

INTRODUCTION AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER
8.70 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO GUEST REGISTERS
AT PUBLIC LODGING FACILITIES

October 27, 2015

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The proposed Ordinance would update the language in Sections 8.70.030 and 8.70.040 to eliminate the requirement that registers be written in ink and to expressly allow for registers to also be kept in electronic or typewritten form.

GGMC Section 8.70.040 currently requires that hotel/motel guest registers be kept in a conspicuous place and be at all times open to the inspection of any peace officer. Earlier this year, the United States Supreme Court held that a provision in the City of Los Angeles's ordinance requiring hotel operators to provide their guest register to law enforcement upon demand without a warrant or subpoena violates the Fourth Amendment to the United States Constitution because it does not provide an opportunity for pre-compliance review before a judge or other neutral decision maker. The Supreme Court's opinion does not call into question ordinance requirements that hotel operators maintain guest registry information, nor does it prevent police from obtaining access to the records where a hotel operator consents to the search, where the officer has a warrant, or where an exception to the warrant requirement exists.

The language in GGMC Section 8.70.040 providing for police inspection of guest registers is similar to the language in the City of Los Angeles's ordinance that was found unconstitutional by the Supreme Court. Accordingly, the proposed Ordinance would delete this language and replace it with a requirement that guest registers be kept onsite in an accessible area for a period of at least one year. The Police Department will still be able to inspect guest registers when necessary by obtaining a warrant or subpoena or if they are voluntarily provided by the hotel/motel operators.

Finally, the proposed Ordinance would add new provisions to Section 8.70.030 designed to prevent identify theft and credit card fraud. Under these proposed new provisions, hotel/motel operators would be required to obtain a valid form of identification from guests upon check-in and would be required to process debit and credit card payments only through a valid point-of-sale credit card machine, rather than manually entering the card information.

Current technology allows guests to enter this information remotely and thus identity theft and credit card fraud suspects choose this method to perpetuate their criminal activity. Adding this language will help close this fraudulent practice.

FISCAL IMPACT

None.

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RECOMMENDATION

It is recommended that the City Council conduct the first reading of and introduce the attached Ordinance amending Sections 8.70.030 and 8.70.040 of Chapter 8.70 of the Garden Grove Municipal Code to update provisions relating to guest registers required to be kept by public lodging facilities.



TODD ELGIN
Chief of Police



By: Robert D. Fowler
Lieutenant

Attachment: Proposed Ordinance

Recommended for Approval



Scott C. Stiles
City Manager

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING SECTIONS 8.70.030 AND 8.70.040 CHAPTER 8.70 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO GUEST REGISTERS AT PUBLIC LODGING FACILITIES

City Attorney Summary

This Ordinance would amend Sections 8.70.030 and 8.70.040 of Chapter 8.70 of the Garden Grove Municipal Code to update the City's regulations pertaining to the register of guests required to be kept by public lodging facilities in the City and to add new regulations regarding verification of guests' identity and acceptance of payment by credit or debit card in order to prevent fraud. This Ordinance would amend Section 8.70.030 to permit such registers to be maintained in electronic form and would amend Section 8.70.040 to delete existing provisions requiring that such registers be at all times open for inspection by the City pursuant to the recent United States Supreme Court decision in City of Los Angeles v. Patel. This Ordinance would also amend Section 8.70.030 to require verification of each guest's name, address and proof of financial responsibility upon check-in and to prohibit the manual entry of credit or debit card payment information in order to prevent fraud.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: Section 8.70.030 of Chapter 8.70 of Title 8 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold/italics***; deletions shown in ~~strikeout~~):

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 written register or other permanent document in which shall be ~~inscribed with~~ ***entered legibly, either in electronic, ink, or typewritten form,*** the name and home street and town address of each and every ***adult*** 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~~ ***and*** the time when such room ***or area*** is rented. ***An agent of the public lodging facility shall verify each guest's name, address, and proof of financial responsibility for the method of payment used by observing or obtaining a copy of a valid driver's license, passport, or other form of picture identification issued by the***

federal government, the State of California, or another state or U.S. territory and shall enter the number and expiration date of the identification presented in the written register or document. In addition, in order to prevent fraud, where payment is made by credit or debit card, such credit or debit card shall be used in a valid point-of-sale machine collecting all appropriate information, and at no time shall credit or debit card information be manually entered. Until all of such entries shall have been made in such register or document, no such agent ***of a public lodging facility*** shall allow or permit such guest to occupy privately any room or area in such facility."

SECTION 2: Section 8.70.040 of Chapter 8.70 of Title 8 of the Garden Grove Municipal Code is hereby amended as follows (additions shown in ***bold/italics***; deletions shown in ~~strikeout~~):

~~"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 ***onsite and in an accessible area for a period of not less than one (1) year.*** 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."~~

SECTION 3: The City Council finds that the proposed Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Section 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 4: 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, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 5: The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.