

ORDINANCE NO. 2732

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING CHAPTER 64 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE PERTAINING TO GRAFFITI PREVENTION, PROHIBITION, AND REMOVAL; AND FURTHER AMENDING TITLE 1 OF THE GARDEN GROVE MUNICIPAL CODE TO ESTABLISH ADMINISTRATIVE FINES FOR CERTAIN GRAFFITI VIOLATIONS

City Attorney's Summary

This Ordinance amends Chapter 64 of Title 8 of the Garden Grove Municipal Code relating to graffiti prevention, prohibition, and removal; and amends Title 1 of the Garden Grove Municipal Code to establish administrative fines for certain graffiti violations.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 64 of Title 8 of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

Chapter 64: GRAFFITI PREVENTION, PROHIBITION AND REMOVAL

8.64.010 Purpose and Intent.

The purpose of this Chapter is to help prevent the spread of graffiti and to establish a program for its removal from public and private property. The spread of graffiti on both public and private buildings, structures or property causes blight within the City which results in a deterioration of property and business values for adjacent and surrounding properties, all to the detriment of the City. The City Council finds and determines that graffiti is obnoxious and a public nuisance that must be abated so as to avoid the detrimental impact of such graffiti on the City and to prevent the further spread of graffiti. The City Council further finds that the application of graffiti, as defined herein, is willful misconduct that damages or destroys property. Government Code Section 53069.3 permits the use of City funds to remove graffiti from publicly or privately owned property in the City. The City Council further finds and determines that graffiti is often used by criminal street gang members in attempts to mark or claim territory. As a result, graffiti promotes conflict among different gangs and also between gang members and other members of the community, thereby creating an immediate danger to public health and safety.

8.64.020 Definitions.

As used in this Chapter, the following terms shall have meanings as set forth below:

- (a) "Adhesive stickers" means any sheet of paper, fabric, plastic or other material with an adhesive or gummed backing, which when applied or affixed

to any surface either creates a permanent contact or is not easily removable without the use of solvents.

- (b) "Aerosol paint container" means any aerosol container, regardless of the material from which it is made, that is adapted or made for the purpose of spraying paint or other substances capable of defacing property.
- (c) "Etching tool" means any sharp or pointed instrument, that is capable of etching or marking glass, plastic, wood, metal, or concrete surfaces, including, but not limited to, picks, scribes, awls, chisels, markers, and etchers, or any masonry or glass drill bit, carbide drill bit, glass cutter, grinding stone, etching cream or acid etching solution.
- (d) "Expense of Abatement," "Abatement Expenses" "Costs of the Abatement" and/or "Abatement and related administrative costs" include, but are not limited to, court costs, attorneys' fees, costs of removal of the graffiti or other inscribed material, costs of repair or replacement of defaced property, and the law enforcement costs incurred by the City and/or any other public agency as authorized pursuant to Government Code Section 38772(d)(1).
- (e) "Felt tip marker" means any broad-tipped marker pen with a tip exceeding three-eighths of one inch or any other similar implement containing an ink that is not water soluble.
- (f) "Graffiti" means any unauthorized inscription, word, figure, mark, adhesive sticker or design that is written, marked, etched, scratched, drawn, painted, labeled, pasted, applied or affixed on any surface of public or private real or personal property, including, but not limited to, buildings, walls, windows, signs, structures, places or other surfaces regardless of the nature of the material of which the surface is composed.
- (g) "Graffiti implement" means any implement capable of marking, scarring, damaging, or defacing any surface to create graffiti, including, but not limited to, aerosol paint containers, felt tip markers, etching tools, paint sticks or graffiti sticks, adhesive stickers, spray actuators, marking pens, drill bits, grinding stones or any other similar implement.
- (h) "Graffiti violations" of law are those violations referred to in Government Code Section 38772(d)(3) and any violation of this Chapter.
- (i) "Paint stick or graffiti stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure and that, upon application, leaves a visible mark on the surface at least three-eighths of an inch in width or is not water soluble.

- (j) "Spray actuator" (also known as a spray tip, nozzle, or button) means an object or device that is capable of being attached to an aerosol paint container for the purpose of spraying the substance contained therein.

#### 8.64.030 Graffiti Prohibition / Declaration of Public Nuisance.

- (a) It is unlawful for any person to write, mark, etch, draw, label, paste, affix, paint, chalk, or otherwise apply graffiti on publicly or privately owned buildings, walls, signs, structures, surfaces or other property located within the City.
- (b) Any violation of this Chapter is hereby declared to be a public nuisance.
- (c) It is unlawful for any person owning or otherwise in control of any real or personal property within the City to permit or allow any graffiti to be placed upon or to remain on any structure or other surface located on that property if the graffiti is visible from the public right-of-way or from other public or private property.

#### 8.64.040 Possession of Graffiti Implement.

- (a) It is unlawful for any person to have in his or her possession any graffiti implement while in any (i) storm drain or (ii) public park, playground, swimming pool, public recreational facility or any other similar type of public facility within the City. This section shall not apply to any person who possesses such implements while in the course and scope of their lawful profession, trade or occupation.
- (b) It is unlawful for any person to have in his or her possession any graffiti implement, for the purpose of applying graffiti as defined in section 020 of this Chapter, while on any (i) highway, street, alleyway or sidewalk, (ii) in any public right-of-way, or (iii) in or upon an underpass, overpass, bridge, abutment or other similar type of infrastructure within the City.
- (c) It is unlawful for any minor (person under the age of eighteen (18) years) to have in his or her possession any graffiti implement while in or upon any highway, public sidewalk, street, alleyway, public right-of-way, public park, playground, swimming pool, public recreational facility, underpass, overpass, bridge, abutment, storm drain, other similar infrastructure or on private property within the City without the minor having in his or her possession the written consent of the real property owner or lessee, whether or not the minor is in a vehicle. The written consent of the property owner or lessee shall include the contact information of the owner or lessee, as appropriate, including, but not limited to, a current phone number and address. This subsection (c) shall not apply to any minor who is (1) accompanied by his or her parent or guardian having custody and control of the minor or (2) under

the immediate supervision of a teacher or instructor employed by a public school, private school or other similar educational facility licensed by either the State of California or another public entity. Notwithstanding the foregoing, an emancipated minor shall be subject to the requirements of subsection (a) above rather than this subsection.

- (d) It is unlawful for any person, other than the parent or guardian having custody and control of the minor, to sell, exchange, give, loan or otherwise furnish, or cause or permit to be sold, exchanged, given, loaned or otherwise furnished, any graffiti implement to any person under the age of eighteen years without first obtaining the written consent of the parent or guardian having custody and control of the minor. The prior written consent of the parent or guardian of the minor shall include the contact information of the parent or guardian, including, but not limited to, a current phone number and address.
- (e) Except as otherwise authorized in this section 040, the possession of any graffiti implement while in any public park, playground, swimming pool or public recreational facility, while on a public sidewalk, street, alleyway or in any public right-of-way or while in or upon an underpass, overpass, bridge, abutment, storm drain, or other similar type of infrastructure within the City is hereby declared to be a public nuisance.

#### 8.64.050 Removal of Graffiti.

Graffiti may be removed by any of the following methods:

- (a) Any person applying graffiti within the City shall have the duty to remove that graffiti within twenty-four (24) hours after notice to such person by the City or the public or private owner of the property involved. Failure of any person to so remove graffiti shall constitute an additional violation of this Chapter. Where graffiti is applied by an unemancipated minor, the parent(s) or legal guardian(s) having custody and control of the minor shall be responsible for such removal or for the payment therefor.
- (b) When the City Manager or his/her designated representative determines that graffiti is so located on publicly or privately owned real or personal property within the City so as to be capable of being viewed by a person utilizing any public right-of-way or from other City property in the City, the City Manager, or his/her designated representative, is authorized to provide for the removal of the graffiti, or, if removal cannot be cost effectively accomplished, the repair or replacement of the property defaced, solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied, upon the following conditions:

- (1) In removing the graffiti, the painting or repair/replacement of an area more extensive than where the graffiti is located shall not be authorized, except where the property is City-owned and the City Manager or his/her designee determines that a more extensive area is to be repainted or repaired/replaced, or where the private property owner or other public entity property owner agrees to pay for the costs of repainting or repairing/ replacing a more extensive area.
  - (2) Where the property is owned by a public entity other than the City, the removal of the graffiti or repair/replacement of the property may be authorized only after securing the consent of the public entity having jurisdiction over the property and release by that public entity of the City from liability. The public entity other than the City may consent in advance to City entry onto property, which the public entity other than the City has control over for graffiti removal or repair/replacement purposes. The City may make forms for such consent available.
  - (3) Where the property is privately owned, the removal of graffiti or repair/replacement of the property by City forces or by a private contractor under direction of the City may be authorized only after securing the written consent of the owner or possessor and release by that owner or possessor of the City from liability. Private property owners and possessors in the City may consent in advance to entry onto private property by City forces or by a private contractor under direction of the City for graffiti removal or repair/replacement purposes. The City may make forms for such consent available.
- (c) If a private property owner's consent cannot be obtained and/or the owner has not removed the graffiti within five (5) days after notice is given as set forth below, then the City may remove graffiti that is located on privately-owned property located within the City, and which graffiti can be viewed by a person utilizing any public right-of-way or from other City property in the City, at the owner's expense as a public nuisance pursuant to the following options:
- (1) The City Manager or his/her designated representative shall cause written notice to be served upon the owner of the affected premises, as such owner's name and address appears on the last equalized assessment roll or the supplemental roll, whichever is more current, by depositing the notice in the United States Postal Service enclosed in a sealed envelope with first-class postage thereon fully prepaid. The mailed notice shall be certified and addressed to the owner as stated above, and if there is no known address, then in care of the property address. Service shall be complete at the time of deposit in the United States Postal Service. The failure of any person to receive such notice shall not affect the validity of any proceeding hereunder. The owner

shall have five days after the date of service of the notice to remove the graffiti or be subject to City removal of the graffiti and assessment of the costs of such removal as a lien on the subject property.

- (2) The notice shall be on City letterhead in substantially the following form:

"NOTICE OF INTENT TO  
REMOVE GRAFFITI

NOTICE IS HEREBY GIVEN that you are required at your expense to remove or paint over the graffiti located on the property commonly known as (address), Garden Grove, California, which is visible to public view within five (5) days after the date of this notice. The graffiti is visible to public view and therefore constitutes a public nuisance. If you fail to comply with this order City employees or private City contractors will enter upon your property and abate the public nuisance by the removal or painting over of the graffiti. The costs of the abatement by the City employees or its private contractors, if not paid, will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objections to, or interest in said matters are hereby notified to submit any objections to the City Manager or his/her designated representative within five (5) days from the date of this notice.

At the conclusion of this five (5) day period the City may proceed with the abatement of the graffiti on your property at your expense without further notice."

- (3) Service of the notice by the City Manager or his/her designated representative shall be made on the day the notice is dated and by affidavit, the original of which shall be filed with the city clerk.
- (4) If any objections are submitted to the City Manager within five days after the date appearing on the notice of intent to remove graffiti, the City Manager, or his/her designee, shall hold a hearing on the objections. If the City Manager or his/her designee overrules the objections, the owner shall have five days from the date of that decision to remove the graffiti. The owner may appeal the decision to the Neighborhood Improvement and Conservation Commission. The Commission shall hold a hearing on the appeal as soon as reasonably practicable. Its decision shall be final.

- (5) If no objections are submitted as set forth in subsection (d) of this section, or if the objections are overruled following hearing, and if the owner fails to remove or fails to cause the graffiti to be removed by the designated date, or such continued date thereafter as the City Manager or his/her designated representative approves, then the City Manager or his/her designated representative shall cause the graffiti to be abated by City forces or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purpose.
- (6) Should the City Manager or his/her designated representative be required to abate the graffiti as set forth in subsection (e) above, he or she shall thereafter follow the procedures set forth in Subsections (b) or (c) of Section 070 of this Chapter to seek reimbursement for all abatement and related administrative costs or to place a lien against the property or special assessment against the land.

#### 8.64.060 Reward.

- (a) Pursuant to Government Code Section 53069.5, the City Council may, by resolution, establish a reward for information leading to the identification, apprehension or conviction of any person who places graffiti upon any public or private property in the City. In the event of damage to public property, the resolution may require that the offender reimburse the City for any reward paid, and may place responsibility for reimbursement of such reward upon the parent(s) or legal guardian(s) of any offender who is an unemancipated minor.
- (b) Any reward issued pursuant to subdivision (a) of this Section may, in the discretion of the City Manager or his/her designee, be paid from City funds. In the event any reward is paid pursuant to subdivision (a), it shall not relieve the convicted offender and/or the parent(s) or legal guardian(s) of any unemancipated minor so convicted from the obligation to reimburse the City for any reward paid.

#### 8.64.070 Additional Remedies.

- (a) **Minor and Parental Financial Responsibility for Graffiti Violations of Law.** Pursuant to Government Code Section 38772, the City Council makes the expense of summary abatement of graffiti violations of law committed by minor: (1) a personal obligation of both the minor causing the graffiti nuisance and the parent(s) or legal guardian(s) having custody and control of the minor; and (2) a lien against the property of the minor or a lien against the property of the parent(s) or legal guardian(s) having custody and control of the minor.

Pursuant to Government Code Section 38772(c), the county probation officer shall report the names and addresses of the parent(s) or legal guardian(s) having custody and control of a minor responsible for a violation of this Chapter to the city clerk.

- (b) Lien Assessment Procedure. Pursuant to Government Code Section 38772, 38773, 38773.1, 38773.2, 38773.5, 38773.6 and/or 38773.7, the City shall be legally entitled to recover and collect abatement and related administrative costs incurred in the summary abatement of graffiti nuisances from the property owner maintaining the nuisance, as determined by the last equalized assessment roll or the supplemental roll, whichever is more current, and/or the minor or other person creating, causing, or committing the nuisance. The parent(s) or guardian(s) having custody and control of a minor shall be jointly and severally liable with the minor. (Hereinafter, the property owner maintaining the nuisance, as determined by the last equalized assessment roll or the supplemental roll, whichever is more current, the minor or other person creating, causing, or committing the nuisance and the parent(s) or guardian(s) having custody and control of a minor shall be jointly referred to as the "Responsible Party").
- (1) Notice of Proposed Lien Assessment. Should the City Manager or his/her designee be required to abate any graffiti as set forth in this Chapter, he or she shall thereafter prepare a statement of all abatement and related administrative costs to determine the actual costs of abatement. The statement of abatement and administrative costs shall be sent to the Responsible Party via United States Postal Service, certified mail, postage thereon fully prepaid. Unless appealed as set forth below, the Responsible Party shall pay to the City the full costs of abatement within thirty days from the mailing of said notice.
- (i) If the applicable Responsible Party desires to appeal the assessment, the party may do so by requesting an informal hearing before the City Manager or his/her designee in writing within ten (10) calendar days from mailing of the statement of abatement and administrative costs. Following the informal hearing, the City Manager or his/her designee shall then render a final decision on the assessment in writing within five days and mail the same by first class mail, postage prepaid, to the Responsible Party.
- (ii) The affected Responsible Party shall then have ten days from the date of mailing to appeal this decision to the City Council. The appeal shall be in writing.



- (iii) The proposed assessment, if not paid in full, shall be calendared for approval by the City Council, whether an appeal has been filed or not.
  - (iv) Notice of the date and time of the City Council meeting for which the proposed assessment has been calendared for approval and/or appeal shall be sent to the Responsible Party in the United States Postal Service via first-class mail, postage thereon fully prepaid.
  - (v) The failure of any Responsible Party to receive any notice provided pursuant to this Chapter shall not affect the validity of any proceeding in this Chapter.
- (2) Adoption and Recording of Lien Assessment. The City Council shall have the authority to adopt a resolution confirming the lien assessment, which, following adoption, shall be recorded by the city clerk in the county recorders office in which the parcel of land is located pursuant to Government Code Sections 38773.1(c), 38773.2(c) and/or 38773.6 after the notice of lien has been served on the Responsible Party.

From date of recording, the lien shall have force, effect and priority of a judgment lien.
- (3) Contents of the Resolution Confirming Lien Assessment. Pursuant to Government Code Sections 38773.1(c)(1) and/or 38773.2(d), the resolution confirming the abatement lien shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessors parcel number; and the name and address of the recorded owner of the parcel.
- (4) Service of a Notice of Lien.
  - (i) Following the adoption of a resolution by the City Council confirming the imposition of a lien upon the Responsible Party's property, and prior to the recordation of the lien, the City Manager, or his/her designee, shall cause to be served a notice of lien upon the Responsible Party. The notice of lien for purposes of this Chapter shall be in substantially the following form:

## NOTICE OF LIEN

(Claim of the City of Garden Grove)

Pursuant to Government Code Sections 38772, 38773, 38773.1, 38773.2, 38773.5, 38773.6 and/or 38773.7 and the authority of Chapter 8.64 of the Garden Grove Municipal Code, the City Manager of the City of Garden Grove did on or about the day of (date), (year) cause the painting over or removal of graffiti at the premises hereinafter described in the (date), (year) order to abate a public nuisance on said real property; and the City Council of the City of Garden Grove did on the (day) of (Month), (year) assess the cost of such abatement upon the real property hereinafter described; and the same has not been paid nor any part thereof; and that the City of Garden Grove does hereby claim a lien for such costs of abatement in the amount of the assessment, to wit: the sum of (amount) dollars; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record.

The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land laying and being in the City of Garden Grove, County of Orange, State of California and particularly described as follows:

(Street address, legal description, and assessors parcel number)

The recorded owner of the real property hereinbefore mentioned is (name) and (address of the recorded owner)

DATED this (day) day of (Month), (year).

City of Garden Grove, California

- (ii) The notice of lien shall be served on the Responsible Party in the same manner as a summons in a civil action in accordance with Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure.

If the person to be served, after diligent search, cannot be found, the notice of lien may be served by posting a copy of the notice upon the property owned by the Responsible Party, in a

conspicuous place, for a period of 10 days. The notice shall also be published pursuant to Government Code Section 6062 in a newspaper of general circulation that is published in the county in which the property is located. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day. Publication shall be made on each day on which the newspaper is published during the period.

- (c) Alternate Procedure / Special Assessment Against Land. As an alternate to the lien abatement procedure, the City Council also establishes the following nuisance abatement procedure, in accordance with Government Code Section 38773.6, to make the cost of abatement a special assessment against real property owned by a Responsible Party.

To establish such an abatement special assessment against land, the same procedural steps as set forth in subsections (b)(1) through (b)(4) of this section and the notice requirements of Government Code Section 38773.5, as such section may be periodically amended, shall be followed, except that in any required notices and/or documents the term "lien" shall be replaced with the term "special assessment." The assessment against the land shall be collected at the same time and in the same manner as municipal taxes.

- (d) Misdemeanor Offense. In addition to any administrative, civil or other fines and/or penalties provided under this code and/or state law, any violation of this Chapter shall be a misdemeanor offense. Notwithstanding any other provision of this code to the contrary, any person, firm, or corporation convicted of violating sections 030(a), 040(a) or 040(b) of this Chapter shall be guilty of a misdemeanor and punished by a fine of not more than one thousand dollars (\$1000) or by imprisonment in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment and such violations shall not be subject to reduction or punishment as an infraction. All other violations of this Chapter shall be punished in accordance with section 1.04.010 of this Code.
- (e) Civil Liability of Parents. In addition to pursuing administrative fines and/or penalties and/or criminal charges for violations of this Chapter, the City Attorney may (1) file civil complaints against the parent(s) or legal guardian(s) of a minor who defaces public or private property and (2) seek recovery for the property damage, cost of graffiti removal, abatement expenses, law enforcement investigative costs, as well as the City Attorney's fees and costs, up to the amount authorized and periodically adjusted pursuant to Civil Code Section 1714.1(a)-(d) for each tort of the minor. Pursuant to that section, any act of willful misconduct of a minor which results in the defacement of property in violation of this Chapter is imputed to the parent(s) or guardian(s) having custody and control of the minor for

all purposes of civil damages, including court costs, and attorney's fees, and the parent(s) or guardian(s) having custody and control is jointly and severally liable with the minor for any damages resulting from the willful misconduct of the minor, not to exceed the amount specified above.

- (f) **Recovery of Attorneys' Fees.** Pursuant to Government Code Section 38773.5(b), the City may recover attorneys' fees in any action, administrative proceeding, or special proceeding to abate a violation of this Chapter, as such violation constitutes a public nuisance. The recovery of attorneys' fees shall be by the prevailing party and limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to the prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.
- (g) **Treble Damages.** Pursuant to Government Code Section 38773.7, the City may upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property or a person described in paragraph (3) of subdivision (d) of Section 38772 of the Government Code is responsible for a condition that may be abated in accordance with this Chapter, except for conditions abated pursuant to Section 17980 of the Health and Safety Code, seek the court to order that person to pay treble the costs of the abatement.
- (h) **Alternate Actions.** Nothing in this Chapter shall be deemed to prevent the City from commencing an administrative, civil and/or criminal proceeding to abate a public nuisance or any violation of this Chapter or from pursuing any other means available to it under provisions of applicable ordinances or state law to correct violations, hazards or deficiencies in real property in addition to or as alternatives to the proceedings set forth herein.

SECTION 2. Subsection 010(a) of Chapter 22 of Title 1 of the Garden Grove Municipal Code is hereby amended to read as follows:

1.22.010 Authority and Fines.

- (a) Any person violating Chapter 5.28 or Sections 030, 040 or 050(a) of Chapter 8.64, of the Garden Grove Municipal Code may be issued an administrative citation by an enforcement officer and subject to an administrative fine as provided in this Chapter.

SECTION 3. Subsection 010(g) of Chapter 22 of Title 1 of the Garden Grove Municipal Code is hereby amended to read as follows:

- (g) In the case of administrative citation issued for violation of Chapter 8.64, Sections 030, 040 or 050(a), of this Code, administrative fines shall be assessed in the following amounts:
- (1) A fine of three hundred dollars (\$300.00) for a first violation of any of Chapter 8.64, Sections 030, 040 or 050(a).
  - (2) A fine of six hundred dollars (\$600.00) for a second violation of any of Chapter 8.64, Sections 030, 040 or 050(a), within one year from the date of the first violation.
  - (3) A fine of one thousand dollars (\$1,000.00) for each additional violation of any of Chapter 8.64, Sections 030, 040 or 050(a), within one year from the date of the first violation.
  - (4) In addition to the administrative fine schedule as set forth above, and pursuant to Government Code section 38773.5(b), the City may recover attorneys' fees in any action, administrative proceeding, or special proceeding to abate a violation of Chapter 8.64, Sections 030, 040 or 050(a), as a violation of any of these sections constitutes a public nuisance. The recovery of attorneys' fees shall be by the prevailing party and limited to those individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees. In no action, administrative proceeding, or special proceeding shall an award of attorneys' fees to the prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

SECTION 4. Subsection 010(h) of Chapter 22 of Title 1 of the Garden Grove Municipal Code is hereby added to read as follows:

- (h) Nothing in this Chapter shall be deemed to require the City to proceed with an administrative citation and fine in lieu of the penalty provisions set forth in Chapter 1.04 or any other legal options available to the City, including, but not limited to, commencing a civil or criminal proceeding concurrently with an administrative citation.

SECTION 5. Subsection 010(a) of Chapter 4 of Title 1 of the Garden Grove Municipal Code is hereby amended to read as follows:

- (a) It is unlawful for any person, firm, or corporation to violate any provision or fail to comply with any of the requirements of this code. A violation of this code shall constitute a misdemeanor; except that, notwithstanding any other requirement of the code (other than as set forth in Section 8.64.070(d)), any violation constituting a misdemeanor under this code may, in the discretion

of the City Attorney, or other authorized enforcement officer, be charged and prosecuted as an infraction.

SECTION 6. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each other section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 7. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be posted at the duly designated posting places within the City and published once within fifteen days after passage and adoption as may be required by law; or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the Office of the City Clerk five days prior to the date of adoption of this Ordinance; and, within fifteen days after adoption, the City Clerk shall cause to be published, the aforementioned summary and shall post a certified copy of this Ordinance, together with the vote for and against the same, in the Office of the City Clerk.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_\_\_ of \_\_\_\_\_ 2008.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

STATE OF CALIFORNIA    )  
COUNTY OF ORANGE    ) SS:  
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on August 26, 2008, with a vote as follows:

AYES:       COUNCIL MEMBERS:   (5) BROADWATER, JONES, NGUYEN, ROSEN, DALTON  
NOES:       COUNCIL MEMBERS:   (0) NONE  
ABSENT:     COUNCIL MEMBERS:   (0) NONE