

**IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO**

**ORDINANCE NO. 2025-XXX**

**AN ORDINANCE OF THE CITY OF SAN LEANDRO CITY COUNCIL TO REMOVE LOCAL AMENDMENTS REQUIRING ALL-ELECTRIC BUILDINGS AND TO AMEND VARIOUS CHAPTERS OF THE ZONING CODE AND MUNICIPAL CODE TO MODIFY REGULATIONS PERTAINING TO TOBACCO RETAILING, OVERSIZED VEHICLE PARKING AND SAN LEANDRO WATERWAYS**

**WHEREAS**, the California Constitution, Article XI, Section 7, provides cities and counties with the authority to enact ordinances to protect the health, safety, welfare, and morals of their citizens; and

**WHEREAS**, the San Leandro Zoning and Municipal Codes may be periodically amended to ensure that regulations remain relevant, accurate and enforceable over time; and

**WHEREAS**, the attached Zoning Code and Municipal Code Amendments modify regulations pertaining to tobacco retailing, oversized vehicle parking, and San Leandro waterways, and remove local amendments requiring all-electric buildings; and

**WHEREAS**, the City is concerned about the proliferation of tobacco retailer businesses, locations of tobacco retailer businesses, and the harmful effects of tobacco on the health, safety, and welfare of City residents, especially youth; and

**WHEREAS**, tobacco use is the number one cause of preventable death in California and continues to be an urgent public health issue; and

**WHEREAS**, for these reasons, the City Council, on June 3, 2024, enacted a Zoning Moratorium to prohibit the sale of tobacco-related products and electronic cigarette products in new locations and prohibit the establishment of new Tobacconist/Cigarette stores for a 45-day period; and

**WHEREAS**, on July 1, 2024, the City Council adopted an Urgency Ordinance extending the Zoning Moratorium to be effective for a two-year period, lasting until June 2, 2026; and

**WHEREAS**, the purpose of the Zoning Moratorium was to provide staff with time to prepare updated regulations pertaining to the sale of tobacco-related products and electronic cigarette-related products; and

**WHEREAS**, staff prepared Zoning Code Amendments pertaining to the sale of tobacco-related products and electronic cigarette-related products that would improve clarity, establish reasonable limitations, and facilitate effective enforcement; and

**WHEREAS**, the City Council desires to amend regulations pertaining to tobacco retailing to establish reasonable limitations and facilitate effective enforcement; and

**WHEREAS**, California Vehicle Code Section 22507 provides cities with the authority to regulate parking; and

**WHEREAS**, the City Council intends to amend regulations pertaining to the parking of oversized vehicles to improve street safety, accessibility and neighborhood aesthetics; and

**WHEREAS**, San Leandro regulates the portion of the San Francisco Bay that falls within City Limits; and

**WHEREAS**, the City Council desires to amend the regulations in Municipal Code Chapter 4-19 to regulate activity on waterways outside of the San Leandro Marina; and

**WHEREAS**, on December 5th, 2024, by Ordinance No. 2022-014, the City adopted an Ordinance adopting by reference the 2022 editions of the California Building Standards Code and 2018 International Property Maintenance Code, with local amendments; and

**WHEREAS**, the local amendments include a requirement that new building construction shall not use combustion equipment and instead would be all-electric; and

**WHEREAS**, the Ninth Circuit Court of Appeals held in California Restaurant Association v. City of Berkeley that such amendments are preempted by federal law; and

**WHEREAS**, the City desires to remove portions of the local amendments related to the all-electric Reach Code to conform the City's Municipal Code to federal law; and

**WHEREAS**, the proposed Code amendments are necessary to advance the City's interests with respect to economic development and quality of life; and

**WHEREAS**, a staff report dated July 7, 2025, and incorporated herein by reference, describes and analyzes the proposed amendments; and

**WHEREAS**, on July 7, 2025, the City Council held a duly noticed public hearing to consider the proposed amendments, at which time all interested parties had an opportunity to be heard; and

**WHEREAS**, the City Council has considered all public comments received, the presentation by City staff, the staff report and attachments in adopting this Ordinance; and

**WHEREAS**, the City's General Plan and Administrative Code are incorporated herein by reference and are available for review at City Hall during normal business hours.

**NOW, THEREFORE**, the City Council of the City of San Leandro does **ORDAIN** as follows:

**Section 1. Recitals.** The recitals above are true and correct and when applicable, incorporated herein by reference.

**Section 2. Findings.** The City Council makes the following findings in support of adopting this ordinance, based on the whole of the record:

1. That the proposed Code Amendments are consistent with the General Plan because they support numerous goals and policies of the General Plan encouraging regular updates to the Zoning Code to respond to trends, facilitating effective code enforcement to ensure neighborhoods are attractive and free of public nuisances, ensuring streets have safe visibility, and facilitating establishment of compatible land uses.
2. That the proposed Code Amendments are necessary and desirable to achieve the purposes of the Code because the proposed amendments promote and protect the public health, safety, morals, comfort, convenience, and the general welfare of the people. The proposed amendments would limit the proliferation of businesses with the primary purpose of selling tobacco, which if not carefully regulated could negatively impact public welfare. The amendments would support orderly parking and operations on San Leandro waterways to improve safety, accessibility and aesthetics. The amendments would align City regulations with federal law.

**Section 3. Amendment of Municipal Code Title 7, Article 6.** Sections 4.106.5, 4.106.5.1, 5.106.13 and 5.106.13.1 of the Exhibit attached to Section 7-5-625, “Local Amendments,” of the San Leandro Municipal Code, are hereby deleted in their entirety.

**Section 4. Amendment of Zoning Code Chapters 1.12 (Definitions), 2.08 (Commercial and Professional Districts) and 4.08 (Off-Street Parking and Loading Regulations).** The San Leandro Zoning Code is hereby amended as shown in the attached “Exhibit A,” which is incorporated herein by reference.

**Section 5. Amendment of Municipal Code Chapters 4-19 (San Leandro Marina), 4-36 (Tobacco Retailers) and 6-1 (Traffic Control).** The San Leandro Municipal Code is hereby amended as shown in the attached “Exhibit B,” which is incorporated herein by reference.

**Section 6. Environmental Review.** The passage of this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a Project that has the potential for causing a significant effect on the environment under CEQA Guidelines Section 15061(b)(3). No further environmental review is necessary. The proposed package of amendments includes amendments that would align the City’s regulations with the requirements of federal law. The City cannot exercise its subjective judgement regarding those amendments due to preemption by federal law, and therefore

the action is not discretionary in nature. Other code amendments are modifications to existing regulations that have no possibility of creating a significant environmental impact.

**Section 7. 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 will not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each of every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**Section 8. Effective Date.** The effective date of this Ordinance shall be 30 days from the date of adoption.

**Section 9. Publication.** The City Clerk is directed to cause this ordinance to be published in a manner required by law.

Introduced by Councilmember \_\_\_\_\_ and passed and adopted this 7<sup>th</sup> day of July, 2025, by the following vote:

Members of the Council

AYES:           ()

NOES:           ()

ABSENT:       ()

ATTEST: \_\_\_\_\_  
Kelly B. Clancy, CMC City Clerk