



City of South San Francisco

City Council

Ordinance: ORD 1650-2023

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

File Number: 23-873

Enactment Number: ORD 1650-2023

ORDINANCE ADOPTING CHAPTER 10.76 OF THE
MUNICIPAL CODE TO ESTABLISH RULES OF
CONDUCT FOR CITY PROPERTY

WHEREAS, City Council, appointed boards and commissions, and City staff are delegated the responsibility to carry out the business of the City, through actions at public meetings and through day-to-day services provided throughout all City Property;

WHEREAS, the City must clearly state the expectations for acceptable behavior on any City Property and inform the public of the consequences for unacceptable behaviors;

WHEREAS, disruptive, threatening, and dangerous behaviors on City Property disrupt the business of the City and designated officials should be authorized to take appropriate actions to eject persons who cause disorders;

WHEREAS, ejection from City Property is one way to remedy disruptive, dangerous, or threatening behavior, but cannot be the sole administrative remedy for dealing with disruptive, dangerous, or threatening behaviors;

WHEREAS, in cases of repeated misbehavior or when dangerous and threatening behaviors occur, Persons-in-Charge, as defined in the Ordinance, will have the additional tool of administrative exclusions to help maintain order on City Property;

WHEREAS, arrests for criminal trespass should be the ultimate and most severe tool available for managing disorder and misbehavior on City Property;

WHEREAS, in developing this Ordinance, the City Council does not intend to unconstitutionally suppress or infringe expressive activities protected by the First Amendment of the United States Constitution or the Liberty of Speech Clause of the California Constitution, but instead is enacting reasonable content-neutral time, place, and manner regulations. These regulations address the need to prevent disruptive, threatening, and dangerous behaviors on City Property;

WHEREAS, as a municipal corporation, it is important that the City identify clearly who are City employees, staff, or agents with Person-in-Charge authority to ask persons who engage in misbehavior at City Property to leave or face property exclusion or criminal trespass;

WHEREAS, the City must have generally applicable rules of conduct to ensure that Persons-in-Charge can manage City Property in a prudent manner ensuring that City business can be carried out efficiently in a way to ensure use priorities can be met, the City Property is safe for employees who may work at the location, and City Property is protected from unwanted damages or misuse;

WHEREAS, it is important to share the City's expectations for behavior with all users at City Property by codifying a generally applicable set of Rules of Conduct for City Property;

WHEREAS, where the general Rules of Conduct apply, generally applicable administrative exclusion procedure would apply to allow Persons-in-Charge a default process for addressing disruption and other bad behaviors at City Property;

WHEREAS, City Council now wishes to adopt this Ordinance to include the clear designation of Persons-in-Charge, those generally applicable Rules of Conduct, and the default administrative exclusion procedure;

WHEREAS, the general Rules of Conduct do not supersede specific rules that may be or could be adopted by different City departments if such rules are approved by a department director, or approved by the department's respective board or commission, as may be necessary;

WHEREAS, this Ordinance is intended to supplement, not supplant, those departments' authority and property management expertise to institute specific rules or prohibitions for a specific department's real property assets or to adopt additional rules for individual real property assets beyond the general Rules of Conduct; and

WHEREAS, the City Council now wishes to adopt South San Francisco Municipal Code Chapter 10.76 to establish rules of conduct for City Property.

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

SECTION 1. Findings

The City Council finds that the foregoing recitals are true and correct and are incorporated into the Ordinance by this reference.

SECTION 2. Adoption of Title 10, Chapter 76

The City Council hereby adopts Chapter 10.76 ("Rules of Conduct for City Property") of Title 10 of the South San Francisco Municipal Code to read as follows:

Chapter 10.76 RULES OF CONDUCT FOR CITY PROPERTY

10.76.010 Definitions.

10.76.020 Rules of Conduct at City Property.

10.76.030 City Property Exclusions

10.76.010 Definitions.

A. **"City Property"**. For purposes of this Chapter, "City Property" shall include all real property and facilities either owned by the City or in which the City has a property interest or property management responsibility. However, City Property shall not include property owned or leased by the City if such property is leased or subleased exclusively to a non-City entity.

B. "Persons-in-Charge".

1. For purposes of ordering persons to leave City Property, the following are "Persons-in-Charge"

i. Any peace officer as defined by California law.

- ii. Any person providing security services on any City Property pursuant to any contract with the City, or with any person, organization, firm or corporation managing a City Property on the City's behalf.
- iii. City property or facility manager, or their designee.
- iv. With respect to facility or space assigned to a City department, the director, deputy director, or manager of the City department, including the City Clerk, or their designee.
- v. The City Manager, the City Attorney, or designee of these officials.

2. Delegation to a designee shall be made in writing. Any person so designated shall be a Person-in-Charge until the delegation is terminated or the designated person ceases to be an employee or officer of the City.

3. For purposes of ordering persons to leave a public meeting of a City board or commission, the Persons-in-Charge shall be designated within the South San Francisco City Council Handbook or commission handbook, as may be amended from time to time.

4. The authority granted to Persons-in-Charge by this Chapter are in addition to, and not in lieu of, any other authority granted under this Code.

10.76.020 Rules of Conduct at City Property.

A. To maintain an environment that promotes orderly administrative and business operations, and to take reasonable and prudent actions to protect the health, welfare and safety of all persons at City Property, the Rules of Conduct in this Section apply and are to be enforced at all City Property.

B. The Rules of Conduct for City Property are as follows:

- i. No person shall engage in any activity that would constitute a violation of federal, state, or local law or regulation.
- ii. No person may deface, damage, or destroy City Property or City-owned personal property.
- iii. No person shall enter, attempt to enter, or remain in any areas of City Property designated red or restricted, or closed to public access, for any purpose including but not limited to video or audio recording, unless such person has obtained authorization to enter, approved by a Person-in-Charge, and escorted by a City staff person at all times.
- iv. No person shall engage in an activity that disrupts or interferes with:
 - a. the normal operation or administration of City business at City Property, including but not limited to entering into areas of City administrative offices that are designated as employee only areas without authorization to enter, approved by a Person-in-Charge, and escorted by a City staff person at all times; dangerous or threatening behavior towards City officials, employees, consultants, volunteers, or other members of the public;
 - b. lawful use of City Property by City employees and authorized visitors; or

c. City permitted activities.

v. No person shall refuse or fail to obey any reasonable direction of a Person-in-Charge of a City Property. A direction of a Person-in-Charge is reasonable: if it directs a person to obey or to cease a violation of any law or regulation; if it is otherwise reasonably related to the protection of the health, welfare, and safety of the person or any other person at the City Property, or to the prevention of damage to property; or if it is reasonably necessary to preserve the peace or to prevent the disruption of normal operations or administration of City business at City Property, including but not limited to prohibiting members of the public from accessing areas of City administrative offices that are designated as employee only areas, prohibiting a person from engaging in an unlawful activity, removing a person from City property for engaging in dangerous or threatening behavior.

vi. No person shall possess any object specifically designed for and presently capable of causing, or carried with the intent to threaten or cause, bodily harm to another. Objects prohibited under this paragraph include, but are not limited to, any firearm, pellet gun, spring-loaded weapon, stun gun or taser, any knife having a blade that projects or swings into position by force of a spring or by centrifugal force, any knife with a blade longer than 3-½ inches, any dirk, dagger, ice pick, sling shot, slungshot, metal knuckles, nunchaku, studded hand coverings, swords, straight razors, tear gas, tear gas weapon, mace, pepper mace or similar deleterious agent, saps, sap gloves, hatchets or axes. The prohibitions of this Paragraph do not apply to handguns lawfully carried. The prohibitions of this Paragraph do not apply to any thing possessed or used to carry out actions authorized by any contract or permit at the City Property.

vii. No person shall smoke or carry any lighted smoking instrument on City Property. Smoking instrument additionally includes an inhalant delivery system that delivers nicotine in the form of vapor or aerosol, and an electronic cigarette, personal vaporizer, or electronic nicotine delivery system. Smoking additionally includes inhaling or exhaling from a smoking instrument.

viii. No person shall make use of facility materials, equipment, furniture, or fixtures of a City Property in a manner inconsistent with their customary or designated uses, or in a manner likely to cause property damage or personal injury to the actor or others.

ix. No person shall interfere or obstruct free passage of City employees or authorized visitors in or on City Property, including but not limited to placing objects that impede free passage.

x. No person shall use City Property for unauthorized storage of personal property or leave personal property unattended, including but not limited to bags, backpacks, tables, chairs, signs, and posters. Such items left unattended may be removed by Persons-in-Charge and stored by the City for no more than ninety (90) days to allow the owner of such personal property to recover it.

xi. No person shall make or continue a noise disturbance or operate a sound producing device or sound producing equipment except as permitted by the property manager of the City Property. Bullhorns and megaphones are not permitted in the interior of any building on City Property.

xii. No person shall sell, distribute, or deliver any alcoholic beverage on City Property, except as permitted by Persons-in-Charge, pursuant to an approved permit for use of City Property, or as part of a City-sponsored event at which the vendor is allowed to sell alcoholic beverages.

xiii. No person shall sell, distribute, or deliver any controlled substances on City Property. This does not prohibit a person from providing caretaking functions or assisting another in taking legally prescribed medication. Controlled substance shall have the meaning provided in California Health and Safety Code Sections 11054 and 11055.

xiv. No person may bring animals onto City Property, or leave animals tethered to or unattended at City Property, except as permitted by Persons-in-Charge. This does not preclude entry by service animals defined under the Americans with Disabilities Act while performing services or tasks the animals are trained to do, animals employed in official performance of police or rescue activities, or animals authorized for entry by Persons-in-Charge. The prohibition in this Paragraph does not apply to City streets, sidewalks, paths, and parks where animals are not explicitly prohibited.

xv. No person shall solicit for or conduct business at City Property except as permitted by Persons-in-Charge.

xvi. No person shall use any wheeled devices, including but not limited to unicycles, bicycles, skateboards, roller skates, motorized or non-motorized scooters, on City Property. All persons must dismount at City Property boundary. No bicycles and motorized wheel devices are allowed in the interior of any building on City Property except as permitted by Persons-in-Charge. The prohibition in this Paragraph does not apply: (a) to persons with mobility devices for mobility disability or medical purposes, child strollers or baby carriages used for the purpose of transporting children; or (b) on City streets, sidewalks, bicycle paths, and pedestrian paths where the use of wheeled devices is not explicitly prohibited.

xvii. No person shall use the City's technology system or network in a way that is explicitly prohibited or damage the City's technology systems or network, including its telecommunication equipment and data.

xviii. No person shall enter, attempt to enter or remain in any areas of City Property for purposes other than to conduct legitimate business with City offices or tenants located at City Property, to enjoy the publicly accessible amenities at a City Property when the City Property is open to the public, or to lawfully assemble for social or public interaction at portions of City Property specifically designated for such assembly. The director of the department with property management responsibility for the City Property may adopt space use policy to manage conditions for property use, including but not limited to establishing a reservation protocol, priority regarding uses and users, hours of use, and fees for use.

The director of the department with property management responsibility over a City Property, or designee, is authorized to adopt additional rules of conduct for any specified City Property managed by the department. The proposed additional rules of conduct shall be posted at the City Property where such proposed rules would apply, and shall be deemed part of the Rules of Conduct for the City Property. The proposed rules shall be final and effective no sooner than seven days after posting.

10.76.030 City Property Exclusions.

- A. The exclusion procedures in this Section shall be used for City Property subject to the Rules of Conduct in Section 10.76.020.
- B. If a person violates any Rule of Conduct at City Property described in Section 10.76.020 while in or upon City Property, any Person-in-Charge may eject and direct the person to leave the City Property for a period of 24 hours.
- C. For serious or egregious violations of the Rules of Conduct on areas of City Property traditionally considered “limited” or “non-public” forums, such as City employee offices, a Person-in-Charge may issue an exclusion from the City Property for any period of time up to one (1) year.
- D. For serious or egregious violations of the Rules of Conduct on areas of City Property traditionally considered “public” forums, such as streets, sidewalks, and parks, a Person in-Charge may issue an exclusion from the City Property for up to six (6) months only after at least two (2) violations within a six (6) month period of time.
- E. In determining the appropriate length of exclusion under this Section, the Person-in-Charge issuing the exclusion shall consider: the seriousness of the conduct that led to the exclusion; prior instances of violations of the Rules of Conduct at City Property by the person to be excluded; the availability of alternative means for the person to conduct business with City officials and offices; and any other facts or circumstances that the Person-in-Charge issuing the exclusion deems relevant.
- F. Prior to issuing an exclusion notice, the Person-in-Charge issuing the exclusion shall ensure that adequate alternative mechanisms exist for the individual to conduct business with the City, such as access to City services through the City’s website, telephone or e-mail, or virtual access to City Council meetings, including the ability to make comments via the platform providing virtual access. If no adequate alternative methods exist then a Person-in-Charge shall grant a limited modification to the exclusion notice for the purpose of conducting business with a City official, or office located on the City Property identified in the exclusion notice; accessing City services; or attending a City Council or other public meeting, unless such limited modification would pose a risk to the health and safety of others. If modification is issued, the Person-in-Charge may impose reasonable conditions for the limited entry, and may include a requirement that the person arrange with the Person-in-Charge to be escorted into and out of the location where the meeting is to be held or the business is to be conducted.
- G. The notice of exclusion shall be in writing, given to the person excluded and signed by the Person-in-Charge. It shall specify the dates and places of exclusion. It shall contain a warning of consequences for failure to comply with the notice of exclusion and information concerning the right to appeal the exclusion.
- H. A person receiving a notice of exclusion may appeal, in writing, to the City Manager. The appeal to the City Manager shall be filed with the City Clerk within 10 days of issuance of the notice of exclusion, unless extended by the City Manager for good cause shown. The sworn statement of the Person-in-Charge who issued the notice of exclusion shall be used as evidence on appeal, unless the appellant requests, in writing, the presence of the Person-in-Charge at the appeal hearing.

I. A person receiving a notice of exclusion may appeal the determination of the City Manager to the City Council in accordance with Chapter 1.28 of the South San Francisco Municipal Code.

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

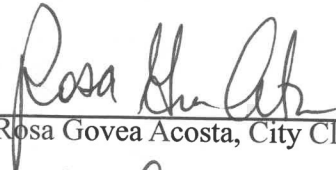
Pursuant to the provisions of Government Code Section 36933, the City Attorney shall prepare a summary of this Ordinance. At least five (5) days prior to the Council meeting at which this Ordinance is scheduled to be adopted, the City Clerk shall (1) publish the Summary, and (2) post in the City Clerk's 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

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At a meeting of the City Council on 10/11/2023, a motion was made by Councilmember Addiego, seconded by Vice Mayor Nagales, that this Ordinance be adopted. The motion passed.

Yes: 5 Mayor Nicolas, Vice Mayor Nagales, Councilmember Addiego, Councilmember Coleman, and Councilmember Flores

Attest by



Rosa Govea Acosta, City Clerk



Buenafior Nicolas, Mayor