOC Chapter 4.98; and

WHEREAS, Chapter 20.420 currently contains a reference to the now-repealed SSFMC Section 6.47.050(a), which provides an exemption for significant tobacco retailers that were lawfully established prior to the effective date of Chapter 20.420; and

WHEREAS, the City staff has drafted proposed revisions to the City’s Zoning Ordinance to address the identified areas that require correction, clarification, and revision (“Zoning Amendments” or “Amendments”); and

WHEREAS, it is staff’s evaluation that the minor revisions, corrections, and clarifications set forth in this Zoning Amendment are not subject to the requirements of CEQA pursuant to CEQA Guidelines Section 15378, as they are minor in nature, with no expansion in use or creating new uses, and has no potential for resulting in direct or indirect physical changes to the environment, and thus would not have any significant effects on the environment;

WHEREAS, on June 5, 2025, the Planning Commission for the City of South San Francisco held a lawfully noticed public hearing to solicit public comment and consider the proposed Zoning Amendments and associated CEQA determination, take public testimony; following the public hearing, the Planning Commission adopted Resolution No. XXXXX making findings and determination under CEQA and recommending the City Council adopt an ordinance implementing the Zoning Amendments; and

WHEREAS, on XXXXXX the City Council for the City of South San Francisco held a lawfully noticed public hearing to solicit public comment and consider the CEQA finding and the proposed zoning ordinance amendments, take public testimony, and consider the recommendation of the Planning Commission on the proposed revisions to the City’s Zoning Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH SAN FRANCISCO, DOES HEREBY ORDAIN AS FOLLOWS:

**SECTION 1.**           **Findings.**

The City Council of South San Francisco finds that all Recitals are true and correct and are incorporated herein by reference.

## **SECTION 2.           Amendments**

The City Council hereby amends the following sections of the South San Francisco Municipal Code to read as set forth below, with additions in red double underline and deletions in ~~striketrough~~. Sections, subsections, subdivisions, tables, paragraphs and texts that are not amended by this Ordinance are not included below, and shall remain in full force and effect.

### **1. Revisions to Chapter 20.420 “Prohibition on New Significant Tobacco Retailers” under Title 20**

#### **Chapter 20.420 (Prohibition on New Significant Tobacco Retailers)**

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#### **§ 20.420.003           Significant Tobacco Retailers Prohibited**

- A. Unless otherwise exempted under subsection (c) of this provision ~~Chapter 6.467 of this Code~~, significant tobacco retailers are not a permitted use and are prohibited in all zones throughout the City. No permit or any other applicable license or entitlement for use, nor any business license, shall be approved or issued for the establishment, maintenance or operation of a significant tobacco retailer within the City.
- B. The establishment, maintenance or operation of a significant tobacco retailer within the City is declared to be a public nuisance and may be abated by the City either pursuant to the South San Francisco Municipal Code or any other available legal remedies, including, but not limited to, declaratory relief and civil injunctions.
- C. Significant tobacco retailers as defined in this Chapter that were lawfully established prior to the effective date of Ordinance No. 1455 prohibiting significant tobacco retailers shall be exempt from the prohibition set forth under subsection (a) of this provision.

### **2. Revisions to Chapter 20.620 “Use Classifications” under Title 20**

#### **Chapter 20.620 (Use Classifications)**

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#### **§ 20.620.040           Commercial Use Classifications**

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**Eating and Drinking Establishments.** Businesses primarily engaged in serving prepared food and/or beverages for consumption on or off the premises.

- A. **Bar/Night Club/Lounge.** Businesses serving beverages for consumption on the premises as a primary use and including on-sale service of alcohol including beer, wine, and mixed drinks.
- B. **Coffee Shop/Café.** Establishments that primarily serve beverages, such as coffee, juices or sodas for consumption on or near the premises, or a specialty snack, such as ice cream, frozen yogurt, cookies or popcorn.
- ~~C. **Hookah Bar/Smoking Lounge.** Businesses serving flavored tobacco or other products for on-site smoking.~~
- CD.** **Restaurant, Full Service.** Restaurants providing food and beverage services to patrons who order and are served while seated and pay after eating. Takeout service may be provided.
- DE.** **Restaurant, Limited Service.** Establishments where food and beverages may be consumed on the premises, taken out, or delivered, but where no table service is provided. This classification includes cafeterias, fast-food restaurants, carryout sandwich shops, limited-service pizza parlors and delivery shops, self-service restaurants, snack bars and takeout restaurants. This classification also includes catering businesses or bakeries that have a storefront retail component.

### 3. Revisions to Chapter 20.100 “Non-Residential Districts” under Title 20

#### Chapter 20.100 (Non-Residential Districts)

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#### § 20.100.002 Use Regulations

Table 20.100.002: Use Regulations – Non-Residential Zoning Districts							
Use Classification	CC	BPO	BTP-M & GMP	BTP-H & OPSP	MI M	MIH	Additional Regulations
"P" = Permitted; "M" = Minor Use Permit; "C" = Conditional Use Permit; "—" = Use Not Allowed							
<b>Commercial Uses</b>							
Eating and Drinking Establishments							
<i>Bar/Night Club/ Lounge</i>	C	—	—	—	—	—	
<i>Coffee Shop/Cafe</i>	P	P	P	P	P	P	See Chapter 20.350, Outdoor Seating
<del><i>Hookah bar/Smoking Lounge</i></del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>—</del>	<del>€</del>	<del>€</del>	
<i>Restaurant, Full Service</i>	P	P	P	P	P	P	See Chapter 20.350, Outdoor Seating
<i>Restaurant, Limited Service</i>	P	P	P	P	P	P	See Chapter 20.350, Outdoor Seating

### SECTION 3.

#### Severability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed the Ordinance, and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of this Ordinance would be subsequently declared invalid or unconstitutional.

**SECTION 4.**            **Publication and Effective Date**

Pursuant to the provisions of Government Code Section 36933, the City Attorney shall prepare a summary of this Ordinance. 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.