

ORDINANCE NO. 2969

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING CHAPTER 8.02 OF TITLE 8, OF THE GARDEN GROVE MUNICIPAL CODE, REVISING ITS TITLE AND ADDING SECTION 8.020.020 FOR THE PURPOSE OF RESTRICTING OUTDOOR ADVERTISING OF ALCOHOLIC BEVERAGES NEAR SCHOOLS, PARKS, AND OTHER AREAS FREQUENTED BY CHILDREN

City Attorney Summary

This Ordinance revises the title of Chapter 8.02 of the Garden Grove Municipal Code and adds a new section 8.020.020 to protect children by restricting signage advertising alcoholic beverages visible from schools, playgrounds, libraries, and other areas designated for use by children.

WHEREAS, California Constitution Article XX, section 22 and California Business and Professions Code section 25658 prohibit the "sale, furnishing, or giving" of alcoholic beverages to any person under the age of 21;

WHEREAS, it is well-established under the law that commercial speech that proposes an unlawful transaction, or is misleading or related to unlawful activity is excluded from First Amendment protection and may be freely regulated by the government (*See e.g., Central Hudson Gas & Electric Corp. v. Public Service Commission* (1980) 447 U.S. 557, 566);

WHEREAS, numerous studies including those conducted and reported by the National Institute on Alcohol Abuse and Alcoholism and the U.S. Center for Disease Control and Prevention have shown that greater exposure of children to signage promoting the consumption of alcohol leads to greater incidence of underage drinking and accelerates the onset and frequency of alcohol use among adolescents;

WHEREAS, underage drinking is not only illegal, but also negatively impacts youth and the community overall by contributing to higher levels of accidents and injuries, impaired judgment, interference with brain development, increased risk of interpersonal violence, academic and behavioral problems in school, and higher rates of future illicit drug use and alcoholism;

WHEREAS, the Garden Grove City Council has a substantial government interest in protecting minors from illegal activity; and

WHEREAS, the Garden Grove City Council desires to adopt narrowly tailored laws intended to reduce underage drinking by mitigating risk factors.

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

SECTION 1. The foregoing recitals are true and are hereby incorporated by reference as the City Council's findings and purpose for this ordinance.

SECTION 2. Chapter 8.02 of Title 8 of the Garden Grove Municipal Code is hereby amended to read as follows (deletions in ~~strikethrough~~ and additions in **bold**):

Chapter 8.02

~~PROHIBITION OF COMMERCIAL ADVERTISEMENTS FOR
UNLAWFUL ACTIVITIES AND USES~~

PROHIBITION OF CERTAIN COMMERCIAL ADVERTISEMENTS

§ 8.020.010 Prohibition of Commercial Advertisements for Unlawful Activities and Uses.

No person wishing to engage in any activity or use that is in violation of this code shall print, publish, advertise or disseminate in any way, or cause to be printed, published, advertised or disseminated in any way, any commercial notice or advertisement for any such activity or use that is in violation of this code.

§ 8.020.020 Restricting the Advertising of Alcoholic Beverages to Youth

- A. Advertising Restrictions. It is unlawful for any person, business, or retailer to place or maintain, or cause to be placed or maintained, any advertising of alcoholic beverages on a sign, billboard, or display that is within 500 feet of a school, playground, recreation center or facility, child care center, or library or that is more than 500 feet and the display face and its advertisement are clearly visible from a school, playground, recreation center or facility, child care center, or library. This section excludes advertisements inside licensed premises, on vehicles used for alcohol transport, or in print, broadcast, or digital media and does not apply to any noncommercial message.**
- B. Measure of Distance. The distance between any billboard or sign and any school, playground, recreation center or facility, childcare center, or library shall be measured in a straight line, without regard to intervening structures, from the billboard or sign to the closest property line of the school, playground, recreation center or facility, child care center, or library.**

C. Definitions. As used in this chapter, the terms listed below have the following meaning:

- a. **"Advertising" means printed matter that calls the public's attention to things for sale.**
- b. **"Alcoholic Beverages" means any substance containing one-half of one percent or more alcohol by volume and which is fit for consumption as a beverage either alone or when combined with other substances.**
- c. **"Billboard" means any sign space that is permanently placed on or affixed to the ground, the sidewalk, a pole or post, or a building, and is not appurtenant to the use of the property, a product sold, or the sale or lease of the property on which displayed and which does not identify the place of business as purveyor of the merchandise or services advertised upon the sign. Billboard also means any sign space that is permanently placed on a vehicle that is used primarily for the purpose of displaying outdoor advertising.**
- d. **"Child Care Center" means a public or licensed private child care that has a continuous enrollment of no fewer than twenty-five (25) children and is clearly identified on the outside of the facility as a childcare center;**
- e. **"Library" means any public library operated by the City or County of Orange and clearly identified on the outside of the facility as a library.**
- f. **"Playground" means any outdoor premises or grounds owned or operated by the City that contains any play or athletic equipment used or intended to be used by minors.**
- g. **"Recreation Center or Facility" means any recreation center or facility owned or operated by the City, and clearly identified on the outside of the facility as a City recreation center or facility.**
- h. **"School" means any public or licensed private elementary or secondary school, that is clearly identified on the outside of the facility as a school, attendance at which satisfies the compulsory education laws of the State of California.**

SECTION 3. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof,

