

ORDINANCE NO. 3365

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CORONA AMENDING CHAPTER 8.02 OF THE CORONA MUNICIPAL CODE RELATING TO A RENAMING OF THE CHAPTER AND INCLUSION OF A DECLARATION OF NUISANCE FOR SECONDHAND SMOKE

WHEREAS, smoking has been shown to pose health risks to smokers and non-smokers alike; and

WHEREAS, secondhand smoke and its residual contaminants have been shown to pose health risks to both smokers and non-smokers; and

WHEREAS, the City Council of the City of Corona wishes to preserve and improve the health of its residents by reducing the possibility of exposure to secondhand smoke and its contaminants by declaring secondhand smoke a nuisance; and

WHEREAS, the City Council desires to declare secondhand smoke a nuisance, thereby enabling private parties to abate secondhand smoke as a nuisance without the involvement of City resources or staff time in abating such nuisance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 8.02 (Smoking Regulations in City Facilities and Vehicles) is hereby amended in its entirety to read as follows:

“CITY AND COMMUNITY SMOKING REGULATIONS.

Sections

- 8.02.010 Findings and purpose.
- 8.02.020 Definitions.
- 8.02.030 Prohibition against smoking in City facilities and vehicles.
- 8.02.040 Secondhand smoke – declaration of nuisance.
- 8.02.050 Violations and penalties.
- 8.02.060 Severability of provisions.

8.02.010 Findings and purpose.

A. **Findings.** The City Council finds that: (1) Smoking of tobacco or any other weed or plant and the use of electronic smoking devices is a positive danger to health and a material annoyance, inconvenience, discomfort, and a health

hazard to those who are present in confined spaces; (2) Numerous studies have found that tobacco smoke is a major contributor to indoor air pollution; (3) Reliable studies have shown that breathing secondhand smoke is a significant health hazard for certain population groups, including elderly people, individuals with cardiovascular disease, and individuals with impaired respiratory function, including asthmatics and those with obstructive airway disease; (4) Health hazards induced by breathing secondhand smoke include lung cancer, respiratory infection, decreased exercise tolerance, decreased respiratory function, bronchoconstriction, and bronchospasm; and (5) Nonsmokers with allergies, respiratory diseases, and those who suffer other ill effects of breathing secondhand smoke may experience a loss of job productivity or may be forced to take periodic sick leave because of adverse reactions to the same; and

B. Purposes. Based upon the above findings, the City Council declares that the purposes of this chapter are: (1) To strike a reasonable balance between the needs of smokers and the need of non-smokers to breathe smoke-free air, and to recognize that, where these needs conflict, the need to breathe smoke-free air shall have priority; (2) To provide for the public health, safety, and welfare by protecting the public from nonconsensual exposure to secondhand smoke in and around residents' homes; and (3) To prohibit the smoking of tobacco or any weed or plant and the use of electronic smoking devices in buildings and vehicles owned, leased, or occupied by the City of Corona.

8.020.020 Definitions.

The following words and phrases, whenever used in this Chapter, shall be construed as follows:

(A) **“Building”** is any structure used or intended for supporting or sheltering any use or occupancy.

(B) **“Electronic smoking device”** means an electronic device that can be used to deliver nicotine or any other substance, including, without limitation, any component, part or accessory of such device, whether or not sold separately. "Electronic smoking device" includes, without limitation, any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, vape pen, or any other product name or descriptor.

(C) **“Reasonable distance”** means a distance that ensures that occupants of an area are not exposed to secondhand smoke created by smokers outside the area. Except as otherwise provided in this Chapter, this distance shall be a minimum of twenty (20) feet.

(D) **“Secondhand smoke”** means the smoke created by burning or carrying any lighted pipe, cigar, or cigarette of any kind, and the smoke exhaled by an

individual who engages in smoking. Secondhand aerosol emitted from electronic smoking devices shall be considered secondhand smoke for purposes of this chapter.

(E) **“Smoke” or “smoking”** means and includes any of the following: (1) the direct lighting, burning or indirect heating of any cigar, cigarette, pipe, electronic smoking device, hookah, or any similar kind of smoking equipment or article, using any form of tobacco, plant product, or other combustible substance in any form, or (2) possessing a lighted tobacco or plant product (including within, but not limited to, a cigar, cigarette, or pipe) or using or operating an electronic smoking device; or (3) emitting or exhaling the smoke directly from a cigar, cigarette, pipe, electronic smoking device, hookah, or any other lighted smoking equipment or device. “Smoke” also means the gaseous or vaporous products or particles created by the use of a lighted or operated pipe, cigar, cigarette, electronic smoking device, or other kind of smoking equipment or article.

(G) **“Vehicle”** is a device by which any person or property may be carried or conveyed upon a highway or city street, including, but not limited to, automobiles, trucks, busses, and heavy equipment.

8.02.030 Prohibition against smoking in City facilities and vehicles.

A. In accordance with this chapter, smoking shall be prohibited inside of, and within a reasonable distance of, a main exit, entrance, or operable window of any building owned, leased or occupied by the City of Corona and in all vehicles owned or operated by the City of Corona.

B. Posting of signs. Signs designating City of Corona buildings and vehicles as no smoking areas shall be clearly and conspicuously posted.

8.02.040 Secondhand smoke – declaration of nuisance.

Secondhand smoke constitutes a nuisance and shall be enforceable as such, including as a private nuisance.

8.02.050 Violations and penalties.

A. City Enforcement. Any person who violates the provisions of this chapter shall be guilty of an infraction.

B. Private Enforcement. As provided for in Section 8.02.040 (Secondhand Smoke – Declaration of Nuisance), and notwithstanding any other provisions of this chapter or applicable law, a private citizen may bring a civil legal action to abate secondhand smoke as a nuisance.

8.02.060 Severability of provisions.

If any provision or clause of this chapter or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by any court of competent jurisdiction, the invalidity shall not affect other provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application, and to this end the provisions and clauses of this chapter are declared to be severable.”

Section 6. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule 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. The City Council further finds this Ordinance is not considered a “project” under CEQA per Section 15378 and is also exempt under Section 15060(c)(2) because this Ordinance is not an activity that would result in a direct or reasonably foreseeable indirect physical change in the environment. This Ordinance merely amends the Corona Municipal Code to declare secondhand smoke a nuisance. Thus, there is no possibility that adopting this Ordinance will have a significant effect on the environment and no further environmental analysis is required.

Section 7. Invalidity; Severability. If any sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance.

Section 8. Effective Date of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a newspaper of general circulation in the City of Corona. This Ordinance shall take effect and be in force on the 30th day after its adoption

PASSED, APPROVED, AND ADOPTED this ____ day of _____, 2023.

Mayor of the City of Corona, California

ATTEST:

City Clerk of the City of Corona, California