

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BURLINGAME AMENDING SECTION 8.18.040 OF CHAPTER 8.18 OF TITLE 8 OF THE BURLINGAME MUNICIPAL CODE TO MAKE PERMANENT A PREVIOUSLY TEMPORARY BAN ON SMOKING IN THE BROADWAY AND DOWNTOWN BURLINGAME PEDESTRIAN RETAIL DISTRICTS; CEQA DETERMINATION: EXEMPT PURSUANT TO STATE CEQA GUIDELINES SECTION 15378 AND 15061(b)(3)

WHEREAS, the U.S. Center for Disease Control and Prevention (“CDC”) and the U.S. Public Health Service estimates that exposure to secondhand smoke causes an estimated 41,000 deaths each year¹; and

WHEREAS, the U.S. Environmental Protection Agency (“EPA”) has stated that the adverse health effects of second-hand smoke remain the same regardless of whether the exposure occurs indoors or outdoors, and that outdoor secondhand smoke inhalation poses health risks to children²; and

WHEREAS, the California Department of Public Health (“CDPH”) has found that as of 2019, only 6.9% of Californians currently smoke cigarettes³; and

WHEREAS, the Burlingame Municipal Code currently prohibits smoking in various portions of the City, including (but not limited to) buildings, restaurants, sports fields, and within 25 feet of most city-owned parks and facilities; and

WHEREAS, the City Council finds it necessary to further regulate smoking within areas of Burlingame with high pedestrian traffic, to protect the 93% of the population who abstain from smoking from secondhand smoke exposure; and

WHEREAS, prior to implementation at multiple higher pedestrian traffic areas, the City Council first desired to implement a smoking prohibition in one district for limited duration, to better determine how to successfully implement a larger, permanent program for other high pedestrian traffic locations in the City; and

¹ U.S. Department of Health and Human Services. *The Health Consequences of Smoking: 50 Years of Progress. A Report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health, 2014. Printed with corrections, January 2014.

² U.S. Environmental Protection Agency, *Is outdoor exposure to secondhand smoke comparable to indoors?* Accessed 10 March 2023. www.epa.gov/indoor-air-quality-iaq/outdoor-exposure-secondhand-smoke-comparable-indoors

³ California Department of Public Health, California Tobacco Control Program. *California Tobacco Facts and Figures 2021*. Sacramento, CA: California Department of Public Health; November 2021.

WHEREAS, pursuant to Ordinance No. 2016, adopted in April 2023, the City Council did implement a temporary smoking prohibition in the Broadway Business Improvement District; and

WHEREAS, based on the success of this regulation in protecting the public health and welfare of residents and visitors, the City Council adopted Ordinance No. 2021 in November 2023, which extended the Broadway Business Improvement District’s temporary ban until December 31, 2024, and further expanded it to the City’s other main pedestrian area on and around Burlingame Avenue; and

WHEREAS, through Ordinance No. 2021, and to more clearly establish the geographic limits of the ban, the City Council defined the ban’s limits to the “Broadway Pedestrian Retail District” and the “Downtown Burlingame Pedestrian Retail District,” maps of which can be found in Burlingame Municipal Code Section 8.18.020; and

WHEREAS, based on the continued success of these temporary bans in protecting the public’s health and welfare, the City Council now wishes to remove their January 1, 2025 expiration date, thereby creating permanent outdoor smoking bans in the Broadway and Downtown Burlingame Pedestrian Retail Districts; and

WHEREAS, based upon the recitals above, the City Council finds that the amendments to this Chapter are necessary for the protection of public health, safety, and welfare.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BURLINGAME DOES ORDAIN AS FOLLOWS:

Section 1. The recitals set forth above are true and correct, and are hereby incorporated herein by this reference as if fully set forth in their entirety.

Section 2. The City Council hereby finds that this Ordinance is in the public interest.

Section 3. The Ordinance is not a project within the meaning of section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

Section 4. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion

or sections of the Ordinance. The City Council of the City of Burlingame hereby declares that it would have adopted the Ordinance and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

Section 5. Chapter 8.18 of the Burlingame Municipal Code is amended as reflected in Exhibit A, attached hereto and incorporated herein by reference. Exhibit A shows additions with underlined text and deletions with ~~strike-out text~~. The Sections of the Chapter which do not include amendments are not shown in this exhibit, and remain unchanged.

Section 6. This Ordinance shall go into effect 30 days following its adoption.

Section 7. The City Clerk is directed to publish this ordinance in a manner required by law.

I, MEAGHAN HASSEL-SHEARER, City Clerk of the City of Burlingame, certify that the foregoing ordinance was introduced at a regular meeting of the City Council held on 4th day of November 2024 and adopted thereafter at a regular meeting of the City Council held on the 18th day of November, 2024 by the following votes:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

ATTEST:

Meaghan Hassel - Shearer, City Clerk

EXHIBIT A

Chapter 8.18 – Smoking

8.18.040 Prohibition of smoking in public places.

(a) Smoking shall be prohibited in all enclosed public places, including, but not limited to, the following places:

(1) Elevators and restrooms;

(2) Buses, taxicabs and other means of public transit under the authority of the city of Burlingame;

(3) Service lines;

(4) Retail stores;

(5) Restaurants;

(6) All areas available to and customarily used by the general public in all businesses and nonprofit entities patronized by the public, including, but not limited to, business offices, and banks;

(7) Public areas of aquariums, libraries and museums when open to the public;

(8) Any building not open to the sky which is used primarily for exhibiting any motion picture, stage drama, lecture, musical recital or other similar performance, except when smoking is part of any such production;

(9) Enclosed sports arenas;

(10) Doctors' offices, dentists' offices, waiting rooms, hallways, wards and semi-private rooms of health facilities, including, but not limited to, hospitals, clinics and physical therapy facilities;

(11) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee including joint

committees, or agencies of the city or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the city;

(12) Lobbies, hallways, and other common areas in apartment buildings, condominiums, senior citizen residences, nursing homes, and other multiple-unit residential facilities;

(13) Lobbies, hallways, and other common areas in multiple-unit commercial facilities;

(14) Polling places;

(15) Warehouse facilities of any size.

(b) In addition to, and not in place of, all other prohibitions in this Chapter and under State and Federal Law, smoking shall also be prohibited within the public right of way in the following open spaces:

(1) Throughout the Downtown Burlingame and Broadway Pedestrian Retail Districts. ~~However, this prohibition shall expire at midnight on December 31, 2024.~~