

ORDINANCE NO. 2573

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE APPROVING AMENDMENT NO. A-219-02, FOR THE PURPOSE OF ADDING CHAPTER 8.82 TO, AMENDING SECTIONS 9.04.060 AND SECTION 9.08.030 OF, AND ADDING SECTION 12.5 TO SECTION 9.08.050 OF, THE GARDEN GROVE MUNICIPAL CODE RELATING TO THE REGULATION OF CYBERCAFES AND PERMITTING CYBERCAFES SUBJECT TO A CONDITIONAL USE PERMIT IN THE C-1, C-2, AND C-3 ZONES

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

WHEREAS, on January 22, 2002, the City Council adopted an interim ordinance (Ordinance No. 2556) prohibiting the establishment of new CyberCafes within the city and established time, place, and manner restrictions on the operation of existing CyberCafes. This interim ordinance was extended on February 2, 2002, by the enactment of Urgency Ordinance No. 2566. The enactment of these interim ordinances was based upon findings by the City Council that a significant number of crime and gang related activities were occurring in and about certain businesses commonly known as "CyberCafes" in the City of Garden Grove. There are an unusually large number of such establishments (twenty-one in number) in this city compared to other Orange County cities. The crime activity is documented in a police report dated December 31, 2001. Since the enactment of the interim ordinances, another murder, involving a 14-year-old minor, and other felonious and misdemeanor crimes, having direct connection to the operation of these businesses in the community, have occurred in recent months. The incidents are documented in a police department report dated June 18, 2002.

Since January 22, 2002, the City has studied the effects of CyberCafes on the public health, safety, and general welfare of the city and the City has formulated reasonable and necessary regulations to be applied to existing and future CyberCafes in the city; and

WHEREAS, the City Council additionally finds that CyberCafes have been continuously and systematically visited by gang members, thereby necessitating the enactment of reasonable time, place, and manner regulations; and

WHEREAS, the City Council further finds that it would promote the public health and safety by requiring that existing CyberCafes apply for use permits within one year from date of this ordinance; and

WHEREAS, the enactment of this ordinance is based upon the City's exercise of its police power pursuant to Article XI, Section 7 of the California Constitution; and

WHEREAS, the Planning Commission has determined that the project will not have a significant adverse effect on the environment and thereby adopted a Negative Declaration pursuant to the California Environmental Quality Act, and further found a de minimus impact in relation to fish and game; and

WHEREAS, pursuant to Resolution No. 5280 the Planning Commission, at a public hearing recommended approval of Amendment No. A-219-02 on May 2, 2002; and

WHEREAS, pursuant to legal notice, a public hearing was held by the City Council on May 28, 2002, and all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council gave due and careful consideration to the matter.

NOW, THEREFORE, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. REZONING AMENDMENT. Amendment No. A-219-02 is hereby approved.

Section 2. CODE AMENDMENT. Chapter 8.82 is added to the Garden Grove Municipal Code to read:

"Chapter 8.82
Regulation of CyberCafes

Sections:

8.82.010	Definitions
8.82.020	General Regulations
8.82.030	Appeals

8.82.010 Definitions. The following words and phrases shall have the meaning set forth in this section:

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 Café, Internet Café, and Cyber Centers.

8.82.020 General Regulations. Every person who owns, conducts, operates, or manages a CyberCafe in the City shall comply with the following minimum regulations:

1. Curfew for Minors. Minors may not enter or remain in a CyberCafe establishment on any day of the week between 8 a.m. and 3 p.m., or after 8 p.m. Notice of the above-stated prohibition relating to the presence of minors shall be posted by the owner/operator at the entrance in lettering of at least two (2) inches in size. This prohibition shall not apply when a minor is accompanied by a parent or guardian (with the guardian being able to authenticate guardianship), or between 8 a.m. and 3 p.m. during school vacation days and school holidays as established by the Garden Grove Unified School District.

Every customer shall have in his or her possession at all times within the business premises a valid form of identification that includes the customer's date of birth, issued by a governmental agency or an educational institution including a state drivers license, state identification card, school identification card, or any government issued identification card.

2. No Loitering. "No loitering" signs shall be posted at the front and rear of the business. In addition, a waiting area with not less than eight seats shall be provided for customers waiting to use a computer. No outside waiting or seating area is permitted.
3. Boisterous Conduct. No person shall continually indulge in boisterous conduct or continually use profanity, or otherwise conduct himself/herself in a vulgar or indecent manner, which disrupts or interferes with the ability of other customers to enjoy or use the CyberCafe's facilities or services.
4. Intoxication. No intoxicated person(s) shall be permitted to remain in the CyberCafe, nor shall there be the consumption of alcohol on the premises.
5. Hours of Operation. The hours of business operation shall be limited to 7 a.m. to 10 p.m., Sunday through Thursdays, and 7 a.m. through 12 a.m., Fridays and Saturdays. There shall be no customers in or about the premises between the hours of midnight and 7 a.m., any day of the week.
6. Employees. There shall be a minimum of two employees on the premises during all hours of operation, one of whom must be at least 21 years of age. If the business has more than 30 computers, the business is required to add one employee for every additional 30 computers, and for every 30 computers thereafter.
7. 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.
8. 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 in and about the premises, the property directly adjacent to the entry and exist doors and all interior spaces. 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 running of the videotape, at all times. The videotape shall be maintained for a minimum period of 72 hours.

A sign shall be posted inside and at the entrances to the establishment indicating that the premises are under camera/video surveillance.

9. Fire Exit Plan. The owner shall submit and receive approval of a fire exit plan from the City's Fire Department. The plan shall address all exiting requirements of the Uniform Building Code and Fire Codes. This includes, but is not limited to, providing an existing plan showing equipment location, aisle locations and dimensioned widths, and having approved exit doors and panic hardware.
10. Adult Uses. Adult uses or activities are prohibited unless specifically approved pursuant to the requirements of Municipal Code Section 9.08.070.
11. Lighting and Visibility. (a) All windows and entrances to and into the business shall be left open, clear and unobstructed, so as to allow an unimpaired line of sight by a peace officer into the interior of the business during business hours, unless some other arrangement approved by the Chief of Police.

(b) Interior lighting shall be at the same intensity level as lighting maintained in a normal workplace environment.
12. Security Guards. There shall be a California licensed, uniformed security guard on the business premises at all times seven (7) days a week between the hours of 6 p.m. until the business closing time.

(b) The Chief of Police is authorized to require a specific owner/operator to provide a security guard(s) on the premises at other hours of the day in the event that there are significant calls for service relating to assaults, gang related activity, weapons, offenses, disturbances, and juvenile related crime, including truancy, or other good cause. Any decision of the Chief of Police under this subsection may be appealed to the City Council within five (5) working days following the Chief's decision.
13. Customer Log. The operator shall maintain a customer log, which shall include the name, address, age, and computer assignment. It shall be the responsibility of the business operator to verify the identity of each customer prior to his/her entrance into the premises a valid form of identification that includes any of the following: identification issued by a governmental agency or an educational institution including a state drivers license, state identification card, school identification card, or any government issued identification card, or any government issued identification card. The customer log shall be maintained for a period of at least 30 days.
14. Pool Tables/Amusement Devices. Pool tables or other amusement devices not directly related to Internet computer devices are prohibited.

Section 3. Definitions. Section 9.04.060 is hereby amended to add CyberCafe as a new term, in alphabetical order, with the following definition: "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 for public access. CyberCafe is also synonymous with PC Café, Internet Café, and Cyber Centers.”

Section 4. Matrix. Land Use Matrix, Section 9.08.030, Table 1, under the Recreation, Amusement, Entertainment classification is hereby amended as follows:

Uses	R-1	R-2	R-3	O-P	C-1	C-2	C-3	M-1	M-P	O-S
Recreation, Amusement, Entertainment										
• Cybercafe	-	-	-	-	C*	C*	C*	-	-	-

Section 5. Use Permit Requirement. Subsection 12.5 is added to Section 9.08.050 of the Garden Grove Municipal Code to read: “The owner/operator of any existing CyberCafe shall apply for a Conditional Use Permit for such CyberCafe by not later than July 31, 2003. Conditional Use Permit processing fees shall be waived.”

Section 6. Effective Date. This ordinance shall take effect thirty (30) days after adoption and shall, within fifteen (15) days of adoption, be published with the names of the Council members voting for and against the same in a newspaper adjudicated and circulated in the City of Garden Grove.


Section 7. Repealer. The interim CyberCafe Ordinances Nos. 2556 and 2566 are hereby repealed upon the effective date of this Ordinance.

Section 8. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases, or portions be declared invalid or unconstitutional.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 9th day of July 2002.

ATTEST:


MAYOR


CITY CLERK

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

I, RUTH E. SMITH, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on June 18, 2002, with a vote as follows:

AYES: COUNCILMEMBERS: (5) DALTON, LEYES, ROSEN, TRAN, BROADWATER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE

and was passed on July 9, 2002, by the following vote:

AYES: COUNCILMEMBERS: (5) DALTON, LEYES, ROSEN, TRAN, BROADWATER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE



CITY CLERK