



Staff Report

File #: 23-0190

REQUEST FOR CITY COUNCIL ACTION

DATE: 03/01/2023

TO: Honorable Mayor and City Council Members

FROM: City Manager's Office

SUBJECT:

Ordinance of the City of Corona amending Chapter 8.02 of the Corona Municipal Code relating to a renaming of the Chapter and the inclusion of a declaration of nuisance for secondhand smoke and associated policy for City enforcement of nuisance complaints

EXECUTIVE SUMMARY:

This staff report asks the City Council to consider adopting an ordinance declaring secondhand smoke as a nuisance. The proposed ordinance would allow a private residence to abate secondhand smoke that encroaches upon his or her property. Additionally, the City Council will consider adopting a City enforcement policy that states that the City will not expend staff time or other resources to enforce the nuisance declaration, clarifying that enforcement is solely a private matter.

RECOMMENDED ACTION:

That the City Council:

- a. Introduce, by title only, and waive full reading of Ordinance No. 3365, first reading of an ordinance of the City of Corona, California amending Corona Municipal Code Chapter 8.02 relating to a renaming of the Chapter and the inclusion of a declaration of nuisance for secondhand smoke.
- b. Adopt Resolution No. 2023-015 establishing a policy for the City's enforcement of secondhand smoke nuisance complaint and clarifying that enforcement is solely a private matter.

BACKGROUND & HISTORY:

At the Committee of the Whole (COTW) meeting of November 9, 2023, the City Council received a

presentation and provided staff with direction on the development of an ordinance that would declare secondhand smoke as a nuisance and allow for the abatement of secondhand smoke by private citizens. A common complaint that is received from nonsmoking residents is what can they do when a neighbor smokes near their open window during a hot summer. Declaring secondhand smoke a nuisance allows for its abatement when nonsmokers and smokers live in close proximity, and it would make a policy statement that the right to breathe clean air takes precedence over the right to smoke. Further, such a policy indicates that smokers have a responsibility to be good neighbors and ensure that their secondhand smoke does not negatively impact those around them.

Currently, the City has an ordinance codified within Chapter 8.02 of the Corona Municipal Code that sets smoking regulations for City facilities and vehicles. In order to effectuate the City Council's desire to declare secondhand smoke a nuisance, staff proposes to retitle this Chapter "City and Community Smoking regulations," while retaining the current regulations within this Chapter regarding smoking at City facilities and within City vehicles. This change allows the proposed secondhand smoke nuisance declaration to have an appropriate Chapter to house its codification.

ANALYSIS:

At the direction of the City Council, staff has prepared an ordinance (Attachment 2) for the City Council's consideration that states that secondhand smoke constitutes a nuisance, and it shall be enforceable as such, including as a private nuisance (proposed Section 8.02.040). Furthermore, the proposed ordinance also declares that a private citizen may bring a civil legal action to abate secondhand smoke as a nuisance.

In keeping with the Council discussion at the COTW meeting, staff has also prepared a Resolution (Attachment 3) outlining a proposed City enforcement policy, which is simply that the City shall not expend City resources or staff time to enforce the provisions of Section 8.02.040, or the secondhand smoke nuisance provisions within the proposed ordinance. As a result, enforcement of the nuisance provisions of the ordinance is solely a private matter and this ordinance serves as an additional tool for nonsmokers to use when an amicable resolution cannot be reached with a neighbor who smokes.

Should the Council proceed with the introduction and adoption of the proposed ordinance, residents will be empowered to take action of their own accord to abate secondhand smoke when it encroaches upon their property from their surrounding neighbors. Thus, the ordinance would empower a private citizen to bring a private nuisance lawsuit seeking the abatement of the nuisance by court order (i.e., an injunction, which is a court order commanding or preventing an action) and/or potentially seeking monetary damages for the harm caused to the private citizen if such damages can be shown as a result of secondhand smoke.

FINANCIAL IMPACT:

There is no financial impact to the City for the adoption of the ordinance and enforcement policy. The ordinance allows for the private enforcement of nuisance complaints, and the associated policy clarifies that staff resources will not be encumbered to enforce the ordinance.

ENVIRONMENTAL ANALYSIS:

These actions are exempt pursuant to Section 15061(b)(3) of the Guidelines for the California

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Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the common sense exemption that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action simply revises the master fee schedule and there is no possibility that adopting this Ordinance and Resolution will have a significant effect on the environment. Therefore, no further environmental analysis is required.

PREPARED BY: ROGER BRADLEY, ASSISTANT CITY MANAGER

REVIEWED BY: JACOB ELLIS, CITY MANAGER

Attachments:

Exhibit 1 - CMC Chapter 8.02 in its Current Form

Exhibit 2 - Clean Ordinance for Adoption (Final Version of CMC 8.02)

Exhibit 3 - Resolution 2023-015 Establishing the City's Enforcement Policy for Secondhand Smoke Nuisance Abatement.