

1 [Prohibition on Smoking in Public Transit Stops and Shelters]

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3 **Ordinance amending Section 1009.22 of the San Francisco Health Code, to prohibit**
4 **smoking in public transit stops and shelters.**

5 Note: Additions are *single-underline italics Times New Roman*;
6 deletions are *strikethrough italics Times New Roman*.
7 Board amendment additions are double underlined.
8 Board amendment deletions are ~~strikethrough normal~~.

8 Be it ordained by the People of the City and County of San Francisco:

9 Section 1. The San Francisco Health Code is hereby amended by amending
10 Section 1009.22 to read as follows:

11 **SEC. 1009.22. PROHIBITING SMOKING IN BUILDINGS AND ENCLOSED STRUCTURES**
12 **CONTAINING CERTAIN USES AND CERTAIN SPORTS STADIUMS.**

13 (a) Smoking is prohibited in buildings and enclosed structures which contain any of the
14 facilities or uses set forth below.

15 (1) Facilities owned or leased by the City and County of San Francisco; every
16 commission, department or agency, with jurisdiction over such property shall adopt
17 regulations or policies implementing the provisions of this Article; provided, however, with
18 respect to facilities located outside the City and County of San Francisco, the regulations or
19 policies shall prohibit smoking in enclosed areas during those times that the public has
20 access, except that (A) in any enclosed area a designated smoking area may be provided if it
21 is physically separated from and no larger than the nonsmoking area, and (B) when the public
22 does not have access to an enclosed area, the provisions of Article 19 apply;

23 (2) Facilities in which the business of any governmental body or agency is conducted,
24 including hearing rooms, courtrooms or places of public assembly;

25 (3) Polling places;

1 (4) Health facilities, including, but not limited to, hospitals, long term care facilities,
2 doctors' and dentists' offices, inpatient rooms, and outpatient examination and treatment
3 rooms;

4 (5) Educational facilities;

5 (6) Business establishments;

6 (7) Nonprofit establishments, except that persons qualifying under California Health
7 and Safety Code Section 11362.5 to use medical marijuana may smoke medical marijuana on
8 the premises of a nonprofit medical marijuana buyer's club;

9 (8) Aquariums, galleries, libraries and museums;

10 (9) Child care facilities, except when located in private homes;

11 (10) Facilities used for exhibiting motion pictures, drama, dance, musical performance,
12 lectures, or other entertainment;

13 (11) Sports arenas; provided, however, that Subsection (b) shall govern sports
14 stadiums as defined in that subsection;

15 (12) Convention facilities;

16 (13) Restaurants, subject to the provisions of Section 1009.24.

17 (14) Ticketing, boarding and waiting areas of public transit systems, including bus, train,
18 trolley and cable car stops and shelters.

19 Smoking is prohibited throughout the building or structure and in the common areas,
20 including the elevators, hallways, stairways, restrooms, conference and meetings rooms, and
21 eating and break rooms, *if any*.

22 (b) No owner, manager, or operator of a sports stadium shall knowingly or
23 intentionally permit, and no person on the premises shall engage in, the smoking of tobacco
24 products in any enclosed or open space at a sports stadium except in (1) concourses and
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1 ramps outside seating areas, (2) private suites and corridors to private suites, and (3) areas
2 designated for parking. Any portion of a sports stadium used as a bar or restaurant shall be
3 governed by the provisions of this Article regulating smoking in bars and restaurants. For
4 purposes of this subsection, a sports stadium means a publicly owned facility which has a
5 seating capacity of at least 30,000 people.

6 (c) It is unlawful for any person to smoke in any area where this Article prohibits
7 smoking. It is unlawful for the owner of any property, facility or establishment subject to this
8 Article or, if a different person has the right to possession or management of such property,
9 facility or establishment, for that person to permit any person to smoke in any area where
10 smoking is prohibited by this Article.

11 (d) No person who owns, operates or manages property will be deemed to be in
12 violation of the requirements of this Article with respect to persons smoking in such areas over
13 whom they have no right of direction and control if they have taken the following reasonable
14 steps to prevent smoking by such persons:

- 15 (1) Posted clear and prominent "no smoking" signs at each entrance to the premises;
- 16 (2) Requested, when appropriate, that such person refrain from smoking.

17 For purposes of this subsection, "reasonable steps" shall not include the physical
18 ejection of a person from the premises.

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20 APPROVED AS TO FORM:
21 DENNIS J. HERRERA, City Attorney

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23 By: ALEETA M. VAN RUNKLE
24 Deputy City Attorney

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