



Agenda Report

21-321

Agenda Date: 2/23/2021

REPORT TO COUNCIL

SUBJECT

Adoption of Ordinance No. 2029 Repealing Section 8.35.130 ("Possession of Tobacco by Persons Under 21 Years of Age")

COUNCIL PILLAR

Enhance Community Engagement and Transparency

BACKGROUND

At the February 9, 2021 Council meeting, proposed Ordinance No. 2029 was introduced and passed for the purpose of publication. Pursuant to City Charter Sections 808 and 812, a summary of proposed Ordinance No. 2029 was published by The Weekly on February 17, 2020, and copies were posted in three public places. The Ordinance now comes to Council for final adoption.

DISCUSSION

The proposed ordinance would repeal Section 8.35.130, "Possession of Tobacco by Persons Under 21 Years of Age":

It shall be unlawful for persons under the age of twenty-one (21) years to possess tobacco or tobacco products (including electronic smoking devices and e-liquids whether or not they contain nicotine or tobacco), as defined in Penal Code §308 and Business and Professions Code §22950.5, in the City of Santa Clara. This section shall not apply to active duty military personnel of at least 18 years of age.

The Police Department (Department) conducted a review of citation data related to Section 8.35.130 in the first year of implementation; which revealed only one instance in which Section 8.35.130 of the Ordinance was applied. The Department revisited the County Coalition Steering Committee and NAACP's concerns regarding the provision; and the need for more equitable policies and have recommended the repeal of this ordinance.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(a) as it has no potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

FISCAL IMPACT

There is no fiscal impact associated with this action.

COORDINATION

This report was coordinated with the City Attorney's Office.

PUBLIC CONTACT

A summary of proposed Ordinance No. 2029 was published to the Santa Clara Weekly on February 17, 2021, and copies were posted in three public places and made available for public inspection at the City Clerk's Office.

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>>.

RECOMMENDATION

Adopt Ordinance No. 2029 Repealing Section 8.35.130 ("Possession of Tobacco by Persons Under 21 Years of Age").

Reviewed by: Ruth Mizobe Shikada, Assistant City Manager and Derek Rush, Assistant Chief of Police

Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Ordinance No. 2029