

## **TITLE 8: PEACE, SAFETY AND MORALS \***

\* For the State of California constitutional provisions authorizing cities to make and enforce, within their respective boundaries such local police regulations as are not in conflict with the General Law, see California Constitution Article XI, § 11.

### **CHAPTER 04: CURFEW REGULATIONS**

\*Prior history: Prior Code §§ 4140-4142, 4144, 4146 and 4147.

#### **SECTION 8.04.010: Definitions**

As used in this Chapter:

- (1) "Curfew hours" means:
  - (a) Ten (10:00) p.m. on any Sunday, Monday, Tuesday, Wednesday, Thursday, Friday, or Saturday until six (6:00) a.m. of the following day;
  - (b) For minors sixteen (16) years and older, 12:01 a.m. until six (6:00) a.m. on any Saturday or Sunday.
- (2) "Emergency" means an unforeseen combination of circumstances, or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) "Establishment" means any privately owned place of business, operated for a profit, to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) "Guardian" means:
  - (a) A person who, under court order, is the guardian of the person of a minor; or
  - (b) A public or private agency with which a minor has been placed by a court.
- (5) "Minor" means any person under the age of eighteen (18) years.
- (6) "Operator" means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

- (7) "Parent" means a natural parent, adoptive parent, or stepparent of another person, or a person at least eighteen (18) years of age, and authorized by a parent or guardian to have the care and custody of a minor.
- (8) "Public place" means any place to which the public, or a substantial group of the public, has access, and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, malls, shopping centers, office buildings, and transport facilities.
- (9) "Remain" means to linger, stay, or fail to leave the premises when requested to do so by a Police Officer or the owner, operator, or other person in control of the premises.
- (10) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(Ordinance 2802 § 1, 2011; Ordinance 2353 § 1 (part), 1996).

#### **SECTION 8.04.020: Curfew Prohibitions**

- (A) No minor shall remain in any public place or on the premises of any establishment within the city during curfew hours.
- (B) No parent or guardian of a minor shall knowingly permit, or by insufficient control allow, any minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (C) No owner, operator, or employee of any establishment shall knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

(Ordinance 2802 § 1, 2011; Ordinance 2353 § 1 (part), 1996).

#### **SECTION 8.04.030: Defenses. Conduct that Does Not Violate Curfew Prohibitions.**

- (A) It is a defense to prosecution under Section 8.04.020 if the minor was:

- (1) Accompanied by the minor's parent or guardian.
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop.
- (3) In a motor vehicle involved in interstate travel.
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop.

- (5) Involved in an emergency.
  - (6) On the sidewalk abutting the minor's residence or abutting the residence of a next door neighbor, if the neighbor did not complain to the Police Department about the minor's presence.
  - (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Garden Grove, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity, supervised by adults and sponsored by the City of Garden Grove, a civic organization, or another similar entity that takes responsibility for the minor.
  - (8) Exercising First Amendment rights protected by the U.S. Constitution.
  - (9) Married, or had been married, or had disabilities of minority removed by emancipation.
- (B) It is a defense to prosecution under Section 8.04.020(B) if the parent notified the Police Department that the minor was out after curfew hours without permission, or failed to obey the parents' order to stay home during curfew hours.
- (C) It is a defense to prosecution under Section 8.04.020(C) if the owner, operator, or employee of an establishment promptly notified the Police Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.
- (Ordinance 2802 § 1, 2011; Ordinance 2353 § 1 (part), 1996).

#### **SECTION 8.04.040: Enforcement Action and Probable Cause**

Before taking any enforcement action under this Chapter, a Police Officer shall ask the apparent offender's age and reason for being in the public place. The Officer shall not cite the apparent offender for violation of this Chapter, unless the Officer reasonably believes that an offense under Section 8.04.020 has occurred, and that none of the defenses under Section 8.04.030 are applicable.

(Ordinance 2802 § 1, 2011; Ordinance 2353 § 1 (part), 1996).

### **CHAPTER 08: DANCES AND DANCE HALLS**

#### **SECTION 8.08.010: Definitions**

For the purpose of this Chapter, certain words, and phrases shall be defined and construed as set forth in this Section:

- (1) "Charitable nonprofit organization" is any organization that is organized for benevolent, charitable, or eleemosynary purposes that holds meetings, other than teenage dances, at regularly scheduled intervals and that has obtained an exemption from taxation from the California Franchise Tax Board.
- (2) "Dinner dancing place" is a place where music is provided and the public is permitted to dance without payment of a fee.
- (3) "Entertainment" means every form of live entertainment, music, solo band or orchestra, act, play, burlesque show, fashion show, review, pantomime, scene, song or dance act, or song and dance act, or any other act performance participated in by one or more persons for the purpose of holding the attention of, gaining the attention or interest of, diverting or amusing guests or patrons.
- (4) "Nightclub" means any premises or portion of a premises designed or used primarily for the sale of alcoholic beverages and where dancing or other entertainment is provided or allowed, including premises or portions thereof that operate under a State Alcoholic Beverage Control License "on-sale general bona fide eating place" or "on-sale premises" type license. A nightclub shall be subject to all the provisions of Section 8.08.020 regarding dinner dancing places, except that the term "dancing" therein shall be deemed to include entertainment as defined in this Section.
- (5) "Private dance" is a dance that is limited to those persons individually invited and to which no admittance charge is made, or a dance conducted by any bona fide club, society, association or school, organized or incorporated for benevolent, charitable, literary, dancing, or educational purposes, having an established membership, and that holds meetings other than such dances at regularly stated intervals, when proceeds, if any, arising from such a dance are used for the purposes of such club, society, association, or school.
- (6) "Public dance" is a dance open to the public for an admittance fee or charge that is held on one day only.
- (7) "Public dance hall" is a place open to the public upon the payment of an admittance fee, wherein music is provided and people are allowed to dance, and that is open at regular intervals or on regular days of the week.
- (8) "Teenage dance" is a dance or dances held at regular intervals that is open only to teenagers, from the ages of thirteen (13) to eighteen (18), inclusive, sponsored by a charitable nonprofit organization. If an admission charge is made, no less than fifty

percent (50%) of the gross proceeds from each dance must be turned over to the sponsoring charitable nonprofit organization to be used for its eleemosynary purposes.

- (a) Every teenage dance must be chaperoned by at least four (4) adults from the established membership of the charitable nonprofit organization. The hours of a teenage dance shall be from eight (8:00) p.m. to twelve-thirty (12:30) a.m., inclusive.

(Ordinance 2802 § 1, 2011; Ordinance 1822 § 1, 1983; Ordinance 1018 § 1 (part), 1968; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (part), 1962; Prior Code § 4160).

#### **SECTION 8.08.020: Public Dance Hall, Public Dance, Dinner Dancing Place Conduct Restrictions**

No person as principal, agent or otherwise, carrying on, maintaining, or conducting, or assisting in carrying on, maintaining, conducting, a public dance hall, a public dance, or a dinner dancing place in the city shall:

- (1) Permit any person under the age of eighteen (18) years to enter, be, remain in, or to dance therein, unless accompanied by the parent or legal guardian of such person;
- (2) Permit any person to indulge in boisterous conduct or use profanity, or otherwise conduct himself in a vulgar or indecent manner while such person is present in the public dance hall, public dance, dinner dancing place, or in any of the hallways leading thereto;
- (3) Permit an intoxicated person to enter, be, remain in, or to dance in any public dance hall, public dance, or dinner dancing place;
- (4) Issue any pass-out check to allow any patron thereof who has left the building to return without the payment of the regular admission charge, if a charge is made for original admission;
- (5) Shut or turn off or reduce the intensity of the lighting in the area used for dancing to such a degree to make it difficult or impossible to clearly see or identify individuals dancing on the floor provided for dancing;
- (6) Permit any person to dance between two (2:00) a.m. and six (6:00) a.m. of any day; and
- (7) Permit any live music to be played between two (2:00) a.m. and six (6:00) a.m. of any day.

(Ordinance 2802 § 1, 2011; Ordinance 1367 § 2, 1973; Ordinance 1212 §§ 1 and 2, 1971; Ordinance 1212A §§ 1 and 2, 1971; Ordinance 1123 §§ 1, 2,

1970; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (part), 1962; Prior Code § 4161).

#### **SECTION 8.08.030: Public Dance Hall or Public Dance Admission Registration**

Every person upon seeking admission to a public dance hall or to any public dance shall, upon the request of the manager, proprietor, doorkeeper, or managing agent of the proprietor of such public dance hall or public dance, register his true name, age, and address in his own handwriting.

(Ordinance 2802 § 1, 2011; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (part), 1962; Prior Code § 4162).

#### **SECTION 8.08.040: Private Dance or Teenage Dance Conduct Restrictions**

No person as principal, agent, chaperone, or otherwise, carrying on, maintaining, conducting, or assisting in carrying on, maintaining, or conducting either a private dance or a teenage dance in the city shall:

- (1) Permit any person to indulge in boisterous conduct or use profanity, or otherwise conduct himself in a vulgar or indecent manner while such person is in attendance at the dance or in any of the hallways leading thereto;
- (2) Permit an intoxicated person to enter, be, remain in, or to dance on the premises;
- (3) Issue any pass-out check to allow any patron thereof who has left the building to return without the payment of another regular admission charge, if a charge is made for original admission;
- (4) Shut or turn off or reduce the intensity of the lighting in the area used for dancing to such a degree to make it difficult or impossible to clearly see or identify individuals dancing on the floor provided for dancing; and
- (5) Permit any person to dance or any music to be played or reproduced by any means whatsoever between two (2:00) a.m. and nine (9:00) a.m. of any day, except as provided in Section 8.08.050.

(Ordinance 2802 § 1, 2011; Ordinance 1018 § 1 (part), 1968; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (part), 1962; Prior Code § 4163).

#### **SECTION 8.08.050: Private Dance Permit**

Any person as principal, agent, or otherwise, who is desirous of receiving a permit for carrying on, maintaining, or conducting, or assisting in carrying on, maintaining, or conducting, a dance in the city by any bona fide club, society, association, or school, organized or incorporated for benevolent, charitable, literary, dancing, or educational purposes having an established

membership, and that holds meetings other than such dances at regularly stated intervals, when proceeds, if any, arising from such a dance are used for the purposes of such club, society, association, or school between two (2:00) a.m. and nine (9:00) a.m. of any day, shall:

- (1) Make written application to the Police Chief at least thirty (30) days before the date of the dance, on forms provided by the Police Department; and
- (2) Provide all other information as may be required by the Police Chief.

(Ordinance 2802 § 1, 2011; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (Part), 1962; Prior Code § 4164).

#### **SECTION 8.08.060: Dance Permit Appeal**

Any applicant, as defined in Section 8.08.050, who is refused a permit by the Police Chief to conduct a dance in the city may appeal the refusal to the City Council.

(Ordinance 2802 § 1, 2011; Ordinance 574 § 1 (part), 1962; Ordinance 574A § 1 (part), 1962; Prior Code § 4165).

#### **SECTION 8.08.070: Nightclub -- Area Restrictions**

During any time that alcoholic beverages are being served or consumed, no person as principal, agent, or otherwise, shall carry on, maintain, or conduct, or cause or permit the carrying on, maintaining, or conducting, or assisting in carrying on, maintaining, or conducting, a nightclub as defined in Section 8.08.010, until, and unless there has been filed, prior thereto with the Police Department, a floor plan of the premises or portion thereof that designates the portion or portions of the premises for use as a nightclub as defined in Section 8.08.010. The floor plan shall be in the form of a scale floor plan acceptable under the Uniform Building Code for initial construction of the building or structure on the premises used or a portion of which is used for a nightclub; or such other scaled floor plan as the City may approve.

(Ordinance 2802 § 1, 2011; Ordinance 1822 § 2 (part), 1983).

#### **SECTION 8.08.080: Nightclub -- Age Restrictions**

During any time that alcoholic beverages are being served or consumed, no person, as principal, agent, or otherwise, carrying on, maintaining, or conducting, or assisting in carrying on, maintaining, or conducting, a nightclub shall permit any person under the legal age for consumption of alcoholic beverages to enter, be, or remain in such premises or such portion thereof. Nothing in this Section shall exempt the operation of a nightclub from any other applicable law or provision of this Code.

(Ordinance 2802 § 1, 2011; Ordinance 1822 § 2 (part), 1983).

### **CHAPTER 12: DISORDERLY CONDUCT**

#### **SECTION 8.12.010: Designated -- Trespass Defined**

- (A) A person is guilty of disorderly conduct, if, with a purpose to cause public danger, alarm, disorder, nuisance, or if the knowledge that he is likely to create such public danger, alarm, disorder, or nuisance he willfully:
- (1) Creates a disturbance of the public order by an act of violence or by any act likely to produce violence;
  - (2) Engages in fighting or in violent, threatening, or tumultuous behavior;
  - (3) Makes any unreasonably loud noise;
  - (4) Addresses abusive language or threats to any person present that creates a clear and present danger of violence;
  - (5) Causes likelihood of harm or serious inconvenience by failing to obey a lawful order of dispersal by a Police Officer where three (3) or more persons are committing acts of disorderly conduct in the immediate vicinity;
  - (6) Damages, befoils, or disturbs public or private property so as to create a hazardous, unhealthy, or physically offensive condition; or
  - (7) Commits a trespass on residential property or on public property. "Trespass" for the purpose of this Chapter means:
    - (a) Entering upon, or refusing to leave, any residential property of another, either where such property has been posted with "NO TRESPASSING" signs, or where immediately prior to such entry, or subsequent thereto, notice is given by the owner or occupant, orally or in writing, that such entry, or continued presence, is prohibited.
    - (b) Entering upon or refusing to leave, any public property in violation of regulations, promulgated by the official charged with the security, care, or maintenance of the property and approved by the governing body of the public agency owning property, where such regulations have been conspicuously posted or where immediately prior to such entry, or subsequent thereto, such regulations are made known by the official charged with the security, care, or maintenance of the property, his agent or a Police Officer.
- (B) This Chapter shall not apply to peaceful picketing, public speaking, or other lawful expressions of opinion not in contravention of other laws. (Ordinance 2802 § 1, 2011; Ordinance 1182 § 3 (part), 1971; Prior Code § 4200).



### **SECTION 8.12.011: Brandishing Replica Firearms**

- (A) It shall constitute disorderly conduct if any person brandishes a replica or facsimile of a firearm in a rude, angry, or threatening manner with the intent to frighten, vex, harass, or annoy any other person.
- (B) "Replica" or "facsimile" of a firearm as used in this Section includes, but is not limited to, toy guns, starter pistols, air guns, and inoperative firearms, or any other device that looks like an operable firearm.  
(Ordinance 2802 § 1, 2011; Ordinance 2008 § 1, 1987).

### **SECTION 8.12.020: Prohibited**

It is unlawful for any person to engage in disorderly conduct in the city.  
(Ordinance 2802 § 1, 2011; Ordinance 1182 § 3 (part), 1971; Prior Code § 4201).

## **CHAPTER 16: POLICE RESPONSE SERVICE AT LARGE GATHERINGS**

### **SECTION 8.16.010: Purpose**

The City of Garden Grove finds and determines that:

- (1) The control of large parties, gatherings, or events on private property is necessary when such continued activities is determined to be a threat to the peace, health, safety, or general welfare of the public.
  - (2) Police Officers have been required to make as many as three (3) return calls to a location of a party, gathering, or event in order to disperse uncooperative participants, and the return of Police Officers to a location constitutes a drain of manpower and resources often leaving other areas of the city without minimal levels of Police protection.
  - (3) These conditions create a significant hazard to the safety of the Police Officers and to the public in general.
- (Ordinance 2802 § 1, 2011; Ordinance 2076 § 1 (part), 1988).

### **SECTION 8.16.020: Definitions**

For the purpose of this Chapter, the following definitions shall apply:

- (1) "Large party, gathering, or event" is a group of persons who have assembled or are assembling for a social occasion or for a social activity.
- (2) "Police services fee" shall include all costs of personnel and equipment for the amount of time actually spent in responding to or in remaining at the party, gathering, or event at a rate established by City Council Resolution, including, but not limited to,

the salaries of the Police Personnel, the actual cost of any medical treatment to injured Officers, the cost of repairing any damaged City equipment or property, and overhead and administrative costs related to all of the foregoing.

- (3) "Person responsible for the event" includes the following:
- (a) The person who owns the property where the party, gathering, or event takes place;
  - (b) The person in charge of the premises;
  - (c) The person authorizing use of the premises for the event; and
  - (d) The person who organized the event each and all of whom shall be jointly and severally liable for the police services fee.
  - (e) If the person responsible for the event is a minor, then the parents or guardians of that minor shall be jointly and severally liable for the costs incurred for police services.
- (4) "Special security assignment" means the assignment of Police Officers and services during a second call to a location after the distribution of a written warning that the party, gathering, or event violates the law.

(Ordinance 2802 § 1, 2011; Ordinance 2076 § 1 (part), 1988).

#### **SECTION 8.16.030: Police Services at Large Parties, Gatherings, or Events Requiring a Second Response**

- (A) When a large party, gathering, or event occurs on private property and a Police Officer at the scene determines that there is a threat to the public peace, health, safety, or general welfare, that Police Officer shall order a special security assignment to control the threat to the public peace, health, safety, or general welfare and disburse the gathering. The person(s) responsible for the event shall be liable for the Police services fee for the special security assignment during a second response by the Police Department after the first warning.
- (B) The provisions of this Chapter are an additional authority for regulation of large gatherings, and shall supplement and not supplant exercise of any other available law including, but not limited to, arrest or citation of violators of the state penal code or other local regulations.
- (Ordinance 2802 § 1, 2011; Ordinance 2076 § 1 (part), 1988).

#### **SECTION 8.16.040: Police Services Fee**

- (A) The Police services fee shall not exceed one thousand five hundred dollars (\$1,500) for a single incident.

- (B) The City does not hereby waive its right to seek reimbursement for actual costs exceeding one thousand five hundred dollars (\$1,500) through other legal remedies or procedures.
  - (C) The amount of such fees charged shall be deemed a debt to the City from the person or persons responsible for the event receiving said services and, if minors, their parents or guardians. Any person owing money shall be liable in an action brought by the City in its own name for recovery of such amount, including reasonable attorneys' fees.
- (Ordinance 2802 § 1, 2011; Ordinance 2076 § 1 (part), 1988).

#### **SECTION 8.16.050: Billing**

The Police Chief shall notify the Finance Director in writing, following such performance of Police services, of the name and address of the responsible person, the date and time of the incident, the services performed and the costs thereof, and such other information as may be required. The Finance Director shall thereafter cause appropriate billings to be made.

(Ordinance 2802 § 1, 2011; Ordinance 2076 § 1 (part), 1988).

### **CHAPTER 20: GAMBLING**

#### **SECTION 8.20.010: Business**

No person, as owner, manager, or otherwise, shall operate any public card room, public game room, or any other public place as a business in the city where any poker game, card game, or any game of chance for money or anything of value or representative of value is placed, conducted, carried on, or permitted.

(Ordinance 2802 § 1, 2011; Prior Code § 4120).

#### **SECTION 8.20.020: Activity**

No person shall deal, play, open, or operate either as owner or employee, whether for hire or not, or play, or bet at or against any game of chance played with cards, dice, or any device, for money, checks, credit, or other representative of value, within the city.

(Ordinance 2802 § 1, 2011; Prior Code § 4121).

#### **SECTION 8.20.030: Doorkeeper or Lookout**

No person shall act as lookout, doorkeeper, or gamekeeper for any game of chance played with cards, dice or any device, for money, checks, credit or other representative of value, within the city.

(Ordinance 2802 § 1, 2011; Prior Code § 4122).

#### **SECTION 8.20.040: Visiting**

No person shall visit any room, within the city, where any game of chance played with cards, dice, or any device for money, checks, credit, or other representative of value is being played or operated.

(Ordinance 2802 § 1, 2011; Prior Code § 4123).

**SECTION 8.20.050: Operation**

No person shall operate or exhibit any gaming table, device, or apparatus, or operate any gaming establishment, or any room or place for the practice of gambling, or playing games of chance for money, or other representatives of value, with cards, dice, or other device, within the city.

(Ordinance 2802 § 1, 2011; Prior Code § 4124).

**SECTION 8.20.060: Seizure of Equipment**

The Police Chief shall seize and safely keep all chips, cards, boxes, tables, boards, and all other articles used or pertaining to any game of chance played with cards, dice, or any device for money, checks, credit or other representative of value, and shall produce the same in court to be retained until the final disposition of any case in which the articles may be required as evidence; but nothing herein contained shall prevent the destruction of said articles at any time upon court order when said articles no longer are required to be retained for evidence.

(Ordinance 2802 § 1, 2011; Prior Code § 4125).

**SECTION 8.20.070: Games of Chance**

No person, either as owner, lessee, manager, employee, agent, or servant shall conduct, manage, carry on, maintain, operate, open, deal or deal in, or cause or permit to be conducted, managed, carried on, maintained, operated, opened, dealt or dealt in any game, operation, or transaction wherein any prize, gift, rebate, compensation, reward, award, payment, or gratuity consisting of any money, check, token, credit, goods, wares, merchandise, property, or thing of value is or is to be given, awarded or delivered, either directly or indirectly, and wherein chance is a determining factor or is any determining factor of the result of such game, operation, or transaction, which game, operation, or transaction is conducted, carried on, maintained, operated, or played by the throwing, tossing, dropping, depositing or placing of any ball, marker, object, thing, or substance into any perforation, hole, or indentation in or upon any surface, receptacle, container, object, or thing having marked, designated, or identified thereon by or with any figure, number, character, symbol, letter, design, or mark of any kind, or by the selecting, designating, turning, indicating, choosing, or projecting of any such figure, number, character, symbol, letter, design, or mark of any device, apparatus, or equipment, or by any means or in any manner, or by the drawing, selecting, choosing, or removing from any receptacle or container of any ball, disk, object, substance, or material marked, designated, or identified by or with any figure, number, character, symbol, letter, design, or mark, any such figure, number, character, symbol, letter, design, or mark hereinabove referred to, corresponding to, duplicating, referring to, or relating to in whole or in part, directly or indirectly, any figure, number, character, symbol, letter, design, or mark upon any card, paper, board, fabric, surface, object, substance, or thing, held, used, operated, or maintained by any player or participant therein or by any person, where, by any predetermined or prearranged, or by any rule, method, scheme, design, or procedure any person is found, declared, or

determined to be, or is, or is to be, the winner, donee, recipient, or taker of such prize, gift, rebate, compensation, reward, award, payment of gratuity, in the event that any such player or participant pays, deposits, expends, gives or pledges, either directly or indirectly, or agrees, promises, or intends to pay, deposit, expend, give, or pledge, either directly or indirectly, any money, check, credit, property, or thing of value, or makes or agrees to make any purchase for the privilege of playing or participating therein or of gaining admission to the place or premises where such game, operation, or transaction is or is to be played, conducted, carried on, maintained, or operated, or to any place or premises.  
(Ordinance 2802 § 1, 2011; Prior Code § 4126).

#### **SECTION 8.20.080: Council Intent**

No provision of this Chapter shall be deemed or construed as prohibiting any act made unlawful by Sections 320, 330, or 330a of the Penal Code, or any other Code Section or General Law of the state, it being the intent of the City Council to prohibit all games, operations, or transactions herein described, not prohibited by any General Law of this state, such as all games, operations, or transactions for profit commonly known as keno, tango, movie tango, bingo, beano, sill ball, fortune, quintain, fascination, or inspiration, and all games, operations, or transactions similar thereto under whatever name they may be designated.  
(Ordinance 2802 § 1, 2011; Prior Code § 4127).

#### **SECTION 8.20.090: Participation in Games of Chance**

No person shall participate in play, play in, or engage in, either directly or indirectly, any game, operation, or transaction prohibited by Section 8.20.070.  
(Ordinance 2802 § 1, 2011; Prior Code § 4128).

#### **SECTION 8.20.100: Renting for Gambling Purposes**

- (A) No person, either as owner or agent, shall lease or rent any building, room, lot, or other place to any person to be used for gambling or playing games of chance for money, or any representative of value.
- (B) No person owning, leasing, managing, controlling, or having any interest in any property or premises lying within the city shall cause or permit the maintenance or operation in or on such property or premises, having knowledge, or after reasonable notice of the existence thereof, of any game, operation, or transaction declared by Section 8.20.070 to be unlawful.  
(Ordinance 2802 § 1, 2011; Prior Code § 4129).

### **CHAPTER 24: RELIGIOUS AND CHARITABLE SOLICITATIONS\***

\* When any Section of this Chapter refers to an "article" of this Chapter, such reference shall mean the following:

ARTICLE NUMBER	ARTICLE NAME	SECTIONS
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I	Definitions	10-90
II	Permits	100-170
III	Investigation	180-190
IV	Fees	200
V	Permittee Requirements	210-260

#### **SECTION 8.24.010: Charitable**

"Charitable" means having the character or purpose of a charity and includes the words patriotic, religious, religion, philanthropic, social service, humanitarian, welfare, benevolent, social, eleemosynary, educational, civic, or fraternal either actual or purported.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.1).

#### **SECTION 8.24.030: Contributions**

"Contributions" means and includes the words alms, food, clothing, money, subscription, property, or donations under the guise of a loan of money or property, or anything of value.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.5).

#### **SECTION 8.24.040: Person**

"Person" means any individual, or any group of individuals, firm, co-partnership, corporation, company, association, or joint stock association, church, religious sect, religious denomination, society, organization, or league either religious or charitable, and includes any trustee, receiver, assignee, agent, or other similar representative thereof.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.6).

#### **SECTION 8.24.050: Promoter**

"Promoter" means any person who promotes, manages, supervises, organizes, or attempts to promote, manage, supervise, or organize a campaign of solicitation.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.7).

#### **SECTION 8.24.060: Religious and Religion**

"Religious" and "religion" as used in this Chapter shall be given their commonly accepted definitions.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.2).

#### **SECTION 8.24.070: Religious Institution or Organization -- Charitable Institution or Organization**

"Religious institution," "religious organization," "charitable institution," or "charitable organization" mean an organization or institution supported in whole or in part by charity, or by a church, or by a body of persons

associated together for the purpose of maintaining religious worship, having no provision for making profit, deriving its funds in whole or in part from public and private charity, or from a church or church organization or institution not maintained for gain, profit, or private advantage. The words "religious institution" or "religious organization" or "charitable institution" or "charitable organization" include a foreign or domestic institution or organization created by charter, law, resolution, executive agreement, treaty, contract, agreement, or fiat whether or not its funds are derived in part from the United States Government or foreign governments or any governmental organization.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.3).

#### **SECTION 8.24.080: Religious Use or Purpose Charitable Use or Purpose**

"Religious use," "religious purpose," "charitable use," or "charitable purpose" means any use or purpose that tends to promote the physical or moral welfare of man provided only that the distribution or benefits be free and not a source of profit or private advantage. "Religious use," "religious purpose," "charitable use," and "charitable purpose" also include the solicitation by a person, institution or organization for the use or purpose of another institution, or organization that qualifies under Section 8.24.070 as a religious or charitable organization or institution.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610.4).

#### **SECTION 8.24.090: Solicit and Solicitation**

(A) Whenever used in this Chapter "solicit and solicitation" means the request directly or indirectly for money, credit, property, financial assistance, or other thing of value on the plea or representation that such money, credit, property, financial assistance, or other thing of value will be used for a religious or charitable purpose, organization, or institution as those purposes, organizations, and institutions are defined in this Chapter. The words "solicit and solicitation" also mean and include the following methods of securing money, credit, property, financial assistance, or other thing of value on the plea or representation that it will be used for a religious or charitable purpose, organization, or institution as herein defined:

- (1) Any oral or written request;
- (2) The distribution, circulation, mailing, posting, or publishing of any handbill, written advertisement, or publication;
- (3) The making of any announcement to the press, over the radio, by telephone or telegraph concerning an appeal, assemblage, athletic or sports event, bazaar, benefit, campaign, contest, dance, drive, entertainment, exhibition, exposition, party, performance, picnic,

sale, or social gathering, which the public is requested to patronize or to which the public is requested to make a contribution for any religious or charitable purpose, organization, or institution connected therewith;

- (4) The sale of, offer or attempt to sell, any advertisement, advertising space, book, card, chance, coupon, device, magazine, membership, merchandise, subscription, ticket service, or other thing in connection with which any appeal is made for any religious or charitable person or where the name of an organization or institution is used or referred to in any such appeal as an inducement or reason for making any such sale, or when or where in connection with such sale, any statement is made that the whole or any part of the proceeds from any such sale will go or be donated to any religious or charitable purpose, organization, or institution.

- (B) "Solicitation" as defined in this Section shall be deemed completed when made, whether or not the person making the same received any contribution or makes any sale referred to in this Section.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4610).

#### **SECTION 8.24.100: Required -- Exemption -- Alternate Procedure**

- (A) No person shall solicit contributions within the city for any religious or charitable purpose or for any religious or charitable organization or institution without a permit from the Finance Director. Permits required by this Chapter shall be valid for one (1) year from the date of issuance.
- (B) The provisions of this Section shall not apply to any established person organized and operated exclusively for religious or charitable purposes of any person if the solicitations by such established person are conducted only among the members thereof and only by other members or officers thereof, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of any such established person. Nor shall the provisions of this Chapter apply to any solicitation made upon premises owned or occupied by the association upon whose behalf such solicitation is made.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4620).

#### **SECTION 8.24.110: Application**

- (A) An application for a permit to solicit as provided by this Article II shall be made to the Finance Director upon forms provided by the City. Such application shall be sworn to by the applicant and filed with the Finance Director at least five (5) days prior to the time at which the permit applied for shall become effective. Such application shall contain the



following information, or in lieu thereof, a detailed statement of the reason or reasons why such information cannot be furnished:

- (1) The name, address, or headquarters of the person applying for the permit;
- (2) If applicant is not an individual, the names and addresses of the applicant's principal officers and managers and a copy of the resolution, if any, authorizing such solicitation, certified to as a true and correct copy of the original by the office having charge of applicants records;
- (3) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;
- (4) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;
- (5) The purpose for which such solicitation is to be made, the total amount of funds proposed to be raised thereby, and the use and disposition to be made of any receipts therefrom;
- (6) The names and addresses of the person or persons who will be in direct charge of conducting the solicitation and the names of all promoters connected or to be connected with the proposed solicitation;
- (7) An outline of the method or methods to be used in conducting the solicitations;
- (8) The time when such solicitation shall be made, giving the dates for the beginning and ending of such solicitation;
- (9) The amount, stated as a percentage of the total gift or purchase price, that will be used for charitable purposes;
- (10) If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the total cost that is estimated will be used for direct fundraising expenses;
- (11) A full statement of the character and extent of the religious or charitable work being done by the applicant within the city;
- (12) The nontax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law;

- (13) The percentage of the total gift or purchase price that may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible a statement that "This contribution is not tax deductible";
  - (14) Whether the applicant has been convicted of a crime of fraud, deceit or moral turpitude within the preceding year, or currently on probation, parole, or subject to incarceration as a result of such conviction; if applicant is not an individual, the above information shall be provided as to each officer and manager of applicant;
  - (15) If the organization making the solicitation represents any nongovernmental organization by any name that includes, but is not limited to, the term "officer," "peace officer," "police," "law enforcement," "reserve officer," "deputy," "California Highway Patrol," "highway patrol," or "deputy sheriff" that would reasonably be understood to imply that the organization is composed of law enforcement personnel, give the total number of members in the organization and the number of members working or living within the county where the solicitation is being made, and if the solicitation is for advertising, the statewide circulation of the publication in which the solicited ad will appear.
- (B) Applicant shall also submit an audited financial statement for the last preceding fiscal year of any funds collected for religious or charitable purposes by the applicant, such statement giving:
- (1) The amount of money so raised,
  - (2) The cost of raising it, and
  - (3) Final geographic distribution, by city, of such money, or if all funds have been given to another religious or charitable institution or organization, the name of that institution or organization.
- (C) Applicant shall provide such other information as may be reasonably required by the Finance Director in order for him to determine the kind and character of the proposed solicitation.
- (D) If, while an application is pending or during the term of any permit granted thereon, there is any change in fact, policy, or method that would alter the information given in the application, the applicant shall notify the Finance Director in writing thereof within twenty-four (24) hours after such change, and present the permit to Finance Director for amendment to accurately reflect the new information. The permittee shall forthwith provide amended credentials to each solicitor or agent in the manner provided in Section 8.24.210.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4620.1).

#### **SECTION 8.24.120: Standards**

(A) The Finance Director shall conduct the investigation as required by Article III of this Chapter and shall issue to the applicant, within three (3) business days following the date of application, whenever he finds that all of the statements made in the application are true.

(B) The Finance Director shall keep a permanent record of permits issued and shall notify the applicant by certified mail.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 1006 § I, 1968; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4620.2).

#### **SECTION 8.24.130: Denial**

Any denial recommended by the Finance Director shall be set for hearing before the City Council at the next Regular City Council Meeting, not less than five (5) days following date of denial. The Finance Director shall give written notice of the denial and hearing to the applicant by First Class Mail, postage prepaid, on the date recommendation of denial is made. The notice shall state the time, place, and date of the hearing and set forth the specific reasons for denial, as provided in Section 8.24.180.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988).

#### **SECTION 8.24.140: Form**

(A) All permits issued under this Chapter must be signed by the Finance Director and shall bear the following information:

- (1) Number of the permit;
- (2) The date issued;
- (3) A statement that the permit does not constitute an endorsement by the City or by any of its Departments, Officers, or employees of the purpose or of the person conducting the solicitation;
- (4) All information required by Section 8.24.110 for permit application Subsections (1) through (15); and
- (5) A statement that an audited financial statement for the previous year is on file with the City.

(B) An exemption permit issued pursuant to the alternative procedure of Section 8.24.175 need not contain items (4) and (5).

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4620.4).

**SECTION 8.24.150: Nontransfer**

Any permit issued under this Chapter shall be nontransferable.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (Part), 1964; Prior Code § 4620.5).

**SECTION 8.24.160: Revocation -- Hearing**

(A) A permit issued pursuant to this Chapter may be revoked by the City Council after notice and hearing before the City Council for any of the following causes:

- (1) Fraud, misrepresentation, or false statements contained in the application for permit;
- (2) Fraud, misrepresentation, or false statements made in the course of soliciting; or
- (3) Any violation of this Chapter.

(B) Notice of the hearing for revocation of the permit shall be given in writing setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the permittee at his last known address at least ten (10) days prior to the date set for hearing.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (Part), 1964; Prior Code § 4620.6).

**SECTION 8.24.170: Revocation -- Notice to Chief of Police**

The Police Chief shall be notified forthwith by the Finance Director of the revocation of any permit issued under this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4620.7).

**SECTION 8.24.175: Alternative Procedure**

(A) Compliance with Articles I, II and III of this Chapter may be made by any person who presents to the Finance Director, documents to be used in the solicitation that comply with requirements of Business and Professions Code Sections 17510 et seq. Such presentation shall be made at least five (5) days prior to the date solicitation is to commence. Upon receipt of documents compliant with Business and Professions Code requirements, the Finance Director shall issue a charitable or religious solicitation exemption permit. No fee shall be charged for this permit.

(B) Such exemption permit shall be deemed to include the documents used to comply with Business and Professions Code upon which the exemption permit is granted. The presentation of the solicitation permit required by Section 8.24.210 shall require presentation of the

documents used to comply with the Business and Professions Code as well.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988).

#### **SECTION 8.24.180: Report of Application**

(A) The Finance Director shall examine all applications filed under this Chapter and shall make, or cause to be made, such further investigation of the application and the applicant as the Finance Director shall deem necessary in order to perform duties under this Chapter. The Police Chief shall render any assistance requested by the Finance Director in the furtherance of an investigation.

(B) The Finance Director shall make a written report of findings and shall make the report available to the City Council in order that the City Council may be fully informed as to the affairs of any of said persons. The Finance Director shall fully and fairly inform the City Council of all facts necessary to a full understanding by the City Council of the work and methods of operation of such persons, provided:

- (1) If the Finance Director recommends that the application for permit be denied, the Finance Director shall serve a copy of findings and recommendation by mail upon the person investigated, and at the time of the consideration by the City Council a copy of any written statement by such person shall be available for the consideration by the City Council.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4630 (part)).

#### **SECTION 8.24.190: Report of Findings**

(A) The Finance Director shall make a written report of findings and shall make the report available to the City Council in order that the City Council may be fully informed as to the affairs of any of said persons. The Finance Director shall fully and fairly inform the City Council of all facts necessary to a full understanding by the City Council of the work and methods of operation of such persons, provided:

- (1) If the Finance Director recommends that the application for permit be denied, five (5) days before any findings under this Section and the recommendation for denial are furnished to the City Council, the Finance Director must first serve a copy of such findings and recommendation by mail upon the person investigated and at the time of the consideration by the City Council, a copy of any written statement by said person shall be available for the consideration of the City Council.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (Part), 1964; Prior Code § 4630 (part)).

#### **SECTION 8.24.200: Fees Not Required**

No fee is to be required for a religious or charitable solicitation permit. (Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (Part), 1964; Prior Code § 4640).

#### **SECTION 8.24.210: Credentials of Agents and Solicitors**

(A) All persons to whom permits have been issued under this Chapter shall furnish credentials to their agents and solicitors for such solicitation that shall include:

- (1) The true name of the individual solicitor;
- (2) A photograph of the individual depicting current physical appearance, taken within six (6) months preceding the date of issuance; and
- (3) All information required to be stated on the permit. This Section may be satisfied by providing each solicitor with a photocopy of the permit and an identification identifying the individual solicitor by name as an agent or solicitor for the person to whom the permit is issued. The information on the credentials and card shall be in at least 10-point type.

(B) No person shall solicit for any religious or charitable cause without having such credentials in their possession, and such person shall present these credentials to any person solicited, or upon request to the Finance Director or his representative, or to any Police Officer of the City. Presentation of credentials shall be of sufficient duration to allow the person to whom presented to read the content of the credentials.

(C) If the initial solicitation or sales solicitation is made by radio, television, letter, telephone, or any other means not involving direct personal contact with the person solicited, this solicitation shall clearly disclose the information required to be contained in the permit. This disclosure requirement shall not apply to any radio or television solicitation of sixty (60) seconds or less. If the gift is subsequently made or the sale is subsequently consummated, the solicitation or sale for charitable purposes card shall be mailed to or otherwise delivered to the donor or to the buyer with the item or items purchased.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4650).

#### **SECTION 8.24.220: Written Receipts Required**

Any person receiving money or anything having a value of one dollar (\$1.00) or more from any contributor under a solicitation made pursuant to a permit granted under this Chapter shall give to the contributor a written receipt signed by the solicitor showing plainly the name and permit number of the person under whose permit the solicitation is conducted, the year and the amount received; provided, however, that this Section shall not apply to any

contributions collected by means of an unattended closed box or receptacle at a fixed location.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4650.1).

#### **SECTION 8.24.230: Accounting**

(A) No person shall solicit any contributions for any religious or charitable purpose without maintaining a system of accounting whereby all donations and all disbursements are entered upon the books or records of such person's treasurer or other financial officer.

(B) Such records shall be maintained on the basis of generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board. The disclosure requirements on the identification card and report of disbursements required by Section 8.24.240 shall be based on the same accounting principles used to maintain the soliciting organization's financial records.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4650.2).

#### **SECTION 8.24.240: Report of Receipts and Disbursements**

It shall be the duty of all persons issued permits under this Chapter to furnish to the Finance Director within ninety (90) days after the solicitation has been completed, or if the solicitation is of a continuing nature, within ninety (90) days of the anniversary date of solicitation, as to the proceeds of the immediately preceding year's solicitations, a detailed report and financial statement showing the amount raised by the solicitation, the amount expended in collecting such funds, including a report of the wages, fees, commission, and expenses paid to any person in connection with such solicitation, and the disposition of the balance of the funds collected by the solicitation. This report shall be available for public inspection at the Office of the Finance Director at any reasonable time. The permit holder shall make available to the Finance Director, or to any person designated in writing by the Finance Director as his representative for such purpose, all books, records, and papers whereby the accuracy of the report required by this Section may be checked.

(Ordinance 2802 § 1, 2011; Ordinance 2042 (part), 1988; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4650.3).

#### **SECTION 8.24.250: Misrepresentation or Fraud**

No person shall directly or indirectly solicit contributions for any purpose by misrepresentation of his name, occupation, financial condition, social condition, or residence, and no person shall make or perpetrate any other misstatement, deception, or fraud in connection with any solicitation of any contribution for any purpose in the city, or any application or report filed under this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 761 § 1 (part), 1964; Ordinance 761A § 1 (part), 1964; Prior Code § 4650.4).

**SECTION 8.24.260: No Soliciting Sign -- Exception**

- (A) It is unlawful for any person to appear at any residence, dwelling, flat, or apartment and solicit for religious or charitable contributions where a sign bearing the words "No Solicitors," "No Solicitors or Peddlers," or words of similar import indicating that solicitors are not wanted at such residence is painted, fastened, or exposed to public view.
- (B) The provisions of Subsection (A) shall not apply to any person who knocks at any door or rings any bell at the invitation or with the consent of some member of the household at which he so applies for admission.
- (Ordinance 2802 § 1, 2011; Ordinance 1199 §§ 1, 2, 1971; Prior Code §§ 4650.5 and 4650.6).

**CHAPTER 28: VEHICLES - ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE\***

\*For provisions regarding sale of abandoned property, see Chapter 3.24.

**SECTION 8.28.010: Chapter Purpose -- Nuisance**

- (A) In addition to and in accordance with the determination made and the authority granted by the State under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled, or inoperative vehicles or part(s) thereof as public nuisances, the City Council hereby makes the following findings and declarations:
- (1) The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or part(s) thereof on private or public property not including highways creates a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety, and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled, or inoperative vehicle or part(s) thereof, on private or public property not including highways, except as expressly hereinafter permitted, is declared to constitute a public nuisance that may be abated as such in accordance with the provisions of this Chapter.
- (Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600).

**SECTION 8.28.020: Leaving on Public or Private Property**

It is unlawful and a misdemeanor for any person to abandon, park, store, or leave or permit the abandonment, parking, storing, or leaving of any licensed or unlicensed vehicle or part(s) thereof that is in an abandoned, wrecked,



dismantled, or inoperative condition upon any private property or public property not including highways within the city for a period in excess of seven days unless such vehicle or part(s) thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard. (Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.1).

#### **SECTION 8.28.030: Removal Required**

It is unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled, or inoperative vehicle or part(s) thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this Chapter or State law where such State law is applicable.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1959; Prior Code § 9600.2).

#### **SECTION 8.28.040: Definitions**

As used in this Chapter:

- (1) "Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street.
- (2) "Inoperative vehicle" includes all vehicles which, through the absence or deteriorated condition of mechanical parts including engine, transmission, driving axle, tires, and wheels, is unable to be operated on a highway. Additionally, vehicles that are (1) without current registration pursuant to California Vehicle Code Section 4000.4 unless exempted therefrom; or (2) are without the safety equipment required by Division 12 of the California Vehicle Code shall also be considered "inoperative."
- (3) "Owner of the land" means the owner of the land on which the vehicle, or part(s) thereof, is located, as shown on the last equalized assessment role.
- (4) "Owner of the vehicle" means the last registered owner and legal owner of recOrdinance
- (5) "Public property" does not include "highway."
- (6) "Vehicle" means a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.3).

#### **SECTION 8.28.050: Chapter Exceptions**

This Chapter shall not apply to:

- (1) A vehicle or part(s) thereof that is completely enclosed within a building in a lawful manner where it is not visible from the highway or other public or private property; or
- (2) A vehicle or part(s) thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.
- (3) Nothing in this Section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.4).

#### **SECTION 8.28.060: Non-exclusiveness of Chapter**

This Chapter is not the exclusive regulation of abandoned, wrecked, dismantled, or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereinafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.5).

#### **SECTION 8.28.070: Authority for Contractor to Enter Property for Removal**

When the City Council has contracted with or granted a franchise to any person or persons to remove vehicles pursuant to this Chapter, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or part(s) thereof declared to be a nuisance pursuant to this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.7).

#### **SECTION 8.28.080: Administrative Costs**

The City Council shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part(s) thereof) under this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.8).

**SECTION 8.28.090: Public Hearing -- Notice**

A Public Hearing shall be held before the Police Department's Tow Hearing Officer upon a written request filed with the Police Department's Records Division by the owner of the vehicle or part(s) thereof or by the owner of the land on which such vehicle or part(s) thereof is located, within 10 (ten) days after mailing of the Notice of Intention to abate and remove the vehicle or part(s) thereof as required by this Chapter, or at the time of signing a release pursuant to Subsection 8.28.180(C). If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10 (ten) day period, said statement shall be construed as a request for a Public Hearing, which does not require his presence. Notice of the Public Hearing shall be mailed, by registered or certified mail, at least 10 (ten) days before the Public Hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for Public Hearing is not received within 10 (ten) days after mailing of the Notice of Intention to abate and remove, the Chief of Police or his designee may abate and remove the vehicle, or part(s) thereof, as a public nuisance without holding a Public Hearing. Removal and disposal shall comply with the requirements set forth in Section 8.28.130. Upon any such request being so filed within such time period, the Police Tow Hearing Officer shall set the question of abatement and removal of the vehicle or part(s) thereof and the assessment of the administrative costs and the cost of removal for a Public Hearing before the Police Tow Hearing Officer and mail, by registered or certified mail, to the person requesting such Public Hearing a notice of the time and place thereof not less than 10 (ten) days before the date set for such Public Hearing.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.9).

**SECTION 8.28.110: Conduct of Public Hearing, Findings, Orders and Determinations**

- (A) All Public Hearings under this Chapter shall be held before the Police Tow Hearing Officer, or his designee, who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part(s) thereof and the circumstances concerning its location on the private or public property. The Police Tow Hearing Officer shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the Public Hearing or present a written statement in time for consideration at the Public Hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial. The Police Tow Hearing Officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this Chapter. He may delay the time for removal of the vehicle or part(s) thereof if, in his opinion, the circumstances justify it. At the conclusion of the Public Hearing, the

Police Tow Hearing Officer may find that a vehicle or part(s) thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part(s) thereof is located. The order requiring the removal shall include a description of the vehicle or part(s) thereof and the correct identification number and license number of the vehicle at the site, if available. The owner of the parcel of land shall be notified in writing of the decision. If it is determined at the Public Hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the Police Tow Hearing Officer shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such land owner.

- (B) If an interested party makes a written presentation to the Police Tow Hearing Officer but does not appear, he shall be notified in writing of the decision.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.11).

#### **SECTION 8.28.120: Appeals -- City Council Public Hearing**

- (A) Any interested party may appeal the decision of the Police Tow Hearing Officer by filing a written Notice of Appeal with the City Clerk within five (5) days from the date of mailing of notice of the decision of the Police Tow Hearing Officer. Such appeal shall be heard by the City Council that may affirm, amend, or reverse the order or take other action deemed appropriate. The City Clerk shall give written notice of the time and place of the Public Hearing to the appellant and those persons specified in Section 8.28.090.

- (B) In conducting the Public Hearing, the City Council shall not be limited by the technical rules of evidence.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.12).

#### **SECTION 8.28.130: Removal of Vehicle**

If no appeal is timely filed pursuant to Section 8.28.120, the Chief of Police or his designee may abate and remove the vehicle or part(s) thereof and dispose of same by delivery to a scrap yard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to California Vehicle Code Section 5004 or successor provisions, in which case the vehicle may be reconstructed or made operable. If the Chief of Police or his designee determines that the commercial channels of disposal are not

available or are inadequate, he may dispose of such vehicle or part(s) thereof by removal to any suitable site contracted by the City. The Chief of Police or his designee may make final disposition of such vehicle or part(s) thereof or may transfer the same in any manner provided by law.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.13).

#### **SECTION 8.28.140: Notice to Department of Motor Vehicles**

Within five (5) days after the date of removal of the vehicle or part(s) thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicles or part(s) thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title, and license plates.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.14).

#### **SECTION 8.28.150: Assessment -- Lien**

If the administrative costs and the cost of removal that are charged against the owner of a parcel of land pursuant to Section 8.28.110 are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the Tax Collector for collection. Said assessment shall have the same priority as other city taxes.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.15).

#### **SECTION 8.28.160: Right of Entry – Administration and Enforcement**

Except as otherwise provided herein, the provisions of this Chapter shall be administered by regularly salaried, full-time employees of the City, except that the removal of vehicles or part(s) thereof from property may be by any other duly authorized person. In the enforcement of this Chapter, such officer or his designee may enter upon private or public property to examine a vehicle or part(s) thereof, or obtain information as to the identity of a vehicle and/or to remove or cause the removal of a vehicle or part(s) thereof declared to be a nuisance pursuant to this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011; Ordinance 1042 § 7 (part), 1969; Prior Code § 9600.6).

#### **SECTION 8.28.170: Authority to Cause Abatement and Removal**

Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or part(s) thereof, on private property or public property within the city, the duly authorized City employee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein and to arrange with authorized private persons or City employees to accomplish such removal.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011)

**SECTION 8.28.180: Notice of Intention to Abate and Remove -  
Mailing Form of Notice**

(A) A ten (10) day Notice of Intention to abate and remove a vehicle or part(s) thereof, shall be mailed, by registered or certified mail, to the owner of the land on which the vehicle, or part(s) thereof, is located as shown on the last equalized assessment roll and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership.

(B) The Notice of Intention shall be given in substantially the following form:  
Land Owner Notice:

"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,  
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE (OR PART(S) THEREOF)  
AS A PUBLIC NUISANCE

---

[Name and address of owner of the land]

As owner shown on the last equalized assessment roll of the land located at [address], you are hereby notified that the undersigned pursuant to Chapter 8.28, Section 8.28.170 of the Garden Grove Municipal Code has determined that there exists upon said land an abandoned, wrecked, dismantled, or inoperative (year, make, model) vehicle, or part(s) thereof, registered to [name and address of registered owner], license number [vehicle license number], vehicle identification number [VIN] that constitutes a public nuisance pursuant to the provisions of Chapter 9.32, Section 9.32.170 of the Garden Grove Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part(s) of a vehicle) within ten (10) days from the date of mailing of this Notice. Upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with administrative costs, will be assessed to you as owner of the land on which said vehicle (or said part(s) of a vehicle) is located.

As owner of the property on which the vehicle (or said part(s) of a vehicle) is located, you are hereby notified that you may, within ten (10) days after the mailing of this Notice of Intention, request a Public Hearing, and if such a request is not received by the City Manager or his designee within such ten (10) day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said part(s) of a vehicle) as a public

nuisance and assess the costs as aforesaid without a Public Hearing. You may submit a sworn written statement within such ten (10) day period denying responsibility for the presence of said vehicle (or said part(s) of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for a Public Hearing at which your presence is not required. You may appear in person at any Public Hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such Public Hearing.

Notice Mailed [date].

/s/signed \_\_\_\_\_

Chief of Police  
Garden Grove Police Department"

Vehicle Owner Notice:

"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,  
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE (OR PART(S) THEREOF)  
AS A PUBLIC NUISANCE

\_\_\_\_\_  
[Name and address of last registered and/or legal owner of record of vehicle  
– notice should be given to both if different]

As the last registered (and/or legal) owner of record of [description of vehicle or part(s) thereof – make, model, license, etc.], you are hereby notified that the undersigned pursuant to Chapter 8.28, Section 8.28.170 of the Garden Grove Municipal Code has determined that said vehicle (or said part(s) of a vehicle) exists as an abandoned, wrecked, dismantled, or inoperative vehicle at [describe location on public or private property], and which constitutes a public nuisance pursuant to the provisions of Chapter 9.32, Section 9.32.170 of the Garden Grove Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part(s) of a vehicle) within ten (10) days from the date of mailing of this Notice.

As the registered (and/or legal) owner of record of said vehicle (or said part(s) of a vehicle), you are hereby notified that you may, within ten (10) days after the mailing of this Notice of Intention, request a Public Hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with your reasons for such denial, in lieu

of appearing. If such request is not received by the City Manager or his designee within such ten (10) day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said part(s) of a vehicle) as a public nuisance and assess the costs as aforesaid without a Public Hearing.

Notice Mailed [date]

/s/signed \_\_\_\_\_

Chief of Police

Garden Grove Police Department”

- (C) No Notice of Intention shall be required pursuant to this Section if the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part(s) thereof.
- (D) Provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part(s) thereof, no Notice of Intention shall be required pursuant to this Section for removal of a vehicle or part(s) thereof that is:
  - (1) Located upon a parcel zoned for agricultural use or not improved with a residential structure containing one or more dwelling units;
  - (2) Inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed;
  - (3) Valued at less than two hundred dollars (\$200) by a person specified in California Vehicle Code Section 22855, or successor provisions; and
  - (4) Determined by the City to be a public nuisance presenting an immediate threat to public health or safety;
- (E) The Notice of Intention shall be provided, however, by the City to the registered and legal owners of the intent to dispose of the vehicle or part(s) thereof, prior to final disposition under California Vehicle Code Section 22662, or successor provisions, as required by and in accordance with the provisions contained therein.

(Ordinance 2802 § 1, 2011; Ordinance 2795 § 1 (part), 2011)

## **CHAPTER 30: ABATEMENT OF UNATTENDED SHOPPING CARTS**

### **SECTION 8.30.010: Intent and Findings**



The accumulation and storage of wrecked, dismantled, or abandoned shopping carts, or parts thereof, on public or private property is found to create a condition tending to reduce property values, to promote blight and deterioration, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to be aesthetically detrimental to the community, and to be injurious to the health, safety, and general welfare. Therefore, the City Council finds the presence of wrecked, dismantled, or abandoned shopping carts, or parts thereof, on public or private property constitutes a public nuisance that may be abated as such in accordance with the provisions of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.020: Definitions**

The following definitions shall apply to this Chapter:

- (1) "Shopping cart" means a basket that is mounted on wheels or a similar device generally used in retail establishments for the purpose of transporting goods of any kind.
- (2) "Public property" means and includes, but is not limited to, all areas dedicated to public use for public street purposes, roadways, parkways, alleys, sidewalks, flood control channels, any public right-of-way, and City Parks.
- (3) "Parkway" means that area between the sidewalks and the curb of any street, and where there is no sidewalk, that area between the edge of the roadway and the property line adjacent thereto.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.030: Declaration of Public Nuisance**

The proliferation of shopping carts abandoned on public and private property is causing blighted conditions in some areas of the city and results in the obstruction of free access to public and private sidewalks, streets, parking lots, and other ways and therefore are declared by the City Council to be a public nuisance.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.060: Unattended Shopping Carts on Public Property -- Removal**

- (A) Upon the discovery of an unattended shopping cart, or part thereof, which constitutes a public safety hazard on public property within the city, the City may immediately abate and remove same.
- (B) Businesses that have an approved business plan pursuant to Section 8.30.120 shall have up to forty-eight (48) hours to retrieve shopping cart(s), or part(s) thereof. The City may immediately abate and remove carts that cannot be identified as the property of businesses that have an approved business plan pursuant to Section 8.30.120.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

**SECTION 8.30.070: Unattended Shopping Carts on Private Property -- Notice and Removal**

(A) Upon the discovery of an unattended shopping cart, or part thereof, on private property within the city, the City or its agent shall attempt to contact the owner of the private property or such owner's agent and inquire as to whether the shopping cart belongs to the private property owner. If the shopping cart does not belong to the private property owner or the private property owner cannot be contacted, then the City shall attempt to notify the owner of the shopping cart that the shopping cart shall be removed by the City if not removed by the owner within forty-eight (48) hours of such notice. In addition, a notice shall be affixed to the shopping cart stating the time the shopping cart was discovered and a time no less than forty-eight (48) hours from such discovery at which the shopping cart must be removed or be subject to removal by the City. The notice shall provide that the owner of the shopping cart shall be liable for the City's costs in removing the shopping cart.

(B) After such notice and failure to remove, the City may enter onto the private property to remove the shopping cart provided that the shopping cart is located in an area that is generally open to the public or the City otherwise has the legal authority to enter onto the private property.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

**SECTION 8.30.080: Notice of Removal and Storage**

Upon the abatement, removal, and storage of any shopping cart under this Chapter, the City shall attempt to notify the owner of the shopping cart by sending a notice of abatement by First-Class Mail to the last known address of the owner as registered with the City.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

**SECTION 8.30.090: Release of Shopping Cart to Owner**

Any shopping cart removed and stored pursuant to this Chapter shall be released to the rightful owner or agent if claimed within thirty (30) days of such removal and upon payment of the City's costs.

(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

**SECTION 8.30.100: Informal Hearing**

(A) In order to receive an informal hearing with regard to the removal of the shopping cart or carts, the owner or its agent shall submit a request for such hearing either in person or in writing within ten (10) calendar days of the date appearing on the notice of abatement. The shopping cart owner or its agent must post the full amount of the City's cost for the shopping cart or carts at the time the hearing appointment is requested. Upon receipt of this deposit, the shopping cart or carts shall be released to the owner or its agent. If unable to pay this deposit, the owner or its

agent may fill out a financial statement, available upon request, to request a waiver. Retrieval of the shopping cart shall be at the responsibility of the owner.

- (B) If a hearing is requested, it shall be held within thirty (30) calendar days of receipt of such request and deposit therefore. The hearing shall be conducted by the City Manager, or his designee. If the Hearing Officer finds that reasonable grounds for the abatement and removal of a shopping cart are established, the hearing deposit shall not be refunded. This hearing shall be the final administrative remedy.  
(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.110: Disposal**

Any shopping cart not retrieved by the owner of such shopping cart within thirty (30) days after the mailing of notice of abatement, when such owner has not requested a hearing in accordance with this Chapter, shall be sold at public auction or otherwise disposed.  
(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.120: Business Plan**

- (A) Any business in the City that utilizes in excess of ten (10) shopping carts in conducting business at any location within the city shall have a plan for the retrieval of shopping carts. The plan shall provide the following information:
- (1) A designated party who has the responsibility for retrieving shopping carts that have been abandoned on public or private property; and
  - (2) A provision that states that any shopping carts left unattended on public or private property for a period of forty-eight (48) hours shall be retrieved by the designated party of the business.
- (B) Written proof of such plan shall be provided to the City within seventy-two (72) hours of the City's request.  
(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.140: Unlawful Removal or Possession**

It is unlawful for any person to remove, possess, or abandon a shopping cart from or in a location other than the business premises that owns the shopping cart or the parking lot of such business, without the permission of the owner. This Section shall not apply to the owner of the shopping cart, the owner's agent, or to an owner of private property who is attempting to contact the City or owner of the shopping cart for removal, or is disposing of an abandoned shopping cart located on his property.  
(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

#### **SECTION 8.30.160: Fees**

The fees to be charged for the removal and storage of shopping carts by the City shall be established by City Council Resolution.  
(Ordinance 2802 § 1, 2011; Ordinance 2356 § 1 (part), 1996).

## **CHAPTER 31: SHOPPING CART CONTAINMENT**

### **SECTION 8.31.010: Purpose – Declaration of Nuisance**

Many retail establishments provide shopping carts for the convenience of customers while shopping on the premises of such businesses. However, shopping carts removed from the premises of such businesses and left abandoned on public or private property throughout the city constitute a public nuisance and a potential hazard to the health and safety of the public. The proliferation of lost, stolen, or abandoned shopping carts on public and private property causes blighting conditions in the community, results in the obstruction of free access to public and private sidewalks, streets, parking lots, and other ways, interferes with pedestrian and vehicular traffic on public and private streets and impedes emergency services. For the aforesaid reasons, such lost, stolen or abandoned shopping carts are declared to be a public nuisance that shall be subject to abatement in the manner set forth in this Chapter or in any other manner provided by law. The purpose of this Chapter is to set forth regulations to ensure that measures are taken by the owners and operators of businesses that provide ten (10) or more shopping carts for the convenience of customers to prevent the removal of shopping carts from business premises and parking lots, and to provide for the prompt retrieval of lost, stolen or abandoned shopping carts, to complement and supplement provisions of state law and to adopt local regulations to the extent not otherwise preempted by state statute.  
(Ordinance 2802 § 1, 2011; Ordinance 2777 § 1, 2010).

### **SECTION 8.31.020: Definitions**

Except as otherwise expressly set forth herein, the following words and terms as used in this Chapter shall have the following meanings:

- (1) "Abandoned shopping cart," see "Lost, stolen, or abandoned shopping cart."
- (2) "Cart" or "shopping cart" means a basket that is mounted on wheels or a similar device generally used in a retail establishment by a customer for the purpose of transporting goods of any kind. The term "shopping cart" or "cart" includes a laundry cart.
- (3) "City" means the City of Garden Grove, California or its designated representative.
- (4) "Enforcement personnel" means any Police Officer or Code Enforcement Officer employed by the City of Garden Grove.

- (5) "Laundry cart" means a basket that is mounted on wheels and generally used in a coin- operated laundry or dry-cleaning retail establishment by a customer or an attendant for the purpose of transporting clothing, fabrics, and/or the supplies necessary to process them.
  - (6) "Lost, stolen, or abandoned shopping cart" means a shopping cart that is either (1) removed from the premises of a retail establishment by any person without the written permission or consent of the owner of the shopping cart or the retailer otherwise entitled to possession of such cart, or (2) left unattended, discarded or abandoned upon any public or private property other than the premises of the retail establishment from which such shopping cart was removed, even if in the possession of any person, unless such person in possession thereof (a) is the owner, or an employee or authorized agent of the owner, entitled to possession of the shopping cart, (b) is an officer, employee or agent of a cart retrieval service hired by the owner to retrieve such carts, (c) is an Enforcement Officer retrieving, storing or disposing of said cart, or (d) has written permission or consent to be in possession of the shopping cart from the owner entitled to possession of the shopping cart.
  - (7) "Owner" means any owner, manager, or operator of any retail establishment.
  - (8) "Parking area" means a parking lot or other property provided by a retail establishment for the use by customers for parking of customer vehicles for use at such retail establishment. The parking area of a retail establishment located in a multistore complex or shopping center shall include the entire parking area used by the multistore complex or shopping center.
  - (9) "Premises" means any building, property, or other area upon which any retail establishment business is conducted or operated in the city, including the parking area provided for customers.
  - (10) "Public Works Director" means the Public Works Director of the City.
  - (11) "Retail establishment" means any business located in the city, regardless of whether the business is advertised or operated as a retail, service, or wholesale business, and regardless of whether the business is open to the general public, or is a private club or business, or is a membership store.
- (Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

### **SECTION 8.31.030: Mandatory Physical Measures to Prevent the Removal of Carts**

- (A) Owners of every retail establishment that utilizes ten (10) or more carts shall implement one or more of the following physical measures to prevent the removal of carts from their premises no later than May 18, 2011:
- (1) Disabling devices on all carts that prevent the carts from being removed from the business premises by locking the wheels or otherwise preventing the movement of the carts; or
  - (2) Physical barriers located at doors, around loading areas or other defined perimeters that will prevent the passage of carts beyond the barriers. The barriers may also be placed on the carts themselves so that the carts cannot pass through door openings or other defined perimeters.
- (B) By November 18, 2010, the owner of every retail establishment that utilizes ten (10) or more carts shall present to the Public Works Director a written plan setting forth the physical measures it plans to implement to comply with the requirements of this Chapter.  
(Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

### **SECTION 8.31.040: Additional Cart Control Measures**

In addition to installing physical measures to prevent the removal of carts from the premises, every retail establishment that provides ten (10) or more shopping carts to customers for use on the premises shall also comply with the following requirements:

- (A) Signs Affixed to Carts. Every shopping cart made available for use by customers shall have a sign permanently affixed to it that identifies the owner of the cart or the retailer or both; notifies the public that the unauthorized removal of the cart from the premises of the business, or the unauthorized possession of the cart, is a violation of law, and lists a valid telephone number and address for returning the cart removed from the premises to the owner or retailer.
- (B) Notice to Customers. Written notice shall be provided to customers in English, Spanish, Korean, and Vietnamese that removal of shopping carts from the premises is prohibited by law. Such notice may be provided in the form of flyers distributed on the premises, warnings printed on shopping bags, direct mail, website notices or any other means demonstrated to be effective. In addition, conspicuous signs shall be placed and maintained on the premises near all customer entrances and exits and throughout the premises, including the parking area, warning customers that removal of shopping carts from the premises is prohibited by law.

- (C) Daily Cart Confinement. All shopping carts located on the premises of each retail establishment (other than an establishment open for business twenty-four (24) hours per day) shall be collected at the end of each business day by employees of the retail establishment and shall be collectively confined in a secure manner at the cart confinement area on the premises as designated in the cart containment plan until the commencement of the next business day. All shopping carts located on the premises of any retail establishment open for business twenty-four (24) hours per day, other than carts then currently in use by a customer or patron, shall be collected by employees of the retail establishment and returned to the cart confinement area on the premises as designated in the cart containment plan at least once per calendar day between the hours of nine p.m. and twelve midnight on each day the retail establishment is open for business. The provisions of this Subsection shall not apply to any shopping carts located within an enclosed building.
- (D) Employee Training. The owner of each retail establishment shall implement and maintain a periodic training program for its new and existing employees designed to educate such employees concerning the requirements of this Chapter and the provisions of state law prohibiting the unauthorized removal of shopping carts from the premises of the retail establishment.
- (E) Collaboration with Other Businesses. Two or more retail establishments located within the same shopping or retail center or sharing a common parking area may collaborate and submit a single cart containment plan. (Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

#### **SECTION 8.31.050: Plan Submission and Approval**

- (A) New or Relocated Retail Establishments. Each new retail establishment, and any existing retail establishment relocating to a different location within the city that utilizes ten (10) or more carts shall present to the Public Works Director a written plan setting forth the physical measures it plans to implement to comply with the requirements of this Chapter, and obtain approval thereof by the City, prior to providing any carts to customers of the retail establishment. For retail establishments implementing the use of disabling devices pursuant to Section 8.31.030(A)(1) above, the written plan shall incorporate a maintenance plan for ensuring that disabling devices are maintained in working order.
- (B) Existing Retail Establishments. Each existing retail establishment shall submit a proposed plan complying with the requirements of Section 8.31.030 of this Chapter to the Public Works Director within the timeline set forth therein. For retail establishments implementing the use of disabling devices pursuant to Section 8.31.030(A)(1) above, the written plan shall incorporate a maintenance plan for ensuring that disabling devices are maintained in working order.

- (C) Plan Review and Approval. Upon the filing of any proposed plan submitted pursuant to this Chapter, the Public Works Director shall review the proposed plan and either approve or deny approval of the proposed plan within thirty (30) calendar days following the receipt thereof by the Public Works Director. If the proposed plan complies with each of the applicable requirements of this Chapter, the Public Works Director shall approve the plan, otherwise the proposed plan shall be denied. The decision of the Public Works Director shall be made in writing and notice thereof shall be transmitted to the owner of the retail establishment by the United States Postal Service, first-class mail, postage prepaid, or by personal delivery or fax transmission. The notice of decision of the Public Works Director shall be deemed given to the owner on the date of personal delivery or on the date of the fax transmission to the owner; notices given by the United States Postal Service, first-class mail, postage prepaid, shall be deemed given to the owner on the third day following the date of deposit in the U.S. Mail. If the proposed plan is denied, the notice of decision given to the owner shall state the grounds upon which the proposed plan was denied. A decision of the Public Works Director may be appealed by the owner in the time and manner provided in Section 8.31.060.
- (D) Amendments by Owner. The owner of any retail establishment that has an approved plan conforming to the requirements of this Chapter may, at any time, submit a proposed amendment to the approved plan which amendment shall be processed in accordance with the procedure provided for a proposed plan as set forth in Subsection C of this Section.
- (E) Revocation or Amendment by City.
- (1) Grounds. An approved plan may be revoked by the City upon any of the following grounds:
- (a) The owner of any retail establishment is operating, or is permitting operation of, the retail establishment in violation of one or more of the provisions of the approved plan and has failed to correct the violation(s) for a period of at least fifteen (15) calendar days following the date of receipt of written notice of such violation(s) from the City; or
  - (b) The owner of any retail establishment with an approved plan is operating, or is permitting the operation of the retail establishment in violation of one or more of the requirements of this Chapter and has failed to correct the violation(s) for a period of at least fifteen (15) calendar days following the date of receipt of written notice of such violation(s) from the City; or



- (c) The mandatory cart containment plan, as approved, is inadequate to reasonably prevent the removal of shopping carts from the premises of the retail establishment.
- (2) Order to Show Cause. If at any time following the approval of a plan, the Public Works Director obtains information or evidence that any of the grounds set forth in Subsection (E)(1) of this Section may exist, the Public Works Director may issue a written order to show cause as to why the approved plan should not be revoked and schedule a hearing thereon which hearing shall not be less than fifteen (15) calendar days nor more than thirty (30) calendar days following the date such order to show cause is given to the owner of the retail establishment. The order to show cause shall state the grounds upon which it is proposed to revoke the approved plan and shall include the information and evidence, or a summary thereof, upon which such order was issued.
- (3) Notice of Hearing. Notice of the hearing on any order to show cause issued pursuant to this Section shall be given in the time and manner provided in Subsection C of this Section.
- (4) Conduct of Hearing. The hearing shall be conducted informally and the formal rules of evidence shall not be applicable. The owner and the City shall each have the opportunity to present relevant evidence and witnesses. The parties may each be represented by legal counsel or other representatives of their choice. The City shall bear the burden of proof to establish, by a preponderance of the evidence, that grounds exist to revoke the plan. The Public Works Director, at his discretion, and as an alternative to revocation, may consider amendment of the plan if the grounds for the order to show cause are solely the inadequacy of the approved plan.
- (5) Decision of Public Works Director. Within fifteen (15) calendar days following conclusion of the hearing, the Public Works Director shall render his decision in writing either dismissing the proceedings or revoking or amending the plan. If the plan is revoked or amended, the decision shall specify the findings of fact and the reasons for such action. If the plan is amended, the decision shall also specify the amendment(s) to the plan.
- (6) Notice of Decision. Notice of the decision of the Public Works Director shall be given in the time and manner specified in Subsection C of this Section.
- (7) Appeal of Decision. The decision of the Public Works Director shall be subject to appeal by the owner within the time and manner specified in Section 8.31.060. In the absence of a timely appeal, the decision of the Public Works Director shall be final and conclusive.

- (8) Use of Shopping Carts Following Revocation Prohibited. No owner of any retail establishment that is subject to the requirements of this Chapter shall provide or make available shopping carts for the use of customers following the date any decision revoking a plan required and approved pursuant to this Chapter becomes final unless and until a new proposed plan is approved by the City for such retail establishment. Notwithstanding any other provision of this Chapter, an owner of a retail establishment shall not be eligible to submit a new proposed plan to the City for processing for a minimum of one hundred twenty (120) days following the date any decision revoking the prior plan for such retail establishment becomes final. Any proposed plan submitted to the City for such retail establishment during the one hundred twenty (120) day period shall be returned to the owner of the retail establishment as untimely.

(Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

#### **SECTION 8.31.060: Appeals**

- (A) Filing of Appeal. Any owner aggrieved by any adverse decision of the Public Works Director pursuant to this Chapter may appeal such decision to the City Manager of the City within fifteen (15) calendar days following the date of giving of notice of such decision by filing with the City Clerk a written notice of appeal stating each ground for such appeal and all facts and information that supports the appeal. The notice of decision of the Public Works Director shall be deemed given on the date as provided in Section 8.31.050(C) of this Chapter. Such appeal shall be deemed filed on the date the appeal is actually received in the City Clerk's Office accompanied by an appeal -processing fee in an amount as set by City Council Resolution. No appeal shall be accepted for filing and processing by the City Clerk unless accompanied by the appeal -processing fee as established by the City Council.
- (B) Notice of Hearing. If the appeal is timely filed, the City Clerk shall notify the City Manager who shall designate a hearing officer. Such hearing officer shall cause the matter to be set for hearing, which hearing date shall be within thirty (30) calendar days following the date of receipt of such notice of appeal. The appellant shall be provided not less than ten (10) calendar days written notice of the date, time and place of the hearing.
- (C) Conduct of Hearing. The hearing shall be conducted informally and the formal rules of evidence shall not be applicable. The owner and the City shall each have the opportunity to present relevant evidence and witnesses. The parties may each be represented by legal counsel or other representatives of their choice. No additional evidence or argument shall be received or considered following the conclusion of the hearing except as may be agreed by stipulation of the parties.

- (D) Decision by Hearing Officer. The hearing officer shall render a decision on the appeal and adopt findings of fact in support of such decision within thirty (30) calendar days following the conclusion of the hearing.
  - (E) Notice of Decision. The notice of decision of the hearing officer shall be deemed given on the date of personal delivery or on the date of the fax transmission to the appellant; notices given by the United States Postal Service, first-class mail, postage prepaid, shall be deemed given to the appellant on the third day following the date of deposit in the U.S. Mail.
  - (F) Decision is Final. The decision of the hearing officer shall be final. The decision shall include notice that any legal challenge to the final decision shall be made pursuant to provisions of Code of Civil Procedure Sections 1094.5 and 1094.6 and shall be commenced within ninety (90) days following issuance of the final decision.
- (Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

**SECTION 8.31.070: Unlawful Acts - Penalty for Violation - Declaration of Public Nuisance - Penalties not Exclusive**

- (A) Except as otherwise expressly provided in this Chapter, it shall be unlawful for the owner of any retail establishment that provides ten (10) or more shopping carts to provide or offer, or permit to be provided or offered, any shopping carts to customers of the retail establishment without an approved mandatory cart containment plan as required by this Chapter.
- (B) It shall be unlawful for the owner of any retail establishment to provide or offer, or permit to be provided or offered, to customers of the retail establishment any shopping cart that does not have a sign permanently affixed thereto containing all of the information specified in Section 22435.1 of the Business and Professions Code of the State of California.
- (C) It shall be unlawful for the owner of any retail establishment to operate in violation of any provision of an approved mandatory cart containment plan as required by the Chapter or in violation of any provision of this Chapter.
- (D) Penalty for Violation. A violation of any provision of this Chapter committed by any person or entity shall be punishable as provided for in Title 1 of this Code. Each day a violation of any provision of this Chapter exists shall be a new and separate violation.
- (E) Declaration of Public Nuisance. It is declared a public nuisance for any person owning, leasing, occupying, or having charge or possession of any retail establishment in the City to maintain upon such premises, or to permit, cause or allow to exist on such premises a violation of any provision of this Chapter. Any violation may be abated by the City

through civil proceedings by means of a restraining order, preliminary or permanent injunction, or in any other manner provided by law for the abatement of such nuisances. Any person who violates any of the provisions of this Chapter shall be responsible for the City's attorney fees and legal costs associated with the abatement.

- (F) Penalties Not Exclusive. The penalties set forth herein are cumulative and in addition to all other remedies, violations and penalties set forth in this Chapter, or in any other ordinances, laws, rules or regulations of the City of Garden Grove, County of Orange and the State of California. (Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

#### **SECTION 8.31.080: Removal of Unattended Shopping Carts**

Nothing in this Chapter shall be construed to limit the City's ability to impound shopping carts and recover the City's costs, as established by City Council Resolution, in accordance with Section 22435.1 of the California Business and Professions Code.

(Ordinance 2802 § 1, 2011; Ordinance 2777 § 1 (part), 2010).

### **CHAPTER 32: WEAPONS**

#### **SECTION 8.32.010: Deadly or Dangerous Weapon Defined**

"Dangerous or deadly weapon" includes, but is not limited to: any dirk or dagger; any knife with a blade of three (3) inches or more in length, and any snap-blade or spring-blade knife, regardless of the length of the blade; any ice pick or similar sharp stabbing tool; any straight-edge razor or any razor blade fitted to a handle; any dangerous or deadly weapon within the meaning of any law of this state restricting the use thereof; any cutting, stabbing, bludgeoning weapon, or device capable of inflicting grievous bodily harm; any firearm other than one carried pursuant to a valid permit issued by a duly authorized governmental authority; or an ordinary rifle or shotgun lawfully carried for purposes of hunting or other lawful sport.

(Ordinance 2802 § 1, 2011; Prior Code § 4304).

#### **SECTION 8.32.020: Loitering**

No person shall, while carrying concealed upon his person any dangerous or deadly weapon, loaf or loiter upon any public street, sidewalk, or alley or wander about from place to place with no lawful business thereby to perform, or hide, lurk, or loiter upon or about the premises of another.

(Ordinance 2802 § 1, 2011; Prior Code § 4305).

#### **SECTION 8.32.030: Disorderly Conduct**

No person who has concealed upon his person or who has in his immediate physical possession any dangerous or deadly weapon shall engage in any fight or participate in any other rough or disorderly conduct upon any public place or way or upon the premises of another.

(Ordinance 2802 § 1, 2011; Prior Code § 4306).

**SECTION 8.32.040: Public Resorts**

No person shall, who has concealed upon his person any dangerous or deadly weapon, loiter about any place where intoxicating liquors are sold or any other place of public resort.

(Ordinance 2802 § 1, 2011; Prior Code § 4307).

**SECTION 8.32.050: Having in Automobile**

No person shall have in his possession in any automobile any dangerous or deadly weapon, but this restriction shall not be deemed to prohibit the carrying of ordinary tools or equipment carried in good faith for uses of honest work, trade, or business, or for the purpose of legitimate sport or recreation.

(Ordinance 2802 § 1, 2011; Prior Code § 4308).

**SECTION 8.32.060: Sale to Minor**

Every person who sells to any minor any dirk or dagger or any knife with a blade three (3) inches or more in length, or any snap-blade or spring-blade knife, regardless of the length of the blade, unless such minor is accompanied by an adult person and unless the person selling such dagger or knife keeps a full and complete record of the name and address of the purchaser, is guilty of a misdemeanor.

(Ordinance 2802 § 1, 2011; Prior Code § 4309).

**SECTION 8.32.070: Discharging Firearms -- Permit**

(A) No person shall fire, shoot, or discharge any gun, rifle, pistol, or other firearm, or any air- gun, air-rifle or air-pistol, or any spring-gun, spring-rifle or spring-pistol, or any carbon dioxide or other gas operated gun, rifle or pistol without having first obtained a written permit from the Police Chief. A permit shall be issued for periods not exceeding twelve (12) months at a time and only where the facts presented indicate no danger to life, limb, or property will be involved.

(B) PROHIBITION OF WEAPONS ON SCHOOL GROUNDS AND PENALTY.

Possession of any weapon or apparatus capable of emitting or shooting a projectile, including, but not limited to: paint ball guns; flare pistols; pellet guns; BB guns; pressurized air guns; spring pressure guns; CO2 guns; and sling shots and wrist rockets on or adjacent to any school ground or any school-sponsored activity is prohibited. Any person in violation of the provisions herein shall be guilty of a misdemeanor, punishable by a fine of one hundred fifty dollars (\$150), or up to six (6) months in jail, or both a fine and imprisonment.

(Ordinance 2802 § 1, 2011; Ordinance 2235 § 1, 1992; Ordinance 1269 § 1, 1972).

**SECTION 8.32.080: Definitions**

"Fire," "shoot," or "discharge" as used in this Chapter means with live ammunition, blank ammunition, primer caps, or any other type of cartridge

that emanates as much noise as any of the three types of ammunition set forth herein.

(Ordinance 2802 § 1, 2011; Ordinance 1269 § 2, 1972).

#### **SECTION 8.32.090: Exception**

The preceding Sections of this Chapter shall not apply to starter and timing guns used at lawfully constituted sporting events, nor shall they apply to guns used in connection with construction projects where authorized by law, or any other use authorized by law.

(Ordinance 2802 § 1, 2011; Ordinance 1269 § 3, 1972).

#### **SECTION 8.32.100: Record of Permits**

The Police Chief shall keep a record of all permits issued under this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 1269 § 4, 1972).

### **CHAPTER 36: WELLS -- ABANDONED**

#### **SECTION 8.36.010: Definitions**

For the purpose of this Chapter, the following words and phrases are defined and shall be construed as hereafter set out, unless it is apparent from the context that a different meaning is intended.

- (1) "Abandoned" oil or water well includes any such well not actually and continuously used and any well, whether being used or not, the mouth or entrance of which is left open;
- (2) "Cistern" means an artificial reservoir or tank or septic tank or wells for storing water.

(Ordinance 2802 § 1, 2011; Prior Code § 3500).

#### **SECTION 8.36.020: Capping Required**

A person who digs, drills, excavates, constructs, owns, or controls any water well, oil well, or cistern and abandons such well or cistern, and a person who owns, possesses, or controls any premises on which an abandoned water well, oil well, or cistern exists shall cap or otherwise securely cover the mouth or entrance to the well or cistern. The capping or covering shall be so constructed and installed as to prevent any human being from falling into the well or cistern or from suffering any bodily injury, through accident or inadvertence, by reason of the existence of the well or cistern.

(Ordinance 2802 § 1, 2011; Prior Code § 3501).

#### **SECTION 8.36.030: Failure to Cap**

Whenever any person fails or refuses to perform any act required by this Chapter, the City may itself cap, cover, or fill such well. It is not necessary to follow the provisions of this Section as a condition precedent to any criminal prosecution. In the event it is necessary for the City to cap, cover, or fill such well, the charge for such service will be against the property owner on which such well is located.

(Ordinance 2802 § 1, 2011; Prior Code § 3502).

## **CHAPTER 38: ALCOHOLIC BEVERAGES ON PUBLIC PREMISES**

### **SECTION 8.38.010: Definitions**

The following terms as used in this Chapter are defined as set forth:

- (1) "Immediately adjacent to" or "contiguous to the licensed premises" means being in actual contact or touching along a boundary or at a point.
- (2) "Licensee" means any person holding a license issued by the California Department of Alcoholic Beverage Control (ABC).
- (3) "Package off-sale." This ABC license allows alcoholic beverages to be sold in original unopened packages for consumption off the premises where sold.
- (4) "Public sidewalk" means any sidewalk that is open to common use, but not necessarily one that is owned or maintained by the City.
- (5) "Notices clearly visible to patrons of the licensee and parking lot and to person on the public sidewalk." The lettering of the posted notices must be of sufficient size and clarity to be clearly readable by the licensee's patrons, persons on the public sidewalk immediately adjacent to the licensed premises, persons in the licensee's parking lot, and persons in any non-residential parking lot bordering the licensee's premises. "Clearly visible" means clearly readable.
- (6) "Posted premises." As defined in Subsection (C) of Section 8.38.020, the licensee is required to post signs on his building and/or parking lot in a manner that allows the signs to be clearly readable from those parking lots and public sidewalks that are immediately adjacent to the licensed premises. These regulations would also apply to adjacent lots that are not owned or controlled by the licensee.
- (7) "Any parking lot under the control of, or operated in conjunction with licensed premises." Where the business is in a shopping center, the signs must be clearly readable only from the immediately adjacent public sidewalk of that portion of the parking lot normally used by the licensee's patrons. If the licensee decides to post signs in his portion of the parking lot, the range of enforcement is extended according to the clearly readable limits of the signs. If the licensee owns or leases the entire shopping center parking lot, he has the option of posting the entire lot. The licensee is in control of the parking lot if he is the owner or lessee (person

who has lawful possession by the terms of an agreement granting a possessory or occupancy interest) of the parking lot.

- (8) An adjacent vacant lot that otherwise meets the elements of the Municipal Code may be considered a parking lot if it is used for patron parking. For purposes of this Chapter, there is no requirement that the lot be paved. Private residential parking lots that may be adjacent to a licensee's premises are excluded from enforcement by Subsection (E) of Section 8.38.020. Apartment house parking lots would fall under this exclusionary Section.

- (9) "ABC License Classifications."

CLASSIFICATION	TYPES OF SALE	EXAMPLE
Type 20	Off-sale beer and wine	Convenience stores and small markets
Type 21	Off-sale beer, wine, and distilled spirits	Liquor stores and supermarkets

(Ordinance 2802 § 1, 2011; Ordinance 1892 § 1 (part), 1985).

#### **SECTION 8.38.020: Open Alcoholic Containers Prohibited on Posted Premises**

- (A) Any person, while on or remaining in the posted premises of any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 of the Business and Professional Code, or on any public sidewalk immediately adjacent to the licensed premises, who consumes an alcoholic beverage or who possesses with intent to consume in such a location any bottle, can, or other receptacle containing any alcoholic beverage that has been opened, or a seal broken, or the contents of which have been partially removed, is guilty of a misdemeanor.
- (B) All retail package off-sale alcoholic beverage licensees licensed pursuant to Division 9 of the Business and Professions Code to operate in the city shall post such licensed premises with notices, clearly visible to patrons of the licensee and parking lot, and to persons on the public sidewalk that possession of any opened alcoholic beverage container is prohibited by law. Any licensee who does not so post the licensed premises within thirty (30) days of notification is guilty of an infraction.
- (C) As used in this Section "posted premises" means those premises that are subject to licensure under any retail off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises that are posted with notices pursuant to Subdivision (B) of this Section.



- (D) As used in this Section "parking lot immediately adjacent to the licensed premises" means any parking lot, except those described in Subdivision (E) of this Section, that is contiguous to the licensed premises and any parking lot under the control of or operated in conjunction with the licensed premises.
- (E) The provisions of this Section do not apply to any private residential parking lot immediately adjacent to posted premises.
- (Ordinance 2802 § 1, 2011; Ordinance 2214 § 1(part), 1992; Ordinance 1892 § 1 (part), 1985).

#### **SECTION 8.38.030: Possession of Open Alcoholic Beverage Containers**

- (A) Any person who drinks any intoxicating beverage on any public street, highway, sidewalk, alley, restroom, or other property owned or maintained by the City shall be guilty of a misdemeanor.
- (B) Any person, while in any public park, public sidewalk, public street, public building, or any area designated for public parking, who consumes or possesses with intent to consume any alcoholic beverage in such a location, any can, bottle, or other receptacle containing any alcoholic beverage, which has been opened, or a seal broken, or the contents of which has been partially removed, is guilty of a misdemeanor.
- (C) This Section shall not apply where the possession is within premises located in a park or other public place for which a license has been issued by the Department of Alcoholic Beverage Control, or for which permission has been granted by the City Manager or his designee pursuant to Chapter 8.40.
- (Ordinance 2802 § 1, 2011; Ordinance 2214 § 1 (part), 1992; Ordinance 2174 § 1, 1991; Ordinance 1892 § 1 (part), 1985).

### **CHAPTER 40: REGULATIONS REGARDING THE USE OF CITY OF GARDEN GROVE PARK FACILITIES**

#### **SECTION 8.40.010: Certain Activities Prohibited**

It is hereby declared to be unlawful to conduct, perform, or participate in any of the following activities on any park property without first obtaining a written permit from the City Manager or his designee:

- (1) The playing of golf in any form or manner.
- (2) Archery.
- (3) Operating self-powered model vehicles, such as planes, boats, cars, of any kind.

- (4) Lighting or maintaining any fire except in a stove, barbecue grill, or portable stove.
  - (5) Skateboarding, unless otherwise permitted to do so in a designated public skate park facility.
  - (6) Wading, bathing, swimming, launching any type of boat, raft, air mattress, surfboard, or entering in or on any lake, stream, or pond found in any City park.
  - (7) Being present upon or within any City park between the hours of 11:00 p.m. and 6:00 a.m., without first obtaining a permit from the City Manager or his designee.
  - (8) Carrying, transporting, possessing, discharging, firing, or shooting over, onto, or through any park any firearm, air gun, BB gun, spring gun, slingshot, bow and arrow, crossbow, spear, fireworks, firecracker, rocket, explosive of any kind, or any form of weapon potentially dangerous to human beings or wildlife.
  - (9) Boxing, prizefighting, wrestling, or martial arts displays or the promotion thereof.
  - (10) Fishing in any lake other than those designated by the City Manager or his designee, and during hours that are not authorized for such activity.
  - (11) Musical concerts of any kind.
  - (12) Engaging in any other activity that endangers the health and/or safety of the public.
  - (13) Damaging, defacing, altering, destroying, or making, cutting, painting upon, or otherwise marring or mutilating or removing any equipment, pathway, facility, building, or structure, any tree, grass turf, or other plant material within a City park; playing or utilizing any sound-amplifying system, refusing to vacate an area reserved by another person or group, upon request by a City officer.
  - (14) Working on or repairing vehicles.
  - (15) Posting of any signs.
  - (16) Failure to remove animal excrement from an animal owned, cared for, or under the control of the person with such animal.
- (Ordinance 2802 § 1, 2011; Ordinance 2785 § 1, 2010; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.020: Littering Prohibited**

It is hereby declared to be unlawful to throw, cast, deposit, dump, or transport any refuse, ashes, offal, vegetables, garbage, dross, cinders, shells, straw, shavings, paper scraps, or dirt, or dead animals, fish, fowl, bird, or reptile, glass, crockery, bones, tin cans or like matter, empty boxes, cartons, wastepaper, remains of food, newspaper, filth, or rubbish of any kind in any City park except to place the same in cans or receptacles provided for such matter.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.030: Use of Vehicles in City Parks Restricted**

It is hereby declared to be unlawful to operate, drive, or propel any automobile, truck, motorcycle, or other type of motorbike within any City park, except upon those designated path areas so authorized by the City Manager or his designee.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.040: Animal Prohibitions**

It is hereby declared to be unlawful to permit or allow any animal on or upon any park property except domestic dogs or cats on leashes of six (6) feet or less and in the immediate possession of an owner or caregiver. No other animals shall be allowed on City parks except where the City Manager or his designee has granted a permit to allow specified animals.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.050: Intoxicating Beverages Prohibited**

It is hereby declared to be unlawful to sell, offer for sale, purchase, give away, transport, deliver, consume, or have in one's possession any intoxicating beverage within a City park.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.060: Prohibition of Certain Athletic Uses of Park Areas Without a Permit**

It is hereby declared to be unlawful for any person, groups of persons, or other entity to utilize any City park, or portion thereof, on a consistent, repetitive basis for athletic purposes in such a manner so as to monopolize the use of the park, or a portion thereof, to the exclusion of other members of the public without a written permit from the City Manager or his designee.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006).

**SECTION 8.40.070: Additional Rules and Regulations to be Adopted**

The City Manager or his designee is authorized to adopt administrative rules and regulations governing the operation and use of City parks. Any person or organization found to be violating such rules and regulations may be removed from the City parks by the City Manager or designated agents.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006)

**SECTION 8.40.080: Enforcement Officer Citation Authority**

This Chapter may be enforced by any City Police Officer, Park Patrol Officer, or any other City officer or employee designated by the City Manager to enforce the provisions of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2682 § 1 (part), 2006)

#### **SECTION 8.40.090: Public Skate Park Facilities**

(A) Any person in or on a designated public skate park facility shall comply with the following requirements:

- (1) Any person who rides a skateboard or BMX bicycle or uses in-line skates at a public skate park facility shall wear a helmet, elbow pads, and knee pads at all times while utilizing the facility.
- (2) Skate park facilities are designed for use without the introduction of any outside obstacles, ramps, rails, or other similar materials or devices. No outside obstacles, ramps, rails, or other similar materials or devices shall be brought onto the premises of or used at any skate park facility.
- (3) The hours of operation for the skate park facilities are from six (6:00) a.m. to eleven (11:00) p.m., unless otherwise designated in writing by the Director of Community Services, or his designee. Use of any skate park facility outside of the authorized hours of operation is prohibited. Use of any skate park facility after sundown or before sunup is prohibited unless the City has turned on skate park facility lights.
- (4) Glass products, glass bottles, glass beverage containers, and any other type of glass object or material are prohibited in any skate park facility.
- (5) Alcoholic beverages are prohibited in any skate park facility.
- (6) The use of cigarettes, smokeless tobacco, or the use of any other type of tobacco or smoking product is prohibited in any skate park facility.
- (7) Other than skateboards, bmx bicycles, and in-line skates, no other wheeled or motorized vehicles are allowed within any skate park facility.
- (8) The Director of Community Services, or his designee, may, in his sole discretion, regulate the hours of operation at the skate park facility for specified groups of users. The City shall post such regulations in appropriate signage at the skate park facility.

(B) Signs shall be posted at each skate park facility to afford reasonable notice that any person who rides a skateboard, BMX bicycle, or uses in-

line skates at any skate park facility must wear a helmet, elbow pads, and knee pads, and any person failing to do so will be subject to citation under the City's Municipal Code.

- (C) "Designated public skate park facility" shall mean any skate park facility operated by the City. Such facilities are also referred to in this Municipal Code as "skate park facility" or "skate park facilities." (Ordinance 2802 § 1, 2011; Ordinance 2785 § 2, 2010).

## **CHAPTER 44: NUDITY**

### **SECTION 8.44.010: Prohibitions -- Definitions -- Waiters, Waitresses, Entertainers**

Every person is guilty of a misdemeanor who, while acting as a waiter, waitress, or entertainer in an establishment that serves alcoholic beverages for consumption on the premises of such establishment:

- (1) Exposes genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region;
- (2) Exposes any device, costume, or covering that gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region; or
- (3) Exposes any portion of the female breast at or below the areola thereof.

(Ordinance 2802 § 1, 2011; Ordinance 1821 § 1, 1983; Ordinance 1336 B § 2 (part), 1973).

### **SECTION 8.44.020: Counseling or Assisting**

Every person is guilty of a misdemeanor who causes, permits, procures, counsels or assists any person to expose or simulate exposure as prohibited in Section 8.44.010.

(Ordinance 2802 § 1, 2011; Ordinance 1336B § 2 (part), 1973).

### **SECTION 8.44.030: Employment or Payment Not Necessary for Offense**

A person shall be deemed to be a waiter, waitress, or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed.

(Ordinance 2802 § 1, 2011; Ordinance 1336B § 2 (part), 1973).

### **SECTION 8.44.040: Prohibitions -- Definitions -- Public Performance**

Every person is guilty of a misdemeanor who, while participating in any live act, demonstration, or exhibition in any public place, place open to the public, or place open to the public view:

- (1) Exposes genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region;
- (2) Exposes any device, costume, or covering that gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region; or
- (3) Exposes any portion of the female breast at or below the areola thereof.

(Ordinance 2802 § 1, 2011; Ordinance 1336B § 2 (part), 1973).

#### **SECTION 8.44.050: Counseling or Assisting**

Every person is guilty of a misdemeanor who causes, permits, procures, counsels, or assists any person to expose or simulate exposure as prohibited in Section 8.44.040.

(Ordinance 2802 § 1, 2011; Ordinance 1336B § 2 (part), 1973).

#### **SECTION 8.44.060: Exemption of Theatrical Establishments**

The provisions of this Chapter shall not apply to a theater, concert hall, or similar establishment that is primarily devoted to theatrical performances. (Ordinance 2802 § 1, 2011; Ordinance 1336B § 2 (part), 1973).

### **CHAPTER 45: AFTER-HOURS OPERATIONS**

#### **SECTION 8.45.010: Prohibition**

No person shall allow, conduct, or permit on any premises within the city open to the public any of the following activities between the hours of two (2:00) a.m. and six (6:00) a.m. during any day of the week:

- (1) Dancing, whether by owners, operators, paid performers, or customers;
- (2) Live music, whether performed by professionals or customers;
- (3) Playing of billiards, pool, or bagatelle, whether or not a fee is charged or paid by anyone; or
- (4) Operation of a peep show establishment or device or arcade as defined in Chapter 5.60 of this Code.

(Ordinance 2802 § 1, 2011; Ordinance 1812 § 2, 1983; Ordinance 1367 § 1 (part), 1973).

#### **SECTION 8.45.020: Application**

The provisions of this Chapter shall be applicable to all establishments, without exception, open to the public within the city.

(Ordinance 2802 § 1, 2011; Ordinance 1367 § 1 (part), 1973).

### **CHAPTER 46: NEWSRACKS\***

\*Prior history: Ordinance No. 1340

**SECTION 8.46.010: Purpose and Criteria for Regulations**

The purpose of this Chapter is to promote the public health, safety, and welfare through the regulation of the placement, appearance, servicing, and ensuring of newsracks on the public right- of-way so as to:

- (1) Provide for pedestrian and driving safety and convenience;
  - (2) Restrict the unreasonable interference with the flow of pedestrian or vehicular traffic, including ingress into or egress from any residence or any place of business or from the street to the sidewalks by persons exiting or entering parked or standing vehicles or along public sidewalks;
  - (3) Provide reasonable access for the use and maintenance of poles, posts, traffic signs or signals, hydrants, and mailboxes and access to locations used for public transportation purposes;
  - (4) Eliminate newsracks that may result in a visual blight on the public rights-of-way or that may unreasonably detract from the aesthetics of store window displays, adjacent landscaping, and other improvements;
  - (5) Maintain and protect the values of surrounding properties;
  - (6) Reduce the unnecessary exposure of the City to personal injury and property damage claims; and
  - (7) Provide for and maintain the freedom of speech for newspapers or news periodicals using newsracks for distribution purposes.
- (Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.020: Definitions**

For the purpose of this Chapter, unless otherwise apparent from the context, certain words and phrases used in this Chapter are defined as follows:

- (1) "Newsrack" means any self-service container installed, used, or maintained for the distribution of newspapers, news periodicals, or other news publications.
- (2) "Highway" means all that area dedicated to public uses for public street purposes and shall include, but not be limited to, roadways, parkways, alleys, and sidewalks.
- (3) "Roadway" means that portion of the street improved, designed, or ordinarily used for vehicular travel.

(4) "Parkway" means that area between the sidewalk and the curb of any street and where there is no sidewalk that area between the edge of the roadway and the property line adjacent thereto. "Parkway" shall also include any area within a roadway that is not open to vehicular travel.

(5) "Sidewalk" means any surface provided for the exclusive use of pedestrians.

(6) "Street" means all that area dedicated to public use for public street purposes and shall include, but not be limited to, roadways, parkways, alleys and sidewalks.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

#### **SECTION 8.46.030: Permit Required**

(A) PERMIT REQUIRED. An application for a permit for one or more newsracks shall be filed with the City for the placement of any newsrack in the public right-of-way. A permit shall be issued in accordance with this Chapter. Any permit issued shall be valid for one (1) year and shall be renewable annually. This Section shall not become effective until one hundred twenty (120) days from the effective date of the Ordinance codified in this Chapter.

(B) PERMIT ISSUANCE. Permits shall be issued within ten (10) days after the application has been filed. The denial of a permit shall not prohibit the installation, use and maintenance of a newsrack, pending a judicial review of the denial of said permit.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

#### **SECTION 8.46.040: Application**

A person seeking issuance of a permit pursuant to this Chapter shall file with the City a written application on a form supplied by the City. The application shall contain the following information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name, address, and telephone number of a responsible person whom the City may notify or contact at any time concerning the applicant's newsrack;
- (3) The number of newsracks and the exact proposed location of each shown by an eight and one-half (8 1/2) inches by eleven (11) inches diagram and identifying all items in the public right-of-way, such as bus benches, street poles and posts, driveways, wheelchair ramps, other newsracks, fire hydrants, crosswalks, curb returns, fire call boxes, buildings, landscaping, bus shelters, bus stops,



trash containers, mailboxes, and pull boxes within a twenty (20) foot radius; and

- (4) The names of the newspapers or periodicals to be contained in each newsrack.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.050: Application/Fee**

The applicant shall provide a nonrefundable permit application fee in an amount established by City Council Resolution.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.060: Liability Insurance and Indemnification**

- (A) As a condition of approval of the permit, the permittee must file with the City an insurance certificate establishing that the applicant has in force public liability and property damage insurance in the amount of one million dollars (\$1,000,000) to indemnify the City for damage to City property arising out of the permittee's activities. The City, each of its officials, officers, employees, agents, and representatives shall be named as additionally insured.

- (B) INDEMNIFICATION. Every person operating or maintaining a newsrack upon or within the public property, rights-of-way, or public easement adjacent to streets of this city shall agree, prior to the granting of a newsrack permit, to indemnify and hold harmless the City of Garden Grove, its officials, officers, employees, agents, and representatives from any loss, liability, damage, or cost sustained by any person or property, arising from the installation, operation, or use of such newsrack; provided, however, that such obligation to indemnify and hold harmless the City of Garden Grove, its officials, officers, employees, agents, and representatives shall not extend to any loss, liability damage, or cost resulting from the acts or property of another.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.070: General Placement of Newsracks**

- (A) No person shall install, use, or maintain any newsrack or other structure that projects onto, into, or over any part, upon, along, or over any portion of the roadway of any public street or that rests, wholly or in part, upon, along, or over any portion of the roadway of any public street.
- (B) No person shall install, use, or maintain any newsrack that in whole or in part rests upon, in, or over any public sidewalk or parkway when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public transportation purposes, or other governmental use, or when such newsrack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, the

ingress into or egress from any residence or place of business or the use of poles, posts, traffic signs or signals, hydrants, mailboxes, or other objects permitted at or near such location, or when such newsrack interferes with the cleaning of any sidewalk by the use of mechanical sidewalk cleaning machinery.

- (C) Any newsrack shall be located so as to maximize public convenience, health, safety, and welfare, both as to accessibility to the newsracks and the use of the public right-of-way as a thoroughfare, and the aesthetic appearance of the area.
- (D) Any newsrack that, in whole or in part, rests upon, in, or over any public sidewalk or parkway shall comply with the following standards:
  - (1) Newsracks shall only be placed either near a curb or adjacent to the wall of a building. Newsracks placed near the curb shall be at least twenty-four (24) inches from the edge of the curb, where parking is not permitted and thirty-six (36) inches where parking is permitted. Newsracks shall only be placed at the curb when in the opinion of the City Manager or his designee, it is not practical to place a newsrack at the back of the sidewalk or adjacent to the building.
    - (a) No newsrack shall be placed or maintained on the sidewalk or parkway opposite a newsstand or another newsrack.
  - (2) No newsrack shall be chained, bolted, or otherwise attached to any property not owned by the owner of the newsrack or to any permanently fixed object, except that a newsrack may be bolted to any sidewalk.
  - (3) No newsrack shall be placed, installed, used, or maintained:
    - (a) Within ten (10) feet of any marked crosswalk;
    - (b) Within five (5) feet of the curb return of any unmarked crosswalk;
    - (c) Within six (6) feet of any fire hydrant, fire call box, or other emergency facility;
    - (d) Within fifteen (15) feet of any driveway;
    - (e) Within five (5) feet ahead of and twenty-five (25) feet to the rear of any sign marking designated bus stop;
    - (f) Within ten (10) feet of any bus bench;

- (g) At any location whereby the clear space for the passageway of pedestrians is reduced to less than four (4) feet;
- (h) Within three (3) feet of any display window of any building abutting the sidewalk or parkway or in such a manner as to impede or interfere with the reasonable use of such window for display purposes;
- (i) Within ten (10) feet of any bus shelter;
- (j) In a grouping of more than four (4), with a minimum of three (3) feet between groupings.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

#### **SECTION 8.46.080: Installation and Maintenance**

- (A) **NEWSRACK ENCLOSURES.** The City may, at its option, construct enclosures to house newsracks in lieu of or in addition to existing newsrack structures.
- (B) **IDENTIFYING INFORMATION.** Each newsrack installed, used, or maintained pursuant to this Chapter shall be identified with the name, address, and telephone number of the owner in a manner so as to be clearly visible.
- (C) **USE FOR ADVERTISING IS PROHIBITED.** No newsrack shall be used for commercial advertising, signs, or publicity purposes other than to state the name of the newspaper or periodical on the dispensing side of the newsrack or matters discussed within the body of the paper.
- (D) **WORKING CONDITION.** Each newsrack shall be maintained in good operating condition by its owner and shall be maintained so as not to become mechanically inoperable or have cracked or broken coverings or casings. Each machine shall be painted or covered with a protective coating so as to keep it free from rust.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

#### **SECTION 8.46.090: Newsrack Location Limitation in Specified Locations**

- (A) **NUMBER PERMITTED.** No more than eight (8) newsracks shall be located on any public right-of-way within a space of two hundred (200) feet in any direction within the same block of the same street. No more than sixteen (16) newsracks shall be allowed on any one block. As used herein, "block" means one side of a street between two consecutive intersecting streets.
- (1) The number of newsracks permitted on any public right-of-way within a space of two hundred (200) feet in any direction within the same block of the same street may be increased to twelve (12) and

the number of newsracks allowed in any one block may be increased to twenty-four (24) by City Council Resolution upon a finding that the increase is necessary because of the high demand for newspapers at the specified location.

- (2) In determining which newsracks shall be permitted to remain, the City Manager or his designee shall be guided solely by the following criteria set forth in Subsection (B) of this Section. In the event there are eight (8) or more newsracks located on the public right-of-way within a space of two hundred (200) feet in any direction within the same block of the same street in the aforementioned locations on the effective date of this Chapter, no additional newsracks shall be approved until such time when there are fewer than eight (8) newsracks within a space of two hundred (200) feet in any direction within the same block of the same street at such location. The applicant, upon request, may be placed on a waiting list for such location. The waiting list shall be administered on a first come, first serve basis.
- (B) PRIORITY SYSTEM. In determining which newsracks shall be permitted to remain, the City Manager or his designee shall be guided solely by the following criteria:
- (1) FIRST PRIORITY. First priority shall be given to newsracks used for the sale of publications that have been adjudicated to be newspapers of general circulation.
  - (2) SECOND PRIORITY. Second priority shall be given to newsracks used for the sale of daily publications (those published on five (5) or more days in a calendar week) that have not been adjudicated to be newspapers of general circulation.
  - (3) THIRD PRIORITY. Third priority shall be given to newsracks used for the sale of weekly publications (those published on at least one (1) but less than five (5) days in a calendar week) that have not been adjudicated to be newspapers of general circulation.
- (C) CONFLICT WITHIN PRIORITY CATEGORIES. As between newspapers included within any single category of priority above, the City Manager or his designee shall also be guided by the following criteria of priorities whenever more than eight (8) newsracks are proposed for any one site or more than sixteen (16) newsracks are proposed for any one block:
- (1) First priority shall be daily publications (published five (5) or more days per week).
  - (2) Second priority shall be publications published two (2) to four (4) days per week.

- (3) Third priority shall be publications published one (1) day per week.
- (4) In the event that there is a conflict between newspapers within the same priority seeking the same location, and there are insufficient newsrack spaces remaining to accommodate the competing newspapers after first filling as many spaces as possible by utilizing the criteria set forth above, then the City Manager or his designee shall assign the space or spaces at random by placing the names of all applicants for the remaining spaces at a location into a container from which the names shall be drawn, one at a time, until the particular spaces remaining of unfilled newsracks have been filled. Such drawing shall be open to the public at a time and date designated by the City Manager or his designee.

(D) EXISTING OWNERS. This Section shall not become effective until ninety (90) days after the effective date of the Ordinance codified in this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.100: Display of Certain Matter Prohibited**

(A) Publications offered for sale from newsracks placed or maintained on the public right-of-way shall not be displayed or exhibited in a manner that exposes to public view from the public right-of-way any of the following:

- (1) Any statements or words describing explicit sexual acts, sexual organs, or excrement where such statements or words have as their purpose or effect sexual arousal, gratification, or affront;
- (2) Any picture or illustration of genitals, pubic hair, perineum, anuses, or anal regions of any person where such picture or illustration has as its purpose or effect sexual arousal, gratification, or affront; and
- (3) Any picture or illustration depicting explicit sexual acts where such picture or illustration has as its purpose or effect sexual arousal, gratification, or affront.

(B) "Explicit sexual acts" as used in this Section means depictions of sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, sadism, masochism, or lewd exhibition of genitals, whether any of the above conduct is depicted or described as being performed above or between members of the same or opposite sex or between humans and animals, or other act of sexual arousal, involving any physical contact with a person's genital, pubic region, pubic hair, perineum, anus, or anal region.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.110: Display in Areas Where Minors Are Not Excluded -  
-Harmful Matter Restricted**

No person shall knowingly display or cause to be displayed, in any public place where minors are not excluded, any harmful matter as defined in Section 313 of the Penal Code, unless such matter is displayed in newsracks equipped with devices commonly known as blinder racks affixed in such a manner that the lower two-thirds of the matter is not exposed to view. (Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.120: Abandonment**

- (A) In the event any newsrack installed pursuant to this Chapter does not contain the publication specified in the application within a period of thirty (30) days for a daily or weekly periodical or other periodical issued at some other time interval and sixty (60) days for a monthly periodical after the release of the current issue, or if no publication is in the newsrack for a period of more than thirty (30) consecutive days for a daily or weekly periodical, or other periodical issued at some other time interval and sixty (60) days for a monthly periodical, the City Manager or his designee may deem the newsrack abandoned and may remove the newsrack from the public right-of-way.
- (B) In the event a permittee of a newsrack owned by the permittee desires voluntarily to abandon a newsrack location, such permittee shall completely remove the newsrack and mount and restore the public right-of-way to a safe condition, leaving no hole or projection in the pavement.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

**SECTION 8.46.130: Impoundment of Racks**

- (A) Any newsrack installed, used, or maintained in violation of the provisions of this Chapter may be subject to the removal and storage by the City Manager or his designee. Such officer shall take steps to notify the owner thereof and request compliance within thirty (30) calendar days prior to removal. At any time within said thirty (30) day period, an administrative hearing to challenge the existence of a violation may be requested by the owner. Failure to request the hearing shall result in removal and storage of the newsrack by the City Manager or his designee at any time after the expiration of the thirty (30) day period.
- (B) If the owner requests a hearing as provided in Subsection (A) of this Section, said hearing shall be scheduled within five (5) days of the request and shall be administered by the City Manager or his designee. The owner shall have thirty (30) days to comply with the provisions specified in the ruling. If, after thirty (30) days from the date of decision the owner has failed to comply with the provisions of this Chapter cited in the decision, the subject newsracks shall be removed and stored by the City Manager or his designee.

- (C) Notwithstanding Subsection (A) of this Section, in the case of violations of this Chapter relative to restrictions upon attachments of newsracks to property other than that owned by the owner of the newsrack, to fixed objects, or to each other and upon location of newsracks, the City Manager or his designee may, as an alternative to the provisions set forth in Subsections (A) and (B) of this Section, move, realign, remove such attachment, or otherwise move such newsrack or newsracks to restore them to a legal condition.
- (D) Any newsrack in violation of the provisions of this Chapter that creates an immediate danger to the health, safety, or welfare of the public, and cannot be corrected by moving or otherwise repositioning the newsrack may be summarily removed and stored in a convenient location so as to eliminate the danger to the health, safety, and welfare of the public. The City Manager or his designee shall inform the newsrack owner of the date the newsrack was removed, the reasons therefore, the location and procedure for claiming the newsrack, and the procedure for obtaining a post-removal hearing before the City Manager or his designee, if desired. Any such newsrack removed and stored pursuant to this Subsection shall be released to the owner thereof if claimed within forty-five (45) days after the mailing of written notice of removal, and upon the payment of reasonable charges of removal and storage or upon a determination in a post-removal hearing that the newsrack complies with all of the provisions of this Chapter.
- (E) The City Manager or his designee may, after a hearing in accordance with this Chapter, order the newsrack returned upon payment of costs of storage and/or removal; or without cost to the newsrack owner if no violation of this Chapter is found.
- (F) The cost of removal and storage by the City Manager or his designee of any newsrack subject to this Chapter shall be chargeable as a civil debt to the owner thereof, and may be collected by the City in the same manner as it collects any other civil debt or obligation. In addition, the newsracks in question shall be deemed to be unclaimed property and may be disposed of accordingly.

(Ordinance 2802 § 1, 2011; Ordinance 2343 § 1 (part), 1995).

## **CHAPTER 47: NOISE CONTROL \***

\* Prior history: Ordinance Nos. 1949, 1950, 2258.

### **SECTION 8.47.020: Definitions**

The following words, phrases, and terms as used in this Chapter shall have the meaning as indicated below:

- (1) "Actual Measured Ambient Noise Level" shall mean that noise level existing in the general area of the noise problem, excluding the noise generated by the noise source being evaluated.
- (2) "Ambient Base Noise Level" shall mean the maximum loudness level normally found to be acceptable for given land uses and that serves as the basis for determining loudness noise violations pursuant to the provisions of Section 8.48.040 of this Chapter.
- (3) "Ambient Noise Level" shall mean the all-encompassing background noise associated with a given environment, being usually a composite of sounds from many sources near and far.
- (4) "Commercial Use" shall mean any enterprise whose principal endeavor is the sale of goods and/or services.
- (5) "Decibel (dB)" shall mean a unit that denotes the ratio between two (2) quantities that are proportional to power: the number of decibels corresponding to the ratio of two (2) amounts of power is ten (10) times the logarithm to the base ten (10) of this ratio. The commonly used unit for measuring sound pressure levels.
- (6) "Emergency" means operations made necessary to restore property to a safe condition following a public calamity, or work required to protect persons or property from an imminent exposure to danger or work by private or public utilities when restoring utility service.
- (7) "Industrial Use" means any facility or operations involved in the manufacturing, repairing, testing, processing, warehousing, wholesaling, researching, and treatment of products.
- (8) "Institutional Use" means an establishment maintained and operated by a society, church, corporation, individual, foundation, or public agency for the purpose of providing religious, charitable, social, educational, fraternal, or similar services.
- (9) "Noise" means any sound that exceeds the appropriate actual or presumed ambient noise level, that annoys or tends to disturb humans, or that causes or tends to cause an adverse psychological or physiological effect on humans of normal sensitiveness.
- (10) "Office-Professional Use" means any enterprise engaged in providing business or professional services.
- (11) "Residential Use" means any structure utilized principally for human habitation, excluding hotels, motels, and recreational vehicle parks.



(12) "Sound Amplifying Equipment" means any device for the amplification of the human voice, music, or any other sound and does not include standard automobile radios when used and heard only by the occupants of the vehicle in which the automobile radio is installed or devices on authorized emergency vehicles or horns or other warning devices on any vehicle used only for traffic safety purposes.

(13) "Sound Level in decibels (dB)" means the sound measured utilizing the A-weighting scale and the slow needle response by a sound level meter.

(14) "Sound level meter" means an instrument meeting American National Standard Institutes Standard S1.4-1971 for Type 1 or Type 2 sound level meters or an equivalent standard.  
(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.030: Noise Level Measurement**

All noise level measurements made pursuant to the provisions of this Chapter shall be performed using a sound level meter as defined in Section 8.47.020, using a fast needle response, utilizing the dB(A) scale.  
(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.040: Ambient Base Noise Levels**

The ambient base noise levels contained in the following chart shall be utilized as the basis for determining noise levels in excess of those allowed by this Chapter unless the actual measured ambient noise level occurring at the same time as the noise under review is being investigated exceeds the ambient base noise level contained in the chart. When the actual measured ambient noise level exceeds the ambient base noise level, the actual measured ambient noise level shall be utilized as the basis for determining whether or not the subject noise exceeds the level allowed by this Section. In situations where two adjoining properties exist within two different use designations, the most restrictive ambient base noise level will apply. This Section permits any noise level that does not exceed either the ambient base noise level or the actual measured ambient noise level by 5 dB(A), as measured at the property line of the noise generation property.

USE CATEGORIES	USE DESIGNATIONS	AMBIENT BASE NOISE LEVELS	TIME OF DAY
Sensitive	Residential Use	55 dB(A)	7:00 a.m. – 10:00 p.m.
		50 dB(A)	10:00 p.m. – 7:00 a.m.
Conditionally Sensitive	Institutional Use	65 dB(A)	Any Time

	Office-Professional Use	65 dB(A)	Any Time
	Hotels & Motels	65 dB(A)	Any Time
Non-Sensitive	Commercial Uses	70 dB(A)	Any Time
	Commercial/ Industrial Uses within 150 feet of Residential	65 dB(A)	7:00 a.m. – 10:00 p.m.
		50 dB(A)	10:00 p.m. – 7:00 a.m.
	Industrial Use	70 dB(A)	Any Time

(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.050: General Noise Regulation**

- (A) NOISE DISTURBANCE CRITERIA. It shall be unlawful for any person to willfully make, continue, or cause to be made or continued, any loud, unnecessary, or unusual noise that disturbs the peace, or quiet of any neighborhood, or that causes discomfort or annoyance to any person of normal sensitiveness.
- (B) The criteria that shall be utilized in determining whether a violation of the provisions of this Section exists shall include, but not be limited to, the following:
- (1) The level of the noise.
  - (2) The frequency of occurrence of the noise.
  - (3) Whether the nature of the noise is usual or unusual.
  - (4) The level and intensity of the background noise, if any.
  - (5) The proximity of the noise to residential sleeping facilities.
  - (6) The nature and zoning of the area within which the noise emanates.
  - (7) The density of the inhabitation of the area within which the noise is received.
  - (8) The time of day or night the noise occurs.
  - (9) The duration of the noise.
- (C) DURATION OF NOISE. The following criteria shall be used whenever the noise level exceeds:

- (1) The noise standard for a cumulative period of more than thirty (30) minutes in any hour;
  - (2) The noise standard plus five (5) dB(A) for a cumulative period of more than fifteen (15) minutes in any hour;
  - (3) The noise standard plus ten (10) dB(A) for a cumulative period of more than five (5) minutes in any hour;
  - (4) The noise standard plus fifteen (15) dB(A) for a cumulative period of more than one (1) minute in any hour; or
  - (5) The noise standard plus twenty (20) dB(A) for any period of time.
- (D) In the event the ambient noise level exceeds any of the first four (4) noise limit categories above, the cumulative period applicable to said category shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the fifth (5th) noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.  
(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.060: Special Noise Sources**

##### **(A) RADIOS, TELEVISION SETS, AND SIMILAR DEVICES.**

- (1) **USE RESTRICTED.** It shall be unlawful for any person within any residential area of the city to use or operate any radio receiving set, musical instrument, stereo equipment, television set, or other machine or device for the producing or reproducing of sound between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day in such a manner as to disturb the peace, quiet, and comfort of any person of normal sensitiveness residing in the area, as determined utilizing the criteria established in Section 8.04.050(a).
- (2) **PRIMA FACIE VIOLATION.** Any noise level exceeding the ambient base level at the property line of any property (or, if a condominium or apartment house, within any adjoining apartment) by more than five (5) decibels shall be deemed to be prima facie evidence of a violation of the provisions of this Section.

##### **(B) MUSICAL INSTRUMENTS - USE RESTRICTED.** It shall be unlawful for any person to use any drum or other instrument or device of any kind for the purpose of attracting attention by the creation of noise within the city. This Section shall not apply to any person who is a participant in a

duly licensed parade or who has been otherwise duly authorized to engage in such conduct.

- (C) MACHINERY, EQUIPMENT, FANS, AND AIR CONDITIONING. It shall be unlawful for any person to operate any machinery, equipment, pump, fan, air conditioning apparatus, or similar mechanical device in any manner so as to create any noise that would cause the noise level at the property line of any property to exceed either the ambient base noise level or the actual measured ambient noise level by more than five decibels.
- (D) CONSTRUCTION OF BUILDINGS AND PROJECTS. It shall be unlawful for any person within a residential area, or within a radius of five hundred (500) feet therefrom, to operate equipment or perform any outside construction or repair work on buildings, structures, or projects, or to operate any pile driver, power shovel, pneumatic hammer, derrick, power hoist, or any other construction type device between the hours of 10:00 p.m. of one day and 7:00 a.m. of the next day in such a manner that a person of normal sensitiveness, as determined utilizing the criteria established in Section 8.47.050(B), is caused discomfort or annoyance unless such operations are of an emergency nature.
- (E) VEHICLE REPAIRS. It shall be unlawful for any person within any residential area of the city to repair, rebuild, or test any motor vehicle in such a manner that a person of normal sensitiveness residing in the area is caused discomfort or annoyance, as determined utilizing the criteria established in Section 8.47.050, unless such operations are of an emergency nature.
- (F) Motor Driven Vehicles. It shall be unlawful for any person to operate any motor driven vehicle within the City in such a manner that a person of normal sensitiveness residing in the area is caused discomfort or annoyance, as determined utilizing the criteria established in Section 8.47.050(B), unless such operations are of an emergency nature; provided, however, any such vehicle that is operated upon any public highway, street, or right-of-way shall be excluded from the provisions of this Section.
- (G) AMPLIFIED SOUND.
  - (1) PURPOSE. While recognizing the constitutional rights of freedom of speech and assembly, the City nevertheless feels obligated to reasonably regulate the use of sound amplifying equipment in order to protect the rights of the citizens of the city to privacy and freedom from excessively loud and unnecessary noise.
  - (2) REGISTRATION. It shall be unlawful for any person, other than personnel of law enforcement or governmental agencies, to install,

use, or operate within the city a loudspeaker or sound amplifying equipment mounted upon any vehicle for the purposes of warnings, giving instructions, directions, talks, addresses, lectures, or transmitting music to any persons or assemblages of persons without first filing a registration statement at least seven (7) days prior to the date on which the sound amplifying equipment is intended to be used and obtaining approval from the Zoning Administrator.

- (3) APPROVAL. The Zoning Administrator shall return to the applicant an approved copy of the registration statement unless he finds that:
    - (a) The conditions of the motor vehicle movement are such that use of the equipment would constitute a detriment to traffic safety; or
    - (b) The conditions of pedestrian movement are such that use of the equipment would constitute a detriment to traffic safety.
  - (4) DISAPPROVAL. In the event the registration statement is disapproved, the Zoning Administrator shall endorse upon the statement the reason for disapproval and return it to the applicant.
  - (5) APPEALS. Any decision by the Zoning Administrator may be appealed to the City Council within seven (7) days of action of the Zoning Administrator by filing a notice of appeal with the City Clerk.
  - (H) WASTE HAULERS/COMMERCIAL SWEEPERS AND LEAF BLOWERS. It shall be unlawful for any person within any commercial, industrial, or office complex area of the city to operate any refuse compacting, processing or collection vehicle, parking lot sweeper or leaf blower within 150 feet of residential property between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day.
  - (J) LOADING/UNLOADING. It shall be unlawful for any person in any commercial or industrial area of the city that abuts or is located adjacent to any residential property between the hours of 10:00 p.m. of one day and 7:00 a.m. of the following day to load or unload any vehicle, or operate any dollies, carts, forklifts, or other wheeled equipment that causes any noise that disturbs the peace or quiet of the residential neighborhood.
- (Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.070: Exemptions**

- (A) EMERGENCY ACTIVITIES. The provisions of this Chapter shall not preclude the operation, maintenance, and repair of equipment, apparatus, or facilities of essential public services, including those of

governmental agencies and public utilities providing those activities are of an emergency nature or are necessary to maintain the health, safety, and welfare of the citizenry.

- (B) **COMMUNITY ACTIVITIES.** Community Events, as described in Section 8.08.060 of the Municipal Code, outdoor gatherings, school bands, dances, shows, and athletic events are hereby exempted from the provisions of this Chapter provided such activities are conducted pursuant to a duly authorized license or permit.
- (C) **STATE AND FEDERAL PREEMPTIONS.** Motor vehicle and aircraft operations and any other activity whose regulation has been preempted by state or federal law is hereby exempted from the provisions of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

#### **SECTION 8.47.080: Abatement**

The City Manager or his designee and his duly authorized representatives are hereby directed to enforce the provisions of this Chapter by requiring that the alleged offender correct violations and achieve compliance with the provisions of this Chapter within a reasonable period of time.

- (1) The City Manager or his designee shall have the power and duty to enforce the following noise control provisions of this Code: Section 8.47.050, Section 8.47.060 (A)(2), (C), (H), and (I).
- (2) The Police Department shall have the power and duty to enforce the following noise control provisions of this Code: Section 8.47.060 (A)(1), (B), (E), (F), (G)(1) and (2).
- (3) The Building Official shall have the power and duty to enforce the following noise control provisions of this Code: Section 8.47.060(D).

(Ordinance 2802 § 1, 2011; Ordinance 2660 § 2, 2005).

### **CHAPTER 48: VENDING ON PUBLIC RIGHT-OF-WAY**

#### **SECTION 8.48.010: Prohibited**

No person, except as otherwise provided in Section 8.48.020, shall on any street offer for sale, solicit the sale of, announce by any means the availability of, or have in his possession, control, or custody, whether upon his person or upon some other animate or inanimate object, any goods, wares, or merchandise that the public may purchase at any time. This Section shall not apply to the sale of poppies, badges, and labels as defined by Military and Veterans Code Section 1800, on a parkway or sidewalk by persons bearing a valid permit issued pursuant to Chapter 5.20 and subject to the provisions of Chapter 8.46, relating to newsracks.

(Ordinance 2802 § 1, 2011; Ordinance 1506 § 1 (part), 1976).

**SECTION 8.48.015: Further Prohibited**

Except as otherwise provided in Section 8.48.020, any person who causes, procures, counsels, assists, pays, or compensates any person to engage in activity proscribed in Section 8.48.010 is guilty of a misdemeanor.  
(Ordinance 2802 § 1, 2011; Ordinance 1799 § 1, 1982).

**SECTION 8.48.020: Exceptions**

- (A) No person under the age of ten (10) years shall sell or offer for sale any newspaper, magazine, periodical, news publication, or other printed matter while upon any portion of a street. This Subsection shall not prohibit persons, except as otherwise prohibited by law, from soliciting the sale of or delivery of newspapers, magazines, periodicals, news publications, and other printed matter to residences or places of business fronting upon a street.
- (B) No person, on any street or other public property of whatever nature or description, shall within fifty (50) feet of the roadway of any freeway on-ramp or off-ramp, distribute, deliver, sell, offer for sale, or solicit the sale of any newspapers, magazines, periodicals, circulars, handbills, or other printed matter or any goods, wares, or merchandise regardless of type, nature, kind, or description. The provisions of this Subsection shall not apply to the installation or maintenance of equipment or facilities otherwise authorized by law.
- (C) Adjacent to private property where product sold is vended by the business activity carried on therein and subject to provisions established by Ordinance.
- (D) READY-TO-EAT FOOD VENDORS. Nothing contained in this Chapter shall prohibit any person operating a ready-to-eat food-vending truck or vehicle from selling such items of food on a public street providing that the time between stopping the vehicle to dispense any item of food and the time the vehicle leaves the location does not exceed ten (10) minutes. For purposes of this Subsection, a ready-to-eat food-vending vehicle must move at least five hundred (500) feet between each stop.  
(Ordinance 2802 § 1, 2011; Ordinance 1506 § 1 (part), 1976).

**SECTION 8.48.030: Definitions**

"Ready-to-eat food-vending vehicles" includes, but is not limited to, commercial catering trucks and vans; but shall not include trucks, vans, trailers, or flatcars primarily vending agricultural products.  
(Ordinance 2802 § 1, 2011; Ordinance 1506 § 1 (part), 1976).

**CHAPTER 50: BINGO GAMES\***

\* Prior Ordinance history: Ordinance Nos. 1522, 1583, 1693 and 1733.

**SECTION 8.50.010: License -- Eligible Organizations**

Organizations which are (i) exempted from the payment of the bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(k), 23701(w), and 23701(l) of the Revenue and Taxation Code, (ii) mobilehome park associations, (iii) senior citizens organizations, and (iv) charitable organizations affiliated with a school district are eligible to apply to the city for a license to conduct bingo games in the city in accordance with the provisions of Sections 326.3 and 326.5 of the California Penal Code and provisions of this chapter, provided that the receipts of those games are used only for charitable purposes.

(Ordinance 2802 § 1, 2011; Ordinance 2801 § 1 (part), 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.020: License -- Application**

Eligible organizations desiring to obtain such a license to conduct bingo games in the city shall file an application in writing therefore with the City on a form to be provided by the City. The issuing authority shall be the Police Chief. The license issued shall be for a term of one (1) year from the date of issuance, subject to renewal and annual fee. No person or organization shall play, or permit to be played, any bingo game required to have a license pursuant to this Chapter without first having obtained a license covering such activity.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.030: Application -- Qualifications**

No license shall be issued to any organization unless such applicant is an eligible organization under Section 8.50.010 and its application conforms to the requirements, terms, and conditions of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.040: Application -- Contents**

An application for a license under this Chapter shall contain the following:

- (1) The name of the applicant organization and a statement that the applicant is an eligible organization under Section 8.50.010.
- (2) The name and signature of at least two (2) officers including the presiding officer of the corporation or community chest and the trustee of any trust.
- (3) The particular property within the city including the street number, owned or leased by the applicant, used by such applicant for an office or for performance of the purposes for which the applicant is organized, on which property bingo games will be conducted, together with the occupancy capacity of such place.
- (4) Proposed day of the week and hours of the day for conduct of bingo games.



- (5) That the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this Chapter as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the Police Chief upon violation of any of such provisions.
- (6) The application shall be signed by the applicant under penalty of perjury.
- (7) The annual license fee, as established by City Council Resolution, shall be paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the applicant.
- (8) The applicant shall submit, with its application, a certificate issued by the Franchise Tax Board certifying that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law pursuant to Section 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), 23701(k), 23701(w), or 23701(l) of the Revenue and Taxation Code. In lieu of a certificate issued by the Franchise Tax Board, the City may refer to the Franchise Tax Board's internet website to verify that the applicant is exempt from the payment of the taxes imposed under the Corporation Tax Law.
- (9) LICENSEE ORGANIZATION BY-LAWS. Prior to the issuance of a new license or renewal of an existing bingo license, the licensee shall incorporate as part of their by-laws this Chapter, in its entirety, and submit a copy of the by-laws to the Police Chief. The licensee organization shall ensure that its members who are involved in the direct operation of a bingo game, or other authorized game, are aware of this Chapter's contents and are responsible to conduct their activity in a lawful manner.

(Ordinance 2802 § 1, 2011; Ordinance 2801 § 1 (part), 2011; Ordinance 2290 § 1 (10), 1994; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.050: Application -- Investigation**

Upon receipt of the completed application and the fee, the City Manager or his designee shall refer the same to interested departments of the City for investigation as to whether or not all the statements in the application are true and whether or not the property of the applicant qualifies and the extent to which it qualifies as property on which bingo games may lawfully be conducted as to fire, occupancy and other applicable restrictions.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.060: License -- Contents**

Upon being satisfied that the applicant is fully qualified under laws to conduct bingo games in the city, the Police Chief shall issue a license to the applicant that shall contain the following information:

- (1) The name and nature of the organization to whom the license is issued.
  - (2) The address where bingo games are authorized to be conducted.
  - (3) The occupancy capacity of the room in which bingo games are to be conducted.
  - (4) The date of the expiration of the license.
  - (5) Such other information as may be necessary or desirable for the enforcement of the provisions of this Chapter.
- (Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.070: Identification Cards**

All organizations issued a valid license pursuant to this Chapter shall, during the operation of any bingo game or other authorized game require each member of the organization involved in the direct operation of a bingo game or other authorized game, to be issued and wear in a clearly visible location, an identification card, hereafter referred to as a "bingo badge." The bingo badge will indicate the member's name, that the member is in good standing in the organization and authorized to be a bingo game operator. A photograph of the member will also be part of the bingo badge. The bingo badge shall be worn at all times when an individual is involved in the direct operation of a bingo game or other authorized game, and shall be subject to presentation and review upon request by a Police Officer of the City. Badges may be obtained by an organization at any time after a valid license has been issued with no limitation on the number of badges an organization may require, at a cost set by City Council Resolution.

- (1) **MEMBERS REQUIRED TO OBTAIN AND WEAR A BINGO BADGE.**  
The following members of an organization involved in the direct operation of a bingo game or other authorized game, acting under one of the following conditions or positions regardless of title, shall obtain and wear a bingo badge:
  - (a) Game Manager
  - (b) Personnel Manager
  - (c) Floor Manager
  - (d) Head Cashier

- (e) Assistant Cashier
  - (f) Caller
  - (g) Any person conducting or associated with pull tab sales
  - (h) Any person handling, transporting, or having temporary custody of any money, or
  - (i) Any person acting as an assistant to one of the above.
- (2) BOARD OF DIRECTORS. All members of the board of directors shall obtain a bingo badge that identifies them as a member of the board of directors, and shall wear the badge at all times when present upon the premises when a bingo game or other authorized game is being conducted.

(Ordinance 2802 § 1, 2011; Ordinance 2290 § 1 (10), 1994; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.080: License -- Suspension -- Hearing Procedure -- Revocation**

- (A) Whenever it appears to the Police Chief that the licensee is conducting a bingo game in violation of any of the provisions of this Chapter, the Police Chief shall have the authority, orally or in writing, to summarily suspend the license and order the licensee to immediately cease and desist any further operations of any bingo game. If an order of suspension of the permit is oral, within two (2) working days a statement of charges shall be made available to the licensee.
- (B) Any person who continues to conduct or aid and abet a bingo game after any summary suspension, revocation or without having obtained a valid license pursuant to this Chapter, shall be deemed guilty of a misdemeanor.
- (C) The order issued suspending the license shall also notify the licensee that it shall have five (5) days from the date of such order to request a hearing to determine whether such license shall be revoked. Failure to request, in writing, such hearing before the Police Chief within said five (5) day period, shall result in a revocation of the license, unless the Police Chief otherwise orders.
- (D) Upon such request by the licensee whose license has been suspended, for a hearing to determine whether such license shall be revoked, the Police Chief shall provide such hearing within ten (10) days after receipt of such request at which hearing the suspended licensee may appear before the Police Chief for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this Section unless notice of the time and place of such hearing is first given

at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to the suspended licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the suspension and revocation.

- (E) Any organization whose license is revoked under this Section shall not conduct any bingo game in the city unless and until such time as the City Council, on appeal, determines to overrule the decision of the Police Chief or the licensee has obtained a new valid license issued pursuant to this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.090: License -- Revocation -- Alternative Procedure**

- (A) Whenever it appears to the Police Chief that the licensee is conducting bingo games in violation of any of the provision of this Chapter, or that the license was obtained by fraudulent representation and no summary suspension is ordered, under Section 8.50.080, the license may be revoked provided, however, the licensee may appear before the Police Chief at the time fixed by the Police Chief, for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this Section unless written notice is first given at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to the licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the revocation.
- (B) Any organization whose license is revoked under this Section shall not conduct any bingo game in the city unless and until such time as the City Council, on appeal, determines to overrule the decision of the Police Chief.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.100: License -- Revocation -- Appeal**

- (A) Any holder of a license whose license is revoked under this Chapter shall have the right, within ten (10) days after receiving notice in writing of the revocation, to submit a written appeal to the City Council. Such appeal shall set forth the specific ground or grounds on which it is based. The City Council shall hold a hearing on the appeal within thirty (30) days after its receipt by the City, or at a time thereafter agreed upon, and shall cause the appellant to be given at least ten (10) days written notice of such hearing. At the hearing, the appellant or his authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the City Council on the appeal shall be final.
- (B) Any organization whose license is finally revoked may not apply again for a license to conduct bingo games in the city for a period of one (1) year from the date of such revocation; provided, however, if the

grounds for revocation is cancellation of the exemption granted under Section 23701 or 23701d of the Revenue and Taxation Code, such organization may again apply for a license upon proof of reinstatement of the exemption.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.110: Bingo Defined**

As used in this Chapter, "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols selected at random by an individual operating the game who is known as the "caller." The procedural steps under this definition of bingo are as follows:

- (1) The callers chart is numbered 1 -75 serially in five vertical rows. The five rows are lettered B I N G O. Row B is number 1 to 15, reading down. Row I is numbered 16 to 30. Row N is numbered 31 to 45. Row G is number 46 to 60. Row O is number 61 to 75. The caller ejects a calling number one at a time. As he draws each number, he calls out loudly the letter and the number. The caller then places the number on the caller's chart. This procedure continues until one player has covered five squares in a row, either vertically, diagonally, or horizontally. The "free spot" in the center of each bingo card does not have to be covered. It counts as a covered spot at all times. As soon as one player has covered five squares in a row, either vertically, diagonally, or horizontally, that player calls out "bingo"! The caller stops calling out numbers. He then checks the bingo by having the player call out the numbers that make his row of five covered squares. As the player calls out his covered squares, the caller double checks by making sure the numbers called out by the player are covered by numbered counters on the callers chart. In case of two or more players establishing "bingo" at the same time, the prize is divided equally between the players.
- (2) For purposes of the definition described hereinabove and this Chapter:
  - (a) The game is conducted among persons all or any of whom have paid or promised to pay any valuable consideration for the right to participate in such game; or
  - (b) The game is conducted among persons none of whom have paid or promised to pay any valuable consideration for the right to participate in such game, but the total value of the prize for each game exceeds the value of twenty-five dollars (\$25).
- (3) RESTRICTED GAMES. No games shall be played on the premises that are not authorized by this Code or previously approved in

writing by the Police Chief. Any contested games or activities shall not be allowed to occur without a written opinion determining their legality from the California Legislative Council.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.120: School Defined**

As used in this Chapter, "school" means a State of California approved high school site within the Garden Grove Unified School District occupying twenty-seven (27) or more acres of land.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.130: Award Limit and Identification of Winners**

(A) **MAXIMUM AWARDS.** The total value of prizes awarded during the conduct of any bingo game shall not exceed five hundred dollars (\$500) or the maximum amount allowable pursuant to California Penal Code § 326.5, as that Section may be amended from time to time, whichever is greater, in cash or kind, or both, for each separate game that is held. No bonus or progressive prize money or gift(s) in any form whatsoever may be added on to the amount set forth in this Section for any reason, including, but not limited to, winning any particular number of games during the night or day that the games are played.

(B) **IDENTIFICATION OF SPECIFIC WINNERS.** Any individual who wins fifty dollars (\$50) or more in a single bingo game or other authorized game, shall sign the winning sheet and indicate his home address and telephone number. The licensee shall maintain copies of the winning sheets for a period of eighteen (18) months, and make them available for inspection upon the request by a Police Officer of the City.

(Ordinance 2802 § 1, 2011; Ordinance 2753 § 1, 2009; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.140: Separate Account for Profits Required**

(A) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such profit shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this Chapter, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purposes, except as follows:

- (1) Such proceeds may be used for prizes.
- (2) A portion of such proceeds, not to exceed twenty percent (20%) of the proceeds before the deduction for prizes, or one thousand dollars (\$1,000) per month, whichever is less, may be used for

rental of property; overhead, including the purchase of bingo equipment; administrative expenses; security equipment; and security personnel.

- (B) The City reserves the right at any time to request and in fact to audit all books, accounts, and records of any kind or nature whatsoever that relate to or deal with conducting by the organization of any bingo game under this Chapter. Failure or refusal to allow such an audit by licensee upon request by the City shall be deemed grounds for a summary suspension pursuant to Section 8.50.080.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.150: Disbursement of Funds**

All disbursements from the bingo account shall be consecutively numbered checks signed by two (2) authorized officers of the licensee and shall be made payable to a specific individual or organization. There shall be written on each check the nature of the expenditure for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.160: Extracurricular School Activities**

If the licensee is conducting bingo games for the benefit of extracurricular school activities on school grounds pursuant to Section 8.50.120 of this Chapter, the money obtained from the bingo games shall be used for extracurricular activity including, but not limited to, travel expenses of school bands or sports teams. The money shall not be used to replace existing budgets for school functions or equipment.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.170: Financial Interest Limited to Licensee**

No individual, corporation, partnership, or other legal entity except the licensee shall hold a financial interest in the conduct of a bingo game.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.180: Monthly Report of Receipts and Expenditures**

- (A) On or before the fifteenth (15<sup>th</sup>) day of each month, the licensee shall report, in writing to the City, on forms provided by the City for such purpose, an accounting of all bingo games, receipts, and expenditures for the immediately preceding calendar month.

- (B) The licensee shall submit a list, along with the above monthly report, of all vendors that sold the licensee any bingo related items during the immediately preceding calendar month, which will include copies of all invoices relating to these vendors.

- (C) PURCHASE OF BINGO SUPPLIES AND EQUIPMENT. Licensees who are authorized to conduct bingo games or other authorized games shall purchase the needed supplies and equipment in excess of five hundred

dollars (\$500) per order per vendor through a competitive bid system. A competitive bid will be considered valid for a period not to exceed two (2) years. The licensee shall forward copies of the bids to the Police Chief and indicate which vendor was awarded the bid.  
(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.200: Yearly Financial Report**

The licensee shall submit a yearly audit report paid for by the licensee, to be conducted by an independent firm and submitted to the City no later than April 15th of each year.  
(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.210: Exclusive Operation**

A bingo game shall be operated and staffed only by members of the licensee organization. Such members shall not receive a profit, wage, salary, or receive any consideration for the time donated from any bingo game. Only the licensee shall operate such game, or participate in the promotion, supervision, or any other phase of such game.

- (1) VOLUNTEERS ON PREMISES MINIMUM. During the operation of any bingo game or other authorized game, there must be a minimum of six (6) bingo badge bearers on the premises per room as indicated, responsible for the following conditions or positions, regardless of title:

- (a) One head cashier.
- (b) One caller.
- (c) One floor manager for each occupied room.
- (d) Two cashier assistants or helpers per occupied room.
- (e) One volunteer responsible for pull -tab sales, if conducted, for each occupied room in which this activity occurs.

- (2) ROSTER OF VOLUNTEERS AT BINGO GAME. The licensee shall maintain a weekly roster of their members who volunteered their time for each weekly bingo game in the direct operation of the bingo game or other authorized game. The licensee shall maintain these rosters for an eighteen (18) month period, and make them available for inspection upon request to a Police Officer of the City.  
(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.220: Open to Public**

All bingo games shall be open to the public, not just to the members of the licensee organization.  
(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).



**SECTION 8.50.230: Attendance Limited to Occupancy Capacity**

Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted, as determined by the Fire Chief and Building Official or their designees, in accordance with applicable laws and regulations. The licensee shall not reserve seats or space for any person.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.240: Conduct on Licensee's Property Required**

(A) A licensee shall conduct a bingo game only on property owned or leased by it and used by such organization for an office or for performance of the purposes for which the organization is organized. The license issued under this Chapter shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as an office and as a place for performance of the purposes for which the licensee is organized, the license shall have no further force or effect. A new license may be obtained by an eligible organization, upon application under this Chapter, when it again owns or leases property used by it for an office or for performance of the purpose for which the organization is organized.

(B) The licensee who is conducting a bingo game at a school site as defined in Section 8.50.120 must be an organization directly associated with that specific school.

(C) The licensee who is conducting bingo games for the benefit of extracurricular school activities on school grounds shall not conduct bingo games at an off-campus location.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.250: Minors Not to Participate**

(A) No person under the age of eighteen (18) years of age shall be allowed to participate in any bingo game.

(B) For purposes of this Section, participation means directing play operation or participation in any bingo game, whether or not in conjunction with any other party or adult.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.260: Intoxicated Persons Not to Participate**

No person who is obviously intoxicated shall be allowed to participate in a bingo game.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

**SECTION 8.50.270: Prohibited Participation by Bingo Vendors**

The licensee shall not allow any person to have an interest in, or participate in the operation of, any bingo game or other authorized game who is involved in the sale, manufacturing, or distribution of any bingo supplies or equipment or other gaming supplies or equipment.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.280: Hours and Days of Operation**

Bingo games and bingo game operations authorized pursuant to this Chapter shall only be conducted on one (1) calendar day of a seven (7) calendar day week, with a maximum of five (5) consecutive hours in any twenty-four (24) hour period. No bingo game or bingo game operation shall be conducted more than one (1) day per week at any single location nor shall any bingo game or bingo game operation be conducted between the hours of two (2:00) a.m. and six (6:00) a.m. of any day of the week.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.290: Participant Must Be Present**

No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.300: Profit Making Prohibited -- Misdemeanor Declared**

Notwithstanding Section 1.04.010 of the Code, it is a misdemeanor under Section 326.5(b) of the Penal Code of the State for any person to receive or pay a profit, wage, or salary from any bingo game authorized under this Chapter, a violation of which is punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the City.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.310: City May Enjoin Violation**

The City may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2141 § 1 (part), 1990).

#### **SECTION 8.50.320: Remote Caller Bingo**

- (A) Remote caller bingo games may be lawfully played in the city only pursuant to and in full conformance with the provisions of California Penal Code Sections 326.3 and 326.4, as such sections may be periodically amended.
- (B) Pursuant to Penal Code Section 326.3(u)(1), "remote caller bingo game" means a game of bingo, as defined in subdivision (o) of Penal Code Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the

bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game from a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of Penal Code Section 326.3 of the Penal Code. The audio or video technology used to link the facilities may include cable, internet, satellite, broadband, or telephone technology, or any other means of electronic transmission that ensures the secure, accurate, and simultaneous transmission of the announcement of numbers or symbols in the game from the location at which the game is called by a natural person to the remote location or locations at which players may participate in the game. The drawing of each ball bearing a number or symbol by the natural person calling the game shall be visible to all players as the ball is drawn, including through a simultaneous live video feed at remote locations at which players may participate in the game.

- (C) Remote caller bingo games may be conducted by any organization eligible to receive a traditional bingo license pursuant to Section 8.50.010 if: (i) the organization possesses a valid bingo license issued pursuant to this Chapter; and (ii) the organization has been incorporated or in existence for three years or more.
- (D) Notwithstanding Section 8.50.230 and except as expressly authorized by Penal Code Section 326.3, no more than 750 players may participate in a remote caller bingo game in a single location.
- (E) Any remote caller bingo license issued pursuant to this Chapter shall be subject to the requirements and conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements and conditions of those provisions.
- (F) Each remote caller bingo license issued pursuant to this Chapter shall be subject to the following additional conditions: (i) remote caller bingo games shall not be conducted by any licensee on more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter; and (ii) the licensed organization shall be responsible for ensuring that the organization and its officers and members fully comply with the requirements and conditions of this Chapter and Sections 326.3 and 326.4 of the Penal Code. A violation of any one or more of those requirements or conditions shall constitute cause for the revocation of the organization's license.
- (G) All of the requirements and conditions of this Chapter shall apply to remote caller bingo except to the extent of any conflict with the provisions of Penal Code Sections 326.3 and 326.4, in which case the provisions of Penal Code Sections 326.3 and 326.4 shall govern.

(Ordinance 2802 § 1, 2011; Ordinance 2801 § 1 (part), 2011)

## **CHAPTER 52: SALE AND DISPLAY OF NARCOTIC AND OTHER PARAPHERNALIA**

### **SECTION 8.52.010: Minors**

No owner, manager, proprietor, or other person in charge of any room in any place of business selling, or displaying for the purpose of sale, any device, contrivance, instrument, or paraphernalia for smoking or injecting, or consuming marijuana, hashish, PCP, or any controlled substance as defined in the Health and Safety Code of the State of California, other than prescription drugs and devices to ingest or inject prescription drugs, as well as roach clips, and cigarette papers and rollers designed for the smoking of the foregoing, shall allow or permit any person under the age of eighteen (18) years to be, remain in, enter, or visit such room unless such minor person is accompanied by a parent or a legal guardian.  
(Ordinance 2802 § 1, 2011; Ordinance 1682, § 1 (part), 1979).

### **SECTION 8.52.020: Minors -- Excluded**

A person under the age of eighteen (18) years shall not be in, remain in, enter, or visit any room in any place used for the sale, or displaying for sale, devices, contrivances, instruments, or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless such person is accompanied by a parent or a legal guardian.  
(Ordinance 2802 § 1, 2011; Ordinance 1682 § 1 (part), 1979).

### **SECTION 8.52.030: Sale and Display Rooms**

A person shall not maintain in any place or business to which the public is invited the display for sale, or the offering to sell of devices, contrivances, instruments, or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance other than prescription drugs and devices to ingest or inject prescription drugs, including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, unless within a separate room or enclosure to which minors not accompanied by a parent or legal guardian are excluded. Each entrance to such a room shall be sign posted in reasonably visible and legible words to the effect that narcotic paraphernalia are being offered for sale in such a room, and minors, unless accompanied by a parent or legal guardian, are excluded.  
(Ordinance 2802 § 1, 2011; Ordinance 1682 § 1 (part), 1979).

### **SECTION 8.52.040: Sale and Display Rooms -- Nuisance**

The distribution or possession for the purpose of sale, exhibition, or display in any place of business from which minors are not excluded as set forth in this Section, and where devices, contrivances, instruments, or paraphernalia for smoking or injecting marijuana, hashish, PCP, or any controlled substance other than prescription drugs or devices to ingest or inject prescription drugs

including roach clips, and cigarette papers and rollers designed and used for smoking the foregoing, is hereby declared to be a public nuisance and may be abated pursuant to the provisions of Section 731 of the Code of Civil Procedure of the State of California. This remedy is in addition to any other remedy provided by law, including the penalty provisions applicable for violation of the terms and provisions of this Code.  
(Ordinance 2802 § 1, 2011; Ordinance 1682 § 1 (part), 1979).

## **CHAPTER 54: ITEM PRICE MARKING ON PACKAGED CONSUMER COMMODITIES**

### **SECTION 8.54.010: Definitions**

For the purpose of this Chapter, the following definitions shall apply:

- (1) "Automatic checkout system" is an electronic system employing a scanning device combined with a computer and register to read a universal product code or similar code on packaging and display and total the cost of the items purchased.
- (2) "Consumer commodity" shall be defined to include any of the following:
  - (a) Food, including all material whether solid, liquid, or mixed, and whether simple or compound, which is used or intended for consumption by human beings or domestic animals normally kept as household pets, and all substances and ingredients added to any such material for any purpose. This definition shall not apply to individual packages of cigarettes or individual cigars.
  - (b) Paper and plastic products such as, but not limited to, napkins, facial tissues, toilet tissues, foil wrapping, plastic wrapping, paper toweling, and disposable plates and cups.
  - (c) Detergents, soaps, and other cleaning agents.
  - (d) Pharmaceuticals, including nonprescription drugs, bandages, hygiene products, and toiletries.
- (3) "Grocery department" is an area within a general retail merchandise store that is engaged primarily in the retail sale of packaged food, rather than food prepared for immediate consumption on or off the premises.
- (4) "Grocery store" is a store engaged primarily in the retail sale of packaged food, rather than food prepared for consumption on the premises.

- (5) "Person" is an individual, firm, corporation, partnership, association, or other organization group or combination acting as a unit.
- (6) "Sale item or special" is any consumer commodity offered in good faith for some appropriate time period and on sale at a price below the normal price that item is usually sold for in that store.  
(Ordinance 2802 § 1, 2011; Ordinance 1707 § 1 (part), 1980).

#### **SECTION 8.54.020: Item Prices**

Every retail grocery store or grocery department within a general retail merchandise store that uses an automatic checkout system shall cause to have a clearly readable price indicated on each packaged consumer commodity offered for sale; provided, however, that said requirements shall not apply to:

- (1) Any unpackaged fresh fruit produce.
- (2) Any consumer commodity under three (3) cubic inches in size and weighing less than three (3) ounces and priced for less than thirty cents (\$.30).
- (3) Any grocery business that has as its only regular employees the owner thereof, or the parent, spouse, or child of such owner, or in addition thereto not more than two (2) other persons employed on a regular schedule for a continuing period of time.
- (4) Identical items within a multi-item package.
- (5) Items sold through vending machines.
- (6) Any consumer commodity that was not generally item priced as of January 1, 1977, as determined by the California Department of Food and Agriculture.
- (7) Any consumer commodity offered as a sale item or as a special.  
(Ordinance 2802 § 1, 2011; Ordinance 1707 § 1 (part), 1980).

#### **SECTION 8.54.030: Violation -- Presumptions**

- (A) Any person intentionally violating any of the provisions of Section 8.54.020 of this Chapter shall be deemed guilty of a misdemeanor.
- (B) Failure to have a clearly readable price indicated on twelve (12) units of the same item of the same commodity shall give rise to a rebuttable presumption of intent to violate Section 8.54.020.

- (C) Each additional twelve (12) units of the same item that failed to have a price indicated on them shall constitute a separate violation of Section 8.54.020.
- (D) Each and every day that a violation continues after notification thereof by any person to the grocery store, department manager, or assistant manager shall constitute a separate violation and shall constitute a presumption to violate Section 8.54.020.
- (Ordinance 2802 § 1, 2011; Ordinance 1707 § 1 (part), 1980).

## **CHAPTER 60: ALARM SYSTEMS**

### **SECTION 8.60.001: Purpose**

The purpose of this Chapter is to set forth regulations governing the use of burglary and robbery alarms, require permits therefore, establish fees, and provide penalty for violations. The City finds and determines that the regulation of alarm systems and the control of false alarms is necessary to promote the health, welfare, and safety of the people, in that some of the public are using alarm systems that either mechanically malfunction or are not operated properly by their users, causing an increase in false alarm reports, and thereby creating a hazard to the safety of peace officers and the public in general.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

### **SECTION 8.60.010: Definitions**

For the purpose of this Chapter, the following definitions shall apply:

- (1) "Alarm system" is a device or connected devices designed for the detection of, or for alerting others to, an unauthorized entry on any premises; or the attention of, or the alerting others to a robbery in progress; and that, when actuated, emits a sound or transmits a signal to indicate that an emergency situation exists, and to which the Police Department is expected to respond.
- (2) "Alarm business" means any person, firm, or corporation conducting or engaging in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, removing, installing, or monitoring an alarm system in or on any building, place or premises.
- (3) "Alarm agent" means any person who is self-employed or employed either directly or indirectly by an alarm business, and whose duties include any of the following: selling and maintaining, leasing, servicing, repairing, altering, replacing, moving, or installing an alarm system in or on any building, place or premises.

- (4) "Applicant" means a person or proposed permittee who has made request for permission to use an alarm system under the conditions specified in this Chapter.
- (5) "Audible alarm" is an alarm system that, when actuated, generates an audible sound on the premises.
- (6) "Business" means any nonresidential use.
- (7) "Commercial" means business.
- (8) "Direct dial telephone device" (automatic dialing device) is any device that is interconnected to a voice grade telephone line and is programmed to select a predetermined telephone number, and that transmits by prerecorded voice message or code signal an emergency message indicating a need for emergency response.
- (9) "False alarm" means the activation of an alarm system when an emergency situation, for which the alarm system was designed, does not exist, and to which the Police Department responds. "False alarm" shall not include external causes beyond the control of the owner or lessee of the alarm system.
- (10) "Nonemergency response status" means the category in which an alarm system is placed as a result of permit suspension or revocation, thereby relieving the Police Department of the duty to respond.
- (11) "Notice" means written notice, served personally or mailed, postage prepaid, addressed to the person to be notified at his last known address. Service of such notice shall be deemed effected upon completion of personal service or upon deposit of such notice in the United States mail.
- (12) "Permittee" means any person, firm, partnership, association, or corporation who or which shall be granted a permit, as provided in this Chapter, and his or its agents and representatives.
- (13) "Proprietor alarm" means an alarm that is not serviced by an alarm business.
- (14) "Person" means any individual, partnership, corporation, or other entity.
- (15) "Residence" means premises used as a dwelling unit that includes apartment, condominium, and lodginghouse.



- (16) "Robbery" is the felonious taking of personal property in the possession of another, from his person or immediate presence and against his will, accomplished by means of force or fear.
  - (17) "Protected premises" means a business or residence in which an alarm system is installed or attached.
  - (18) "Subscriber" means any person who purchases, leases, contracts for, or otherwise obtains an alarm system or for the servicing or maintenance of an alarm system from an alarm business.
  - (19) "Signal channel" means a telephone line or other method of transmitting signals other than by the use of a telephone, which signal channels shall be caused to be installed and used by the permittee for the purpose of delivering a signal to the monitor.
  - (20) "Standards, regulations, requirements, and duties" means the minimum standards of performance for alarm systems installed within the city, as prescribed by the Police Chief, and adopted by City Council Resolution. All devices to be installed under permit issued pursuant to this Chapter shall conform to such performance standards and regulations. The Police Chief may require inspection and approval of all alarm systems installed within the city.
  - (21) "User" means any person who obtains, possesses, leases, or has installed an alarm system on a premises either business or residence.
- (Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.020: Alarm Business Registration Required**

- (A) It is unlawful for any person, partner, corporation, or firm to own, manage, conduct, or carry on an alarm business that services, installs, monitors, or responds to alarm systems at the protected premises within the city without first having registered with the Police Department on appropriate forms with the following information:
  - (1) Name of business and if a corporation, its name, date and place of incorporation, and address of its principal place of business, together with the name and business telephone number of the owner or manager.
  - (2) A list of the addresses, business, and emergency telephone numbers of all central stations handling accounts in the city.
  - (3) A list of all subscribers, both private and commercial, together with the addresses where alarm systems have been installed.

- (B) Such registration shall be accompanied by a file copy of the alarm company operator's state identification card.  
(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.030: Alarm Agent Registration Required in Possession**

Any person acting as or performing the duties of an alarm agent within the city shall carry on his person at all times while so engaged a valid registration card issued to him by the State Director of Consumer Affairs pursuant to the provisions of Section 7598.14 of the California Business and Professions Code, and shall display such card to any officer or agent of the City upon request.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.040: Subscriber's (Alarm User's) Permit Required**

- (A) No person shall install, have installed, or use an alarm system on any premises without first applying for and receiving an alarm permit therefore in accordance with the provisions of this Chapter.

- (B) No alarm permit issued under the provisions of this Chapter shall be assignable or transferable.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.050: Permit Procedures -- Fee**

- (A) Applications for permits required under this Chapter shall be filed, together with payment of a fee established by City Council Resolution, on forms furnished by the City. In addition, the application shall contain the name, address, and telephone number of the person or persons who will respond and render service or repairs during any hour of the day or night.

- (B) It shall be the responsibility of the permittee to apply for renewal of the permit at least ten (10) days prior to the expiration of any existing permit.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.060: Notice of Changes**

Whenever any change occurs relating to any information as required on permit application form, the applicant or permittee shall give written notice thereof to the Police Chief within a reasonable time not to exceed ten (10) days after such change.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.070: Alarm System Standards**

All alarm systems and appurtenant equipment installed on any premises shall meet or exceed those performance standards that may hereafter be established by City Council Resolution. The City reserves the right to inspect all alarm systems subject to all applicable laws including Code of Civil Procedure Section 1822.50 et seq.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.080: Alarm System Regulations**

- (A) REPAIRS. When any false alarm caused by a malfunction of an alarm system has occurred, the permittee shall cause the alarm system to be repaired to eliminate the malfunction. The alarm system annunciator shall be disconnected while repairs are being made.
- (B) MAINTENANCE NOTIFICATION - TESTING. The alarm user, permittee, or his agent shall contact the Police Department prior to any service, test, repair, maintenance, alteration, or installation of an alarm system that might produce a false alarm. Any alarm activated where such prior notice has been given shall not constitute a false alarm.
- (C) POWER SUPPLY. Alarm systems shall be supplied with an uninterruptible power supply in such manner that the failure or interruption of normal utility electricity will not activate the alarm system. The power supply must be capable of at least four (4) hours of operation.
- (D) DIRECT DIAL TELEPHONE DEVICES. No person shall install, operate, or maintain any alarm system that directly dials any telephone number of the Police Department except as may hereafter be designated by the Police Chief. All existing alarm systems of the direct dial type shall be conformed to comply with the provisions of this Section within ninety (90) days from the effective date of the Ordinance codified in this Chapter. The Police Department will not respond to direct dial telephone devices.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.090: Audible Alarm Requirements**

- (A) POSTING OF NOTICE. Every person, permittee, corporation, or business maintaining or using an audible system shall post a notice containing the name(s) and telephone number(s) of the person(s) to be notified to render repairs or service and secure the premises during any hour of the day or night that the alarm system is activated. Such notice shall be posted near the alarm in such a position as to be legible from the ground level adjacent to the building where the alarm system is located.
- (B) AUTOMATIC DEACTIVATION - AUDIBLE ALARMS. Audible residential alarms shall be equipped with an automatic shut-off mechanism capable of terminating the audible annunciator after activation within a maximum of fifteen (15) minutes. Audible business or commercial alarm systems shall be equipped with an automatic shut-off mechanism capable of terminating the audible annunciator after activation within a maximum of thirty (30) minutes. Those audible alarms installed prior to the effective date of this Section not capable of turning off the

annunciator, shall have ninety (90) days after the Ordinance codified in this Chapter becomes effective to comply.  
(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.100: Exemptions**

The provisions of this Chapter are not applicable to:

- (1) The operations of a public utility whose only duty is to furnish telephone service pursuant to tariffs and filed with the California Public Utilities Commission; or
  - (2) Audible alarm systems affixed to motor vehicles.
- (Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.110: Prohibitions**

It is unlawful to install or use an alarm system that, when activated, emits a sound similar to that used for civil defense purposes.  
(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.120: Right to Discontinue Response**

The Police Chief reserves the right to discontinue response by Police Officers to any location of a silent or audible alarm when the permit has been suspended or revoked. Reinstatement may occur when the permittee has taken steps to eliminate or correct the problem(s), has documented the corrective action in writing to the Police Chief, and has paid all penalty assessments.  
(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.130: Limitation of Liability**

The City is under no obligation or duty to any permittee or any other person by reason of any provision of this Chapter, or the exercise of any privilege of any permittee hereunder, including any delay in transmitting an alarm message to any emergency unit or damage caused by delay in responding to any alarm by any City Officer, employee, or agent.  
(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.140: False Alarm Prevention Payment**

- (A) When emergency messages, signals, or notices are received by the Police Department that evidence a failure to comply with the requirements of this Chapter, or a permit issued hereunder, the Police Chief is authorized to direct that the owner or lessee of the alarm system initiating such alarms, messages, signals, or notices, or his representative, disconnect the alarm system until it is made to comply with such requirements.
- (B) The owner or lessee of any alarm system that has caused any signal, message, or alarm to be transmitted to the Police Department, either by telephone or other communication, or by communication from an alarm

agent or an alarm business, or by a person responding to an audible alarm, and that is proved to be a false alarm, shall pay a false alarm prevention fee, established by City Council Resolution.

- (C) An alarm permit may be suspended or revoked in addition to the false alarm prevention fee established by City Council Resolution, or in the event of failure to pay such false alarm fees.
- (D) EXCEPTIONS. A thirty (30) day adjustment period to correct mechanical problems will be allowed for any new, improved, or replaced alarm system, provided the user demonstrates that any false alarm was the result of conditions beyond his control and not the result of negligence on his part or that of his employees. Provided further, after such thirty (30) day period when any alarm system activation occurs and no emergency situation for which the alarm system was designed exists, if the permittee can demonstrate to the satisfaction of the Police Chief that he neither knew of the defect in the alarm system, nor in the exercise of due care could have known of or prevented such defect, such alarm shall not be deemed a "false alarm" within the meaning of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 2610 § 1, 2003; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.145: Permit Suspension**

- (A) Upon evidence that any Section of this Chapter has been violated, and written notice thereof has been served upon the permittee, either by personal service or by certified mail, the Police Chief may suspend an alarm permit for a period of ten (10) days, during which time such alarm system shall not be used and shall be placed on nonemergency response status.
- (B) Failure or refusal by permittee to correct any condition in violation of the Sections of this Chapter within the ten (10) day suspension period may result in revocation of the alarm system permit, as provided in Section 8.60.150.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.150: Permit Revocation**

When an alarm permit is to be revoked, the Police Chief shall give the permittee fifteen (15) days notice of his intention to do so by personal service or by certified mail, postage prepaid, addressed to permittee at the address set forth on the permit application. Upon failure of permittee to cause the system to be repaired, or to be used or operated properly, or to pay the false alarm prevention fee within such fifteen (15) day period, or to file an appeal to the City Council, as provided in this Chapter, the permit shall be revoked at the expiration of such fifteen (15) day period, and the alarm system shall be placed on nonemergency response status and shall not be used until a new permit has been issued.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.155: Appeal to the City Council**

- (A) In the event a permit is revoked or notice of revocation has been given or exception taken to any determination made by the Police Chief of under this Chapter, the permittee may appeal to the City Council by filing with the City Clerk a statement, addressed to the City Council, setting forth the facts and circumstances regarding the action or determination of the Police Chief provided, however, that such appeal shall be filed prior to the expiration of the fifteen (15) day period following the service, either in person or by prepaid mail, of the notice of revocation.
- (B) The City Clerk shall cause the appeal to be placed on the next available City Council agenda and notify the appellant. The City Council shall consider the appeal and may affirm, overrule, or modify the decision of the Police Chief. The decision of the City Council shall be final.
- (C) All fees paid by permittee shall be forfeited in the event of revocation. Enforcement of a revocation notice shall be stayed during the pendency of an appeal therefrom, properly and timely filed.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.160: Confidentiality**

Information furnished and secured pursuant to this Chapter shall be confidential in character and shall not be subject to public inspection, and shall be kept so that the contents thereof shall not be known except to persons charged with the administration of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.165: Application of Chapter**

Any person who, on the effective date of the Ordinance codified in this Chapter, possesses, has installed, or uses an alarm system that requires a permit under the provisions hereof, shall apply for a permit, as provided herein, within ninety days after the effective date of the Ordinance codified in this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.170: Right of Entry**

The Police Chief or his designated representative is authorized and empowered to inspect during regular business hours, any alarm system installed in any business within the city. Inspections of systems installed in private residences may be made with permission of the occupant of the premises only.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

**SECTION 8.60.175: Enforcement Provision**

The Police Department is directed to administer and enforce the provisions of this Chapter.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.180: Misdemeanor Complaints**

- (A) The operation and activation of any alarm system subsequent to notification of the provisions of this Chapter, and failure to obtain the permit therefore as required by this Chapter shall constitute a misdemeanor.
- (B) The operation and activation of any alarm system subsequent to the revocation of an alarm system permit previously issued for such system shall constitute a misdemeanor.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

#### **SECTION 8.60.185: Violation of Chapter**

- (A) If any Section, Subsection, subdivision, sentence, clause, phrase, word, or portion of this Chapter 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 Chapter. The City Council hereby declares that it would have adopted this Chapter and each Section, Subsection, subdivision, sentence, clause, phrase, word, or portions thereof, irrespective of the fact that any one or more Sections, Subsections, subdivisions, sentences, clauses, phrases, words, or portions might be declared invalid or unconstitutional.
- (B) Neither adoption of the Ordinance codified in this Chapter nor the repeal hereby of any Ordinance shall in any manner affect the prosecution for violation of Ordinances, where such violations were committed prior to the effective date of the Ordinance codified in this Chapter; nor be construed as affecting any of the provisions of such Ordinance relating to the collection of any such license or penalty or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof, required to be posted, filed, or deposited pursuant to any Ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.
- (C) The provisions of this Chapter insofar as they are substantially the same as existing provisions of this Code relating to the same subject matter, shall be construed as restatements and configurations and not as new enactments.

(Ordinance 2802 § 1, 2011; Ordinance 1834 § 1 (part), 1983).

### **CHAPTER 64: GRAFFITI PREVENTION, PROHIBITION, AND REMOVAL\***

\* Prior Ordinance history: Ordinance 2146.

#### **SECTION 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.

(Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 8.64.020: Graffiti Defined**

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

- (1) "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.
- (2) "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.
- (3) "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.
- (4) "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).

- (5) "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.
- (6) "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.
- (7) "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.
- (8) "Graffiti violations" of law are those violations referred to in Government Code Section 38772(d)(3) and any violation of this Chapter.
- (9) "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.
- (10) "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.

(Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 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.

(Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 8.64.040: Possession of Graffiti Implement**

- (A) It is unlawful for any person to have in his 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 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 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 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 shall not apply to any minor who is (1) accompanied by a 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 (18) 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, 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. (Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 8.64.050: Removal of Graffiti**

Graffiti may be removed by any of the following methods:

- (1) 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 thereof.
- (2) When the City Manager or his 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 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:
  - (a) 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 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.
  - (b) 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.

- (c) 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.
- (3) 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:
- (a) The City Manager or his 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 (5) 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.
  - (b) 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 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."

- (c) Service of the notice by the City Manager or his 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.
- (d) If any objections are submitted to the City Manager within five (5) days after the date appearing on the notice of intent to remove graffiti, the City Manager or his designee shall hold a hearing on the objections. If the City Manager or his designee overrules the objections, the owner shall have five (5) 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.
- (e) If no objections are submitted as set forth in Subsection (C) of this Section, or if the objections are overruled following a 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 designated representative approves, then the City Manager or his 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.

- (f) Should the City Manager or his designated representative be required to abate the graffiti as set forth in Subsection (E) above, he 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.

(Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 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 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.

(Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

#### **SECTION 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 a 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 designee be required to abate any graffiti as set forth in this Chapter, he 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 (30) days from the mailing of said notice.

- (a) 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 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 designee shall then render a final decision on the assessment, in writing, within five (5) days, and mail the same by First Class Mail, postage prepaid, to the Responsible Party.
- (b) The affected responsible party shall then have ten (10) days from the date of mailing to appeal the City Manager's decision to the City Council. The appeal shall be in writing.
- (c) 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.
- (d) 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.

- (e) 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 Recorder's 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 Assessor's parcel number; and the name and address of the recorded owner of the parcel.
- (4) **SERVICE OF A NOTICE OF LIEN**
  - (a) 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 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 or 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 recOrdinance

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 Assessor's 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"

- (b) 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 ten (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 that 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 (\$1,000.00) 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 that 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 attorneys' 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 (2) 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.
- (Ordinance 2802 § 1, 2011; Ordinance 2732 § 1 (part), 2008; Ordinance 2340 § 1, 1995; Ordinance 2287 (part), 1994; Ordinance 2253 § 1 (part), 1993).

## **CHAPTER 66: RESTRICTIONS ON PUBLIC ACCESS TO AEROSOL CONTAINERS AND LARGE MARKER PENS**

### **SECTION 8.66.010: Findings and Intent**

- (A) Graffiti caused by aerosol spray paint and marker pens is growing within the city of Garden Grove. The presence of graffiti upon public and private property creates visual blight upon the community that adversely affects property values and the peace, health, and welfare of the residents of the city of Garden Grove.
- (B) The City Council finds that supplemental local deterrents in addition to the provisions of state law are essential to prevent the use of aerosol containers of paint and marker pens in the proliferation of graffiti.
- (C) Accordingly, the City Council finds and determines that restrictions upon the accessibility of the sale of these items at commercial establishments is an essential element in inhibiting individuals from illegally spreading graffiti throughout the community.
- (Ordinance 2802 § 1, 2011; Ordinance 2265 § 1 (part), 1993).

### **SECTION 8.66.020: Regulation of Public Access to Aerosol Containers and Large Marker Pens Offered for Sale in Retail Stores**

Every person who owns, conducts, operates, or manages a commercial establishment selling aerosol containers or marker pens (with tips exceeding four (4) millimeters in width) containing anything other than a solution that can be removed with water after it dries, shall store such aerosol containers

or marker pens in a secure area not accessible to touch by members of the public without employee assistance.

(Ordinance 2802 § 1, 2011; Ordinance 2265 § 1 (part), 1993).

## **CHAPTER 70: PUBLIC LODGINGS**

### **SECTION 8.70.010: Findings and Definitions**

(A) The purpose of this Chapter is to prevent the development of the types of nuisances described in the California Red Light Abatement Law, Penal Code Section 11225, et seq.

(B) The regulations set forth in this Chapter are reasonably related to the accomplishment of this purpose and will not unduly interfere with the legitimate operation of public lodgings within the city.

(C) As used in this Chapter "public lodging facility" means any hotel, motel, lodginghouse, boardinghouse, trailer court, or similar public lodging facility.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

### **SECTION 8.70.020: Immoral Acts Prohibited**

No person conducting or owning any public lodging facility and no person in actual charge, management, or control of such a facility, nor any agent thereof, shall knowingly suffer, allow, or permit any portion thereof to be used as a house of ill fame or place of assignation for the purpose of prostitution.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

### **SECTION 8.70.030: Registration Required**

Every person conducting or owning a public lodging facility in the city shall at all times keep and maintain therein a register or other permanent document in which shall be inscribed with ink the name and home street and town address of each and every guest and person renting and/ or occupying a room or area therein. Such register or document shall be signed by the person actually renting the room or area, and the agent of the public lodging facility shall thereupon write opposite such name or names so registered the number of each room or area assigned to or occupied by each such guest, together with the time when such room is rented. Until all of such entries shall have been made in such register or document, no such agent shall allow or permit such guest or person to occupy privately any room or area in such facility.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

### **SECTION 8.70.040: Inspection of Register, Alterations**

(A) Erasures or alterations on the register or document required by this Chapter shall not be permitted or made for any purpose, and it shall be unlawful to erase a name or names and address or addresses or permit or allow such an erasure. Such register or documents shall be kept in a

conspicuous place and shall be at all times open to the inspection of any Peace Officer.

- (B) On each page of the register there shall be printed a notice stating that the register is open to inspection by a Peace Officer at all times.
- (C) All register entries shall be in indelible ink or other nonerasable writing substance. Corrections in the register shall be lined out, not erased or covered.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

#### **SECTION 8.70.050: Registering Under Fictitious Name Prohibited**

No person shall write, or cause to be written, or knowingly permit to be written in any register in any public lodging facility any other or different name or designation than the true name of the person registering therein. Nor may any person maintain false or dummy registration information.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

#### **SECTION 8.70.060: Repeated Use of Room Prohibited**

No person shall let or rent any room or area in any public lodging facility in the city more than once in a calendar day.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

#### **SECTION 8.70.070: Hourly Room Rates Prohibited**

- (A) No person conducting or owning a public lodging facility and no person in actual charge, management, or control of a public lodging facility, nor agent thereof, shall let or cause to be let any room or area for hourly or other short-time rates of less than twenty-four (24) hours.

- (B) No person conducting or owning a public lodging facility and no person in actual charge, management, or control of a public lodging facility, nor agent thereof, shall advertise that any room or area is available at hourly or other short-time rates of less than twenty-four (24) hours.

(Ordinance 2802 § 1, 2011; Ordinance 2135 (part), 1989).

### **CHAPTER 74: REGULATION OF ADMISSION CHARGES TO PRIVATE PARTIES**

#### **SECTION 8.74.010: Organization and Receipt of Admission Charges for Private Parties Prohibited**

No person, group of persons, firm, or entity of any kind shall arrange, organize, or require or obtain or receive, impliedly or expressly, any admission charge to any party conducted in any residential zone.

(Ordinance 2802 § 1, 2011; Ordinance 2252 § 1 (part), 1993).

#### **SECTION 8.74.020: Definitions**

The following words and phrases shall have the meanings as set forth herein.

- (1) "Admission charge" means a tangible benefit, monetary or otherwise, that is expressly or impliedly required as condition of admittance to a party. Customary courtesies, and noncommercial activities such as gifts by guests, voluntary sharing of expenses for meals shall not be considered to be an admission charge.
  - (a) "Admission charge" shall not include donations for political, community service, charitable, or religious purposes.
- (2) "Party" means twelve (12) or more persons meeting together for social, recreational, or amusement purposes.
- (3) "Residential zone" means any district of the city classified as a residential zoning district by Title 9 of the Municipal Code.  
(Ordinance 2802 § 1, 2011; Ordinance 2252 § 1 (part), 1993).

## **CHAPTER 76: TRESPASSING ON SCHOOL GROUNDS**

### **SECTION 8.76.010: Trespassing on School Grounds**

- (A) No person shall enter posted school grounds during school hours without first obtaining permission from the administrative office of the school or school district, except for the following persons:
- (1) Students currently enrolled at that school.
  - (2) Teachers, staff members and other employees of the school district.
  - (3) Service providers and vendors doing business with the school, including counselors.
  - (4) Volunteers approved by the school.
  - (5) Parents of students currently enrolled.
  - (6) Law enforcement and other governmental employees and representatives having business at the school.
  - (7) Attendees at school events that are open to the public, while those events are open and only in the area open for the event.
- (B) For purposes of this Section, "school hours" shall be defined to extend from one hour before classes begin to one hour after classes end, and those hours shall be posted.  
(Ordinance 2802 § 1, 2011; Ordinance 2288 § 1, 1994).

## **CHAPTER 78: PROHIBITION OF OCCUPANTS OF MOTOR VEHICLES WITHIN THE PUBLIC RIGHT-OF-WAY**

### **SECTION 8.78.010: Generally**

- (A) **PURPOSE AND FINDINGS.** The purpose of this Chapter is to promote public traffic safety by prohibiting the solicitation of occupants of motor vehicles in the public right-of-way. The City finds and determines as follows:
- (1) The activity of soliciting employment, business, or contributions by or from occupants of motor vehicles distracts drivers from their primary duty to watch traffic and potential hazards, observe traffic controls, and prepare to move through city streets.
  - (2) Distracted drivers are more prone to have automobile accidents. Such accidents further impede the orderly flow of traffic and pose risks to persons engaged in the act of solicitation.
- (B) **PROHIBITION OF SOLICITATION IN PUBLIC RIGHT-OF-WAY STREETS AND MEDIANS.** It is unlawful for any person, while standing in any portion of the public right-of-way, including, but not limited to, public streets, medians, highways, sidewalks, and driveways to solicit, or attempt to solicit, employment, business, or contributions of money or other property from any person traveling in a vehicle along a public right-of-way, including, but not limited to, public streets, highways, or driveways.
- (C) **DEFINITIONS.** As used in this Chapter, the following words shall have the following meanings:
- (1) "Employment" means and includes services, industry, or labor performed by a person for wages or other compensation, or under any contract of hire; written, oral, express, or implied.
  - (2) "Solicit" means and includes any request, offer, enticement, or action that announces the availability for, or of employment, the sale of goods, services, or other request for funds; or any request, offer, enticement, or action that seeks to purchase or sell goods or employment, or to cause a contribution of money, or other property, to be made. As defined herein, a solicitation shall be deemed complete when made, whether or not an actual employment relationship is created, a transaction is completed, or an exchange of money takes place.
- (D) **VIOLATIONS AND PENALTIES.** Any violation of the provisions of this Chapter may be prosecuted as an infraction or a misdemeanor. (Ordinance 2802 § 1, 2011; Ordinance 2339 § 1, 1995).

## **CHAPTER 80: REGULATION OF FILMING ACTIVITIES**

### **SECTION 8.80.010: Definitions**

- (A) "Charitable or student films" as used in this Chapter means any commercial film produced by a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code as a charitable organization or is an accredited educational institution. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, tapes, or photos.
  - (B) "Commercial films" as used in this Chapter means and includes all activity attendant to filming any entertainment or advertising programs for any media now known or hereafter created.
  - (C) "Filming" as used in this Chapter means and includes all activity attendant to staging or shooting motion pictures, television shows or programs, commercial photographs, videotapes, computer- based programs, or other visual reproduction technology now known or hereafter created. The period of filming includes the setup, strike, and time of photography.
  - (D) "News media" as used in this Chapter means filming for purpose of spontaneous, unplanned cable or television news reporting by journalists, reporters, photographers, or camera operators. The news media is not required to have a permit under the "commercial" category.
  - (E) "Private property" as used in this Chapter means any property not owned by the City on which filming would not interfere with public right-of-way, access or safety.
- (Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

### **SECTION 8.80.020: Permit -- Required**

- (A) No person shall use any city street, alley, sidewalk, park, way or other public property owned or controlled by the City for the purpose of making commercial films without first applying for and receiving a permit from the City Manager or his designee provided that the provisions of this Chapter shall not apply to or be construed to affect the news media and filming solely for private-family use.
- (B) No person shall use any private property for the purpose of making commercial films without first applying for and receiving a permit from the City Manager or his designee provided that the provisions of this Chapter shall not apply to or be construed to affect:
  - (1) Filming that does not require any parking variances or impact any public property or rights-of-way on public property.
  - (2) Filming that does not negatively impact the quiet of the surrounding properties.



- (3) Filming that does not involve the use of any pyrotechnic device as defined in California Health and Safety Code Section 12526.
  - (4) A licensed business or that regularly employs a licensed pyrotechnic operator as defined in Title 19 of the California Code of Regulations, Section 981.5.
  - (5) Filming by news media.
  - (6) Filming solely for private-family use.
- (Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

**SECTION 8.80.030: Permit Application and Review**

- (A) An application for filming activity under this Chapter must be completed and filed at least three (3) days prior to the first day of proposed filming.
- (B) Each such application must include:
  - (1) The name of the owner, the address, and telephone number of the place at which the activity is to be conducted.
  - (2) The specific location at such address or place.
  - (3) The inclusive hours and dates such activity will transpire.
  - (4) A general statement of the character or nature of the proposed filming activity.
  - (5) The name, address, and telephone number of the person or persons in charge of such filming activity.
  - (6) The number of personnel to be involved.
  - (7) Use of any animals or pyrotechnics.
  - (8) A list of large equipment to be used, including but not limited to trucks, buses, limousines, and cameras.
  - (9) Such additional information as the City Manager or his designee may reasonably require.
- (C) The permit application shall be in a form the City Manager or his designee may reasonably require. In addition to the foregoing, the permit application may, in the interest of time, be on the permit application form adopted and in use by the Orange County Film Commission.

- (D) The City Manager or his designee may refer the application to such appropriate City departments as are directly impacted by the activity and as he deems necessary from the nature of the application for review, evaluation, investigation, and recommendations by the departments regarding approval or disapproval of the application.
  - (E) The City Manager or his designee shall issue a permit under this Chapter if it is determined that the following criteria have been met:
    - (1) The proposed use will not unreasonably interfere with traffic or pedestrian movement, or tend to interfere with or endanger the public peace or right of nearby occupants to the quiet enjoyment of their property, or otherwise be detrimental to the public peace, health, safety, or general welfare.
    - (2) The proposed use will not unduly impede, obstruct, or interfere with the operation of emergency vehicles or equipment in or through the permit area, or adversely affect the City's ability to perform municipal functions or furnish City services in the vicinity of the permit area.
    - (3) The proposed use will not constitute a fire or safety hazard and all proper safety precautions will be taken as is reasonably necessary to protect the public peace, health, safety, or general welfare.
  - (F) The City Manager or his designee shall deny the permit if the conditions of the Chapter and all applicable laws and regulations have not been met or if the application contains incomplete or false information.
  - (G) The City Manager or his designee may immediately revoke a permit that has been granted, if the conditions of the Chapter and all applicable laws and regulations are no longer being met, if the information supplied by the applicant becomes false or incomplete, or if any substantial change in circumstances results in the proposed use becoming detrimental to the public peace, health, safety, or general welfare.
- (Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

#### **SECTION 8.80.040: Permit Application, Location and Expense Fees**

- (A) An application fee of two hundred fifty dollars (\$250) shall be required for formal processing of commercial film applications made under this Chapter. Payment may be made in person, by check, or by credit card if the City currently has the ability to process credit card payments.

- (B) No application fee shall be required of charitable or student films, the media, or for filming conducted on behalf of the City or any City departments or divisions.
- (C) No separate business license fee shall be charged for any applicant whose sole business is commercial filming under this Chapter.
- (D) Each permittee filming under this Chapter shall pay a location fee of two hundred fifty dollars (\$250) for the daily use of any public property for commercial filming. Preparation and strike days shall be charged at fifty percent (50%) of the daily use rate.
- (E) Each permittee filming under this Chapter shall reimburse the City for all costs incurred by City, the amount of which shall be determined by the City Manager or his designee for city personnel, space, facility, or equipment provided to the applicant for the purpose of assisting or providing security or protection to the applicant for activities conducted under the permit.

(Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

#### **SECTION 8.80.050: Rules and Regulations**

- (A) In addition to the requirements of this Chapter and all other applicable laws, rules and regulations, the City Manager or his designee shall condition the permit on such terms and conditions regarding the time, place, and manner of utilizing the City streets or other public property as deemed appropriate under the circumstances.
- (B) RULES. The City Manager or his designee is authorized and directed to promulgate rules and regulations, subject to approval by City Council Resolution governing the form, time, and location of any film activity set forth within the city. He shall also provide for the issuance of permits. The rules and regulations shall be based upon the following criteria:
  - (1) The health and safety of all persons.
  - (2) Avoidance of undue disruption of all persons within the affected area.
  - (3) The safety of property within the city.
  - (4) Traffic congestion at particular locations within the city.
- (C) Upon twenty-four (24) hours notice by the applicant, the City Manager or his designee shall have the power, upon a showing of good cause, to change the date for which the permit has been issued; provided established limitations are complied with in respect to time and location.

(Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

**SECTION 8.80.060: Requirements for Granting Application**

- (A) Prior to the granting of the application, each applicant shall agree to indemnify, defend, and hold the City, its authorized agents, officers, representatives, and employees harmless from and against any and all costs, liabilities, penalties, or other expenses including defense costs and legal fees, resulting from any and all claims or damage of any nature, including any accident, loss, or damage to persons or property.
- (B) Each applicant must comply with all City, state, and federal laws, regulations, and ordinances, and must obtain all necessary permits and licenses as a precondition for the commencement of commercial film production hereunder. Thereafter, the permittee shall remain in full compliance with such City, state, and federal laws, regulations, ordinances, permits, and licenses throughout the filming.  
(Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

**SECTION 8.80.070: General Permit Conditions**

Any applicant granted a permit pursuant to this Chapter shall comply with all of the following conditions:

- (1) An applicant will be required to submit a permit request at least three (3) working days prior to the date on which such person desires to conduct an activity for which a permit is required. If such activity interferes with traffic or involves potential public safety hazards, an application may be required at least five (5) working days in advance.
- (2) The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of filming at the scene and restored to the original condition before leaving the site.
- (3) An applicant is required to obtain the property owners' permission, consent, and/or lease for use of property not owned or controlled by the City.
- (4) If the applicant must park equipment, trucks, and/or cars in zones that will not permit it, temporary "No Parking" signs must be posted by the City. The applicant must also obtain permission to string cable across sidewalks, or from a generator to a service point.
- (5) For filming that would impair traffic flow, an applicant must use law enforcement personnel designated by the City Manager or his designee that may include the County Sheriff, California Highway Patrol, or city law enforcement personnel; and comply with all traffic-control requirements deemed necessary by the City.

- (a) An applicant shall furnish and install advance warning signs and any other traffic-control devices in conformance with the Manual of Traffic Controls, State of California, Department of Transportation. All appropriate safety precautions must be taken.
  - (b) Traffic may be restricted to one twelve (12) foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the City based on location.
  - (c) Traffic shall not be detoured across a double line without prior approval of the appropriate City representative.
  - (d) Unless authorized by the City, camera cars must be driven in the direction of traffic and must observe all traffic laws.
  - (e) Any emergency roadwork or construction by City crews and/or private contractors, under permit or contract to the appropriate City department, shall have priority over filming activities.
- (6) When parking in a parking lot, an applicant may be billed according to the current rate schedule established by the City. In order to assure the safety of citizens in the surrounding community, access roads to other areas, which serve as emergency service roads, must never be blocked. No relocation, alteration, or moving of City-owned structures or property will be permitted without prior approval.
- (7) The permittee shall be liable for any damage suffered by the City resulting from the granting or use of this permit and, at the election of the City, shall repair the damage or reimburse the City for all expenses related to such damage.
- (Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

#### **SECTION 8.80.080: Insurance**

- (A) As a condition of issuance of a permit under this Chapter, every permittee must procure and maintain in full force and effect during the term of the permit a policy of insurance from an insurance company licensed to do business in California, which policy names the City, its officers, employees, and agents as additional insureds and that provides sufficient coverage that the City Manager or his designee determines to be necessary and adequate under the circumstances. Proof of insurance shall be submitted to the City in advance of the issuance of the permit. The City Manager or his designee may waive the requirement of insurance if the City Manager or his designee determines that the

intended use does not present any significant exposure to liability for the City, its officers, employees, and agents, or to public property damage.

- (B) An applicant/permittee shall conform to all applicable federal and state requirements for Workers Compensation Insurance for all persons operating under a permit.
- (C) FAITHFUL PERFORMANCE BOND. To ensure clean-up and restoration of the site, an applicant may be required to post a refundable faithful performance bond in an amount to be determined by the City Manager or his designee at the time application is submitted. Upon completion of filming and inspection of the site by the City, the bond may be returned to the applicant.

(Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

#### **SECTION 8.80.090: Notification and Appeals**

- (A) The City Manager or his designee shall act upon the application in a timely fashion and shall approve or disapprove the application in a period of not greater than five (5) days following the filing of the application provided all necessary documentation and criteria accompany the application. The applicant shall be immediately notified of the action of approval, denial, or revocation of the permit application or permit issued under this Chapter.
  - (1) The notice of denial or revocation shall state the reasons for such action and the appropriate remedy or cure, if applicable.
  - (2) The notification shall be deemed satisfied when the notice is sent by email, facsimile or telecopier machine or any other telecommunication method to the telephone number listed on the application, or if no number is listed, when notice is placed, postage prepaid in the United States mail addressed to the applicant at the address shown on the permit application.
- (B) An applicant or permittee aggrieved by the City Manager or his designee under this Chapter shall have the right to appeal to the City Council. The appeal shall be taken within five (5) days after notice has been received by the applicant or permittee. The City Council shall act upon the appeal within fourteen (14) days of the filing of the appeal.

(Ordinance 2802 § 1, 2011; Ordinance 2384 § 1 (part), 1997).

### **CHAPTER 82: REGULATION OF CYBERCAFES**

#### **SECTION 8.82.010: Definitions**

The following words and phrases shall have the meaning set forth in this Section:

- (1) "CyberCafe" means an establishment that provides four (4) or more computers and/or other electronic devices, for access to that system commonly referred to as the "internet," E-mail, playing video games over the Internet, and/or access to other computer software programs, to the public for compensation and/or for public access. CyberCafe is also synonymous with PC Cafe, Internet Cafe, and Cyber Centers.

(Ordinance 2802 § 1, 2011; Ordinance 2591 § 2 (part), 2002).

#### **SECTION 8.82.020: General Regulations**

- (A) CURFEW FOR MINORS. Minors may not enter or remain in a CyberCafe establishment on any day after ten (10:00) p.m.; or between the hours of eight (8:00) a.m. and three (3:00) p.m. during those weekdays when the public school system within the City jurisdiction is open and classes are being conducted.

- (1) CyberCafe owners shall post a notice at the entrance of the business in lettering of at least two (2) inches in size advising patrons of the time restrictions applying to minors.
- (2) This time restriction shall not apply when a minor is accompanied by a parent or guardian (with the guardian being able to authenticate guardianship).

- (B) HOURS OF OPERATION. The hours of operation shall be limited to seven (7:00) a.m. to one (1:00) a.m. daily; excepting Friday and Saturday nights wherein hours of operation shall be limited to seven (7:00) a.m. to two (2:00) a.m.

- (C) EMPLOYEES/SECURITY GUARDS.

- (1) EMPLOYEES. There shall be a minimum of one (1) employee over the age of eighteen (18) years on the premises during all hours of operation. There shall be an additional employee over the age of eighteen (18) years on the premises if the business has more than thirty (30) computers; however, this requirement shall not apply during the school hours of eight (8:00) a.m. through three (3:00) p.m. described in Subsection (A) above.
- (2) SECURITY GUARD. There shall be a California licensed, uniform security guard on the business premises at all times between the hours of eight (8:00) p.m. through two (2:00) a.m. Friday and Saturday nights. The presence of the security guard may be counted as satisfying the second employee requirement described in (C)(1) above, except that an owner may not act under any circumstances as a security guard to satisfy the security guard requirements of this Subsection.

- (D) OCCUPANCY. Occupancy shall not exceed that required under the Uniform Building Code and Uniform Fire Code, and the maximum occupancy load shall be posted at the main entrance.
- (E) ADULT ENTERTAINMENT USES. Adult entertainment uses as defined in Municipal Code Section 9.04.060 are prohibited unless specifically authorized under the zoning requirements for such uses pursuant to Municipal Code Section 9.16.020.070.
- (F) FIRE EXIT PLAN. The owner shall submit and receive approval of an exit plan from the City's Fire Department. The plan shall address all exiting requirements of the Uniform Building Code and Fire Code. This includes, but is not limited to, providing an existing plan showing equipment location, aisle locations and dimensional widths, and having approved exit doors and panic hardware.
- (G) LIGHTING AND VISIBILITY.
  - (1) Interior lighting shall be maintained at a minimum of thirty (30) footcandles of light.
  - (2) Window areas shall not be covered or made opaque in any way, excepting during daylight hours when blinds or other equivalent window coverings may be used.
- (H) CAMERA/VIDEO SURVEILLANCE SYSTEM. There shall be a camera/video surveillance system capable of delineating on playback of the system the activity and physical features of persons or areas within the premises. The system shall cover all entrances and exit points and all interior spaces, excepting bathroom and private office areas. The system shall be subject to inspection by the City during business hours any day of the week. The system shall be maintained in good working order, including the recording of the videotape, at all times. The videotape shall be maintained for a minimum period of seventy-two (72) hours.
- (I) POOL TABLES/AMUSEMENT DEVICES. Pool tables or other amusement devices not directly related to Internet computer devices are prohibited. (Ordinance 2802 § 1, 2011; Ordinance 2591 § 2 (part), 2002).

#### **SECTION 8.82.030: Regulations as Applied to Issuance of Use Permits**

In the event that existing or future CyberCafe businesses apply for and receive a use permit for the operation of a CyberCafe, it is intended that the use permit shall contain specific land use conditions, including but not limited to, lighting and security tailored to the operation of the business. In the event that a use permit has been issued for a CyberCafe and the use permit conditions differ from the regulations established under Chapter 8.82 or are



in addition thereto, then the use permit conditions shall govern and supercede over Chapter 8.82 regulations.  
(Ordinance 2802 § 1, 2011; Ordinance 2591 § 2 (part), 2002).

#### **SECTION 8.82.040: Exception**

This Chapter shall not apply to any nonprofit social service agency funded fifty percent (50%) or more by the state, county, or federal governments, or a combination thereof, that operates a CyberCafe of less than ten (10) computers, on the site of the agency and incidental to the principal functions of the agency. However, the exception contained in this Section shall not be applicable if the Police Chief determines, on the basis of one or more incidents at the agency, that the implementation of this Chapter is necessary for the public safety.

(Ordinance 2802 § 1, 2011; Ordinance 2591 § 2 (part), 2002).

### **CHAPTER 84: REGISTRATION AND MAINTENANCE OF ABANDONED PROPERTIES**

#### **SECTION 8.84.010: Purpose**

It is the purpose and intent of the Garden Grove City Council, through the adoption of this Chapter, to establish an abandoned real property registration program as a mechanism (1) to protect the community from becoming blighted through the lack of adequate maintenance and security of abandoned and vacated properties; and (2) to help eliminate the danger to persons and property created by vacant properties that are not properly secured and maintained.

(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

#### **SECTION 8.84.020: Definitions**

For the purposes of this Chapter, certain words and phrases used in this Chapter are defined as follows:

- (1) "Abandoned" means a property that is vacant and 1) is under a current notice of default and/ or notice of trustee's sale; 2) is the subject of a pending tax assessor's lien sale; 3) has been the subject of a foreclosure sale where the title was retained by the beneficiary of a deed of trust involved in the foreclosure; or 4) has been transferred under a deed in lieu of foreclosure/sale.
- (2) "Accessible" means a property that is accessible through a compromised/ breached gate, fence, wall, or similar condition or a structure/building that is unsecured and/or breached in such a way as to allow access to the interior space by unauthorized persons.
- (3) "Beneficiary" means a lender or holder of a note secured by a deed of trust.

- (4) "Beneficiary/Trustee" means both the beneficiary and the trustee. When any act is required of the beneficiary/trustee by this Chapter, both are responsible for performing such act and may be charged with a violation of this Code for failure to act. However, it is sufficient if it is accomplished by either one. If information is required to be provided, then both must provide such information.
- (5) "Days" means consecutive calendar days.
- (6) "Deed of Trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan and often used in California instead of a mortgage. This definition applies to any and all subsequent deeds of trust, i.e., second trust deed or third trust deed.
- (7) "Deed in lieu of foreclosure/sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.
- (8) "Default" means the failure to fulfill a contractual obligation, monetary, or conditional.
- (9) "Evidence of vacancy" means any condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant and not occupied by authorized persons. Such conditions include, but are not limited to, overgrown and/or dead vegetation; accumulation of newspapers, circulars, flyers and/or mail; past due utility notices and/or disconnected utilities, accumulation of trash, junk, and/or debris; the absence of window coverings such as curtains, blinds, and/or shutters; the absence of furnishings and/or personal items consistent with residential habitation; and statements by neighbors, passersby, delivery agents, or government employees that the property is vacant.
- (10) "Foreclosure" means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the trustor (borrower) defaults.
- (11) "Local" means within forty (40) road/driving miles distance of the subject property.
- (12) "Neighborhood standard" means those conditions that are present on a simple majority of properties within a three hundred (300) foot radius of an individual property. A property that is the subject of a neighborhood standard comparison, or any other abandoned property within the three hundred (300) foot radius, shall not be counted toward the simple majority.

- (13) "Notice of Default" means a recorded notice that a default has occurred under a deed of trust and that the beneficiary intends to proceed with a trustee's sale.
- (14) "Out of area" means in excess of forty (40) road/driving miles distance of the subject property.
- (15) "Property" means any unimproved or improved real property, or portion thereof, situated in the city, and includes the buildings or structures located on the property regardless of condition.
- (16) "Responsible person" means any person, partnership, association, corporation, or fiduciary having legal or equitable title to or any interest in any real property, including, but not limited to, trustees and beneficiaries of a deed of trust on the property and any other lien holder on the property.
- (17) "Securing" or "Secure" means such measures as may be directed by the Police Chief or his designee, or the City Manager or his designee that assist in rendering the property inaccessible to unauthorized persons, including, but not limited to, the repairing of fences and walls, chaining/padlocking of gates and the repair, replacement or boarding of doors, windows, and/or other openings. Boarding shall be completed to a minimum of the current HUD securing standards at the time the boarding is completed or required.
- (18) "Trustee" means the person, partnership, firm, corporation, or other entity holding a deed of trust on a property.
- (19) "Trustor" means a borrower under a deed of trust, who deeds property to a trustee as security for the payment of a debt.
- (20) "Vacant" means a building/structure that is not occupied by authorized persons.
- (Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

#### **SECTION 8.84.030: Registration**

- (A) Any beneficiary/trustee who holds a deed of trust on a property located within the city shall perform an inspection of the property that is the security for the deed of trust, upon default by the trustor, prior to recording a notice of default with the Orange County Recorder's Office. This inspection shall be to determine whether the property is vacant. If the property is found to be vacant or shows evidence of vacancy, it is, by this Chapter, deemed abandoned and the beneficiary/ trustee shall, within ten (10) days of the inspection, register the property with the Police Chief or his designee on forms provided by the City.

- (B) Any beneficiary/trustee, who holds a deed of trust on a property located within the city, and which property on the effective date of this Chapter 1) under a current notice of default; 2) under a current notice of trustee's sale; 3) the subject of a pending tax assessor's lien sale; 4) has been, within eighteen (18) months preceding the effective date of this Ordinance, the subject of a foreclosure where the title was retained by the beneficiary of the deed of trust involved in the foreclosure; or 5) was, within eighteen (18) months preceding the effective date of this Ordinance, transferred under a deed in lieu of foreclosure/sale, shall, on or before twenty (20) days following the effective date of this Chapter, perform an inspection of the property that is the security for the deed of trust to determine whether the property is vacant. If the property is found to be vacant or shows evidence of vacancy, it is, by this Chapter, deemed abandoned, and the beneficiary/trustee shall, within ten (10) days of the inspection, register the property with the Police Chief or his designee on forms provided by the City.
- (C) If the property is occupied, but remains in default, it shall be inspected by the beneficiary/ trustee, or an agent/designee of the beneficiary/trustee, monthly to determine whether the property is vacant until 1) the trustor or other party remedies the default; or 2) the foreclosure is completed and ownership is transferred to a new owner who is not the former beneficiary or trustee; or 3) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the beneficiary/trustee shall, within ten (10) days of that inspection, register the property with the Police Chief or his designee on forms provided by the City.
- (D) The beneficiary/trustee shall also register any property that becomes vacant after a foreclosure sale where the title was transferred to the beneficiary of a deed of trust involved in the foreclosure and any property that becomes vacant after being transferred under a deed in lieu of foreclosure/sale.
- (E) Each registration shall contain the following information for both the beneficiary and trustee: name (corporation or individual); the street/office address (not a post office box) and, if different, the mailing address; a direct contact name (corporation or individual); a direct contact name and phone number for the person handling the deed of trust and/or foreclosure; and, in the case of a corporation or out of area beneficiary or trustee, the local property manager/management company responsible for the security and maintenance of the property.
- (F) The annual registration fee, established by City Council Resolution, shall accompany the registration form. The fee and registration shall be valid for one calendar year following the date on which registration is initially due to the City. Subsequent registrations and fees are required and due

each year thereafter on the anniversary of the due date of the initial registration until such time as the property is transferred or becomes legally occupied.

- (G) Inspections conducted pursuant to this Chapter are intended only for the purposes set forth in this Chapter and not for purposes of triggering disclosure obligations to potential real property purchasers. Such obligations are set forth in and controlled pursuant to state law.
- (H) Persons or entities required to register properties pursuant to this Chapter shall keep such properties registered and all required information updated, and comply with all the security and maintenance requirements of this Chapter for the entire time such properties remain vacant.
- (I) When properties required to be registered become occupied or title is transferred, the prior beneficiary, trustee, responsible person, and/or owner shall notify the Police Chief or his designee in writing within ten (10) days of the occupancy or transfer.
- (J) Any person, partnership, firm, corporation, or other entity required to register a property pursuant to this Chapter shall report any change of information contained in the registration within ten (10) days of the change.

(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

#### **SECTION 8.84.040: Maintenance Requirements**

Responsible persons, including beneficiaries/trustees, shall maintain properties subject to registration pursuant to this Chapter as required by Chapter 9.24 and any other applicable provisions of federal, state, or local law, and shall keep such properties free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspapers, circulars, flyers, notices (except those required by federal, state, or local law), discarded personal items including, but not limited to, furniture, clothing, large and small appliances, or printed material, and shall take any other action necessary to prevent giving the appearance that the property is abandoned, including, but not limited to, the following:

- (1) The property shall be kept free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior of the structure.
- (2) Visible front and side yards shall be landscaped and maintained in accordance with City requirements and neighborhood standards.
- (3) Permitted landscaping includes, but is not limited to, grass, ground covers, bushes, shrubs, hedges, or similar plantings designed for residential installation.

- (4) Permitted landscaping does not include weeds, gravel, broken concrete, asphalt, decomposed granite, plastic sheeting, indoor-outdoor carpet, or any similar material.
  - (5) Required maintenance includes, but is not limited to, regular watering, irrigation, cutting, pruning, and mowing of required landscape and removal of all trimmings.
  - (6) Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris, or drained and kept dry. In either case properties with pools and/ or spas must comply with the minimum security fencing requirements of the State of California.
- (Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

#### **SECTION 8.84.050: Security Requirements**

Responsible persons, including beneficiaries/trustees, shall secure properties subject to registration pursuant to this Chapter in a manner to prevent access by unauthorized persons, including, but not limited to, the following: the closure and locking of windows, doors (walk-through, sliding and garage), gates, and any other opening of such size that it may allow a child or any other person to access the interior of the property and or structure(s). In the case of broken windows, securing means the re-glazing or boarding of the window. No windows shall remain boarded for longer than thirty (30) days. Prior to the expiration of thirty (30) days, the boarded windows shall be replaced. Responsible persons shall further do the following:

- (1) If the responsible person is a corporation and/or out of area beneficiary/ trustee/ owner, that responsible person shall retain a local property manager to perform weekly inspections to verify that the requirements of this Chapter, and any other applicable laws, are being met.
- (2) The property shall be posted with name and twenty-four (24) hour contact phone number of the local property manager. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches, and shall be of a font that is legible from a distance of forty-five (45) feet, and shall contain, along with the name and a twenty-four (24) hour contact number, the words "THIS PROPERTY MANAGED BY [insert name] " and "TO REPORT PROBLEMS OR CONCERNS CALL [insert local telephone number]." The posting shall be placed on the interior of a window facing the street to the front of the property so it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so it is visible from the street, or, if no such area exists, on a stake of sufficient size to support the posting in a location that is visible from the street to the front of the property but not readily accessible to vandals.

Exterior posting must be constructed of, and printed with, weather resistant materials.

- (3) The responsible persons or the local property manager shall inspect the property on a weekly basis to determine if the property is in compliance with the requirements of this Chapter.  
(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

**SECTION 8.84.060: Additional Authority**

In addition to the enforcement remedies established in Chapter 9.32, the Police Chief or his designee or the City Manager, or his designee, shall have the authority to require any responsible person of any abandoned property affected by this Chapter to implement additional maintenance and/or security measures, including, but not limited to, securing any/all doors, windows or other openings, installing additional security lighting, increasing on-site inspection frequency, employment of an on-site security guard, disconnecting utilities and removing meter boxes, or any other measures as may be reasonably calculated to arrest the decline of the property, prevent unauthorized entry, and/or ensure maintenance of the property in accordance with this Code.  
(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

**SECTION 8.84.070: Fees**

The fee for registering and re-registering an abandoned property shall be set, from time to time, by City Council Resolution.  
(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

**SECTION 8.84.080: Enforcement**

Violations of this Chapter constitute a public nuisance, and may be enforced in any combination as allowed in Title 9, Chapter 32, Section 210, and/or any other provision of this Code or applicable law.  
(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).

**SECTION 8.84.090: Violation/Penalty**

- (A) Violations of this Chapter shall be treated as a strict liability offense regardless of intent. Any person, partnership, association, firm, corporation, fiduciary, or other entity that violates any provision or requirement of this Chapter shall be guilty of a misdemeanor and subject to prosecution pursuant to Title 1, Chapter 4, subject to enforcement pursuant to Title 9, Chapter 32, Section 210, and/or subject to enforcement pursuant to any other provision of this Code or applicable law, as appropriate. Violators of this Chapter may be issued Administrative Citations and be liable for Administrative Fines in accordance with Title 1, Chapter 22. It shall constitute a new and separate offense for each and every day during any portion of which a violation of, or failure to comply with, any provision or requirement of

this Chapter is committed, continued, or permitted by any person, partnership, association, firm corporation, fiduciary, or other entity.

- (B) Pursuant to Government Code Section 38773.7, upon entry of a second or subsequent civil or criminal judgment within a two (2) year period for abatement of a public nuisance, the court may order the owner to pay treble the costs of abatement.
- (C) Pursuant to California Government Code Sections 38773 and 38773.5, all expenses incurred by the City in connection with any action to abate a public nuisance shall be charged to, and become an indebtedness to, the owner of such structure or premises and the City may place a lien or special assessment upon the affected property, as provided in Section 9.32.180 of this Code. Any attorney's fees expended in any action to abate a public nuisance may be recovered by the prevailing party in actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorney's fees.

(Ordinance 2802 § 1, 2011; Ordinance 2737 § 1 (part), 2008).