

CITY OF GARDEN GROVE
INTER-DEPARTMENT MEMORANDUM

To: Matthew J. Fertal
From: Kevin Raney
Dept: City Manager
Dept: Police Department
Subject: PROPOSED ORDINANCE AMENDING
REGULATIONS PERTAINING TO
COFFEEHOUSES
Date: May 10, 2011

OBJECTIVE

To obtain City Council approval of an ordinance amending Sections 5.70.020 and 5.70.030 of the Garden Grove Municipal Code pertaining to the regulation of coffeehouses.

BACKGROUND

In 1995, the Garden Grove City Council adopted Ordinance No. 2341 establishing regulations applicable to coffeehouses located in the City to address documented increases in crime activity in and around coffeehouses predominately related to gang activity. These regulations were amended in 1997 to address legal issues raised by courts concerning restrictions on the presence of minors in coffeehouses.

DISCUSSION

There are currently thirty seven (37) coffeehouses within the City of Garden Grove. Criminal activity at coffeehouses in the City continues to be a problem. The following is a partial list of incidents the Garden Grove Police Department has responded to or arrests it has made / citations it has issued at coffeehouses since January 1, 2010:

- 3 robberies;
- 4 assault with deadly weapon incidents;
- 7 drug related incidents;
- 28 gambling arrests;
- 39 citations for smoking violations.

In particular, illegal gambling taking place in coffeehouses has become an increasingly serious problem. The Police Department has found that operators of some coffeehouses have been providing and/or allowing the placement of amusement devices designed or rigged for illegal gambling for use by patrons. On March 29, 2011, police conducted a sweep of 20 coffeehouses in the City, arresting 23 people for illegal gambling and seizing 186 amusement devices designed or rigged for illegal gambling purposes and over \$145,000 in cash potentially attributable to illegal gambling.

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The proposed Ordinance would amend the existing coffeehouse regulations to more specifically address the documented illegal gambling and other crime issues taking place at certain coffeehouses in the City. Specifically, the proposed amendments would:

- Clarify that "amusement devices" include those devices and machines designed or rigged for gambling purposes;
- Prohibit all amusement devices in coffeehouses;
- Explicitly prohibit video and audiovisual transmissions on televisions or monitors which promote or provide illegal gambling;
- Prohibit the tinting or covering of coffeehouse windows in such a way as to prevent police officers from seeing in from outside; and
- Explicitly prohibit smoking inside coffeehouses.

Additional amendments to the existing coffeehouse regulations are proposed:

- To address police observations that certain coffeehouses in the City are employing female dancers or waitresses in various states of undress to greet, entertain, and serve coffeehouse patrons;
- To allow limited forms of entertainment consistent with typical, legitimate coffeehouse operations;
- To adjust the permissible opening time from 7:00 a.m. to 5:00 a.m.; and
- To adjust the time until which minors are permitted in coffeehouses in the evening from 8:00 p.m. to 10:00 p.m. to make consistent with the City's curfew regulations in Chapter 8.04 of the Municipal Code.

If adopted, the proposed amendments will assist the Police Department in addressing persistent crime and public safety problems at coffeehouses in the City, without unreasonably restricting the operations of legitimate coffeehouse businesses.

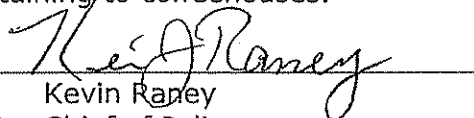
FINANCIAL IMPACT

The proposed Ordinance is not anticipated to have any financial impact.

RECOMMENDATION

It is recommended that the City Council conduct the first reading and introduce the attached ordinance amending the existing Garden Grove Municipal Code regulations pertaining to coffeehouses.

By: _____


Kevin Ramey
Chief of Police

Attachment: Proposed Ordinance
Garden Grove Municipal Code Section 9.16.020.070.B.2

Recommended for Approval



Matthew Fertal
City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE AMENDING SECTIONS 5.70.020 AND 5.70.030 OF AND CHAPTER 70 OF TITLE 5 OF THE GARDEN GROVE MUNICIPAL CODE RELATING TO REGULATION OF COFFEEHOUSES

City Attorney's Summary

This ordinance amends the existing Garden Grove Municipal Code provisions regulating coffeehouses to address illegal gambling, adult entertainment, smoking, and other activities that promote or encourage criminal activity found to be taking place at coffeehouses in the City. This ordinance also amends the existing coffeehouse regulations to permit limited forms of entertainment in coffeehouses, to permit coffeehouses to open as early 5:00 a.m., and to extend the hours in which a minor may be present in a coffeehouse to 10:00 p.m.

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, on October 24, 1995, the Garden Grove City Council adopted Ordinance No. 2341 establishing regulations applicable to coffeehouses located in the City to address documented increases in crime activity in and around coffeehouses predominately related to gang activity; and

WHEREAS, by and through Ordinance No. 2386, adopted on April 28, 1997, the City Council amended the provisions of the coffeehouse regulations pertaining to the presence of minors in coffeehouses at certain times; and

WHEREAS, the Garden Grove Police Department has recently become aware that the operators of coffeehouses are providing and/or allowing the placement of amusement devices designed or rigged for illegal gambling in coffeehouses for use by patrons; and

WHEREAS, on March 29, 2011, police made 23 arrests for illegal gambling in, and seized 186 of such amusement devices designed or rigged for illegal gambling purposes and over \$145,000 in cash potentially attributable to illegal gambling from, coffeehouses located in the City of Garden Grove; and

WHEREAS, the Garden Grove Police Department has also become aware that certain coffeehouses in the City of Garden Grove are employing or utilizing female

dancers or waitresses in various states of undress to greet, entertain, and serve coffeehouse patrons; and

WHEREAS, the City Council wishes to amend the existing regulations pertaining to coffeehouses in order to address persistent documented illegal gambling and other crime and public safety problems at coffeehouses in the City, while not unreasonably restricting the operations of legitimate coffeehouse businesses; and

WHEREAS, the City Council finds and determines that the adoption of the this Ordinance is not subject to the California Environmental Quality Act ("CEQA"; Cal. Pub. Resources Code Section 21000 et seq.) pursuant to Sections 15060(c)(2) and 15061(b)(3) of the State CEQA Guidelines (Cal. Code of Regs., Title 14, Section 15000 et seq.) because it will not result in a direct or reasonably foreseeable indirect physical change in the environment and because it can be seen with certainty that there is no possibility that the adoption of the Ordinance will have a significant effect on the environment.

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

SECTION 1. Code Amendment. Section 5.70.020 of Chapter 70 of Title 5 of the Garden Grove Municipal Code is hereby amended by revising the definitions of "Amusement devices" and "Karaoke" set forth therein to read as follows (new text in bold/underline; deleted text in strikeout):

"Amusement devices" means any arcade game, pinball machine, electronic table top game, billiard or pool table, **or other device or machine that can be used by a person or operator as a game or contest of skill, chance, or amusement,** which is offered **to guests or patrons by or with the permission of the coffeehouse owner or operator** for the purpose of holding the attention of, gaining the attention or interest of, or amusing guests or patrons.

"Karaoke" means a form of entertainment wherein ~~employees and/or~~ patrons sing in accompaniment with live or electronically prepared music with the intent of holding the attention of, or amusing guests or patrons, of the business.

SECTION 2. Code Amendment. Section 5.70.030 of Chapter 70 of Title 5 of the Garden Grove Municipal Code is hereby amended and restated in its entirety to read as follows (new text in bold/underline; deleted text in strikeout):

"5.70.030: Restrictions on the operation of coffeehouses

- a. It is unlawful and a public nuisance for any person owning, managing or controlling a coffeehouse to operate, maintain, carry on or assist in the operation, maintaining or carrying on of a coffeehouse so as to:

1. Permit any minor to enter or remain in a coffeehouse: (i) between normal school hours (that is, nine a.m. to three p.m.) or after eight **ten** p.m. of any day of the week, except that minors may be permitted in the following instances:
 - i. Where the minor is accompanied by a parent or guardian (if the guardian can authenticate guardianship);
 - ii. Where the minor is present on the premises by reason of performing duties in the course and scope of employment.

Notice of the above-stated prohibition shall be posted by the business manager or owner at the entrance in lettering of at least two inches in size.

2. Permit any person to indulge in boisterous conduct or use of profanity, or otherwise conduct himself/herself in a vulgar or indecent manner while such person is present in a coffeehouse;
3. Permit an intoxicated person to enter, be or remain in any coffeehouse;
4. Shut or turn off, or reduce, the intensity of the lighting of the coffeehouse to such a degree to make it difficult or impossible to clearly see or identify individuals inside the business;
5. Permit entertainment, including, but not limited to, Karaoke, to occur at any time on the business premises, **except that live music, other than Karaoke, consisting of no more than one vocalist and/or one amplified instrumentalist may be permitted**; however, this restriction shall not apply to any business owner who desires to provide entertainment in conjunction with a coffeehouse located within the Main Street Retail Overlay (H-R) zone;
6. Permit any transmission, whether video or audiovisual, on a television or monitor which promotes or provides karaoke **or illegal gambling**;
7. Permit **any** ~~more than three~~ amusement devices to be in the business at any time;
8. Operate a coffeehouse between the hours of two a.m. and **five** seven a.m. during any day of the week;
9. Operate a coffeehouse without "No loitering signs" posted at the front and rear of the business;
10. Operate a coffeehouse with alcoholic beverages made available to the business patrons, or otherwise stored on the premises at any time;

11. Maintain or permit any platform or stage on the premises at any time;
12. Permit smoking on the premises in violation of Section 6404.5 of the California Labor Code or any other applicable law;
13. Permit, cause, allow or assist any employee or other person to expose specified anatomical areas to another person. For purposes of this Section, the term "specified anatomical areas" shall have the same meaning as defined in Municipal Code Section 9.16.020.070.B.2.
14. Permit the tinting or placement of any covering or material on or in any windows or glass doors of a coffeehouse, other than lawful window displays authorized pursuant to Title 9, Chapter 20 of this Code, such that the windows or glass portions of the entrances are not left open, clear and unobstructed, so as to allow an unimpaired line of sight by a peace officer into the interior of the business premises during business hours.

- b. It is unlawful for any minor to enter or remain in a coffeehouse after eight ten p.m. of any day of the week, except that a minor may enter or remain in a coffeehouse after eight ten p.m. where:
 - i. The minor is accompanied by a parent or guardian (if the guardian can authenticate guardianship);
 - ii. The minor is present on the premises by reason of performing duties in the course and scope of employment."

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 other section, subsection, subdivision, sentence, clause, phrase, word or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 4. 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.

Garden Grove Municipal Code Section 9.16.020.070.B.2

2. For the purpose of this section, "specified anatomical areas" shall include the following:
 - a. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
 - b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.