



# City of Chula Vista

## Staff Report

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**File#:** 17-0310, **Item#:** 4.

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ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHULA VISTA MUNICIPAL CODE SECTION 8.22.030 TO CLARIFY THAT SMOKING IS PROHIBITED IN ALL CITY PARKS (FIRST READING)

### **RECOMMENDED ACTION**

Council place the ordinance on first reading.

### **SUMMARY**

Staff is recommending that City Council adopt an ordinance to clean up contradictory language contained in Chula Vista Municipal Code section 8.22.030 and clarify that smoking is prohibited in all City parks.

### **ENVIRONMENTAL REVIEW**

#### **Environmental Notice**

The activity is not a "Project" as defined under Section 15378 of the California Environmental Quality Act State Guidelines; therefore, pursuant to State Guidelines Section 15060(c)(3) no environmental review is required.

#### **Environmental Determination**

The proposed activity has been reviewed for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because the activity consists of administrative actions that will not result in a physical change to the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA.

### **BOARD/COMMISSION RECOMMENDATION**

Not Applicable

### **DISCUSSION**

Chula Vista Municipal Code Chapter 8.22 regulates smoking in public places and places of employment. Section 8.22.030 contains multiple subsections. Subsections (D) through (G) regulate smoking in City parks. These subsections were added and amended on several occasions throughout 2006 and 2007. Ordinance 3043 was adopted in 2006; it added 8.22.030(D), which prohibits smoking in Friendship Park. Ordinance 3044 added 8.22.030(E), which prohibits smoking in Independence Park and Rancho Del Ray Park. Ordinance 3045 was also enacted in 2006; it added a section (F) stating "No person shall smoke in any portion of any other City park not specifically designated in this section."

In 2007, section 8.22.030 was again amended through Ordinance 3058. Ordinance 3058 made

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several changes to chapter 8.22, including prohibiting smoking within 50 feet of an entrance to an eating establishment and renumbering section 8.22.030 to accommodate additional prohibitions and clean up existing language. Unfortunately, the amended version of 8.22.030 itself contains conflicting provisions. While section 8.22.030 (D) through (F) now prohibit smoking in Friendship Park, Independence Park, Rancho del Rey Park, Memorial Park, and Discovery Park, subsection (G) then reads “No person shall smoke in any portion of all City parks except Friendship Park, Independence Park, Rancho del Rey Park, Memorial Park, and Discovery Park”. As a result, Section 8.22.030 (G) conflicts with and appears to override subsections (D) through (F).

Staff now recommend that Chula Vista Municipal Code section 8.22.030 be amended to remove the contradictory language currently contained in 8.22.030 subsections (D) through (G), and to replace those provisions with a single subsection clarifying that smoking is prohibited in all City parks.

#### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the 500-foot rule found in California Code of Regulations Title 2, section 18702.2(a)(11), is not applicable to this decision for purposes of determining a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Councilmember, of any other fact that may constitute a basis for a decision maker conflict of interest in this matter.

#### **LINK TO STRATEGIC GOALS**

The City's Strategic Plan has five major goals: Operational Excellence, Economic Vitality, Healthy Community, Strong and Secure Neighborhoods and a Connected Community. The amendment of section 8.22.030 supports the Operational Excellence and Healthy Community goals as it removes confusing and contradictory language in the Municipal Code and protects public health by affirming that smoking is prohibited in all City parks.

#### **CURRENT YEAR FISCAL IMPACT**

The subject amendment to section 8.22.030 results in no current year fiscal impact to the City.

#### **ONGOING FISCAL IMPACT**

The subject amendment to section 8.22.030 results in no ongoing fiscal impact to the City.

#### **ATTACHMENTS**

1. Section 8.22.030
2. Section 8.22.030 strike out underline version

*Staff Contact: Glen Googins; Megan McClurg; Lieutenant Henry Martin*