<u>Title 9</u> <u>PUBLIC PEACE, MORALS AND WELFARE</u>

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Chapter 9.02 NOISE CONTROL

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9.02.010 Purpose and Intent. The purpose of this Chapter is to regulate the production of noise within the City of Beaumont, especially in residential zones, public parks and noise produced by and from motor vehicles.

The City Council has found and hereby declares:

- A. Loud, annoying, unusual, prolonged noises, or noises unnatural in their time, place and use causes discomfort and annoyance to any reasonable person of normal sensitivity, disturbs the peace and quiet of the City and its residents, and thereby constitutes a detriment to public health and to the general welfare; and
- B. The provisions and prohibitions contained herein are hereby enacted to preserve the peace and quiet of the City and to protect the health and general welfare of its residents. (Ord. No. 914, § 1,7-3-07)

9.02.020 **Definitions.**

"Enforcement Officer" shall mean and include a City Police Officer or a City Code Enforcement Officer authorized to enforce this Chapter pursuant to Section 9.02.080.

"Motor vehicle" shall mean and include, but not be limited to, an automobile, truck, van, bus, motorcycle, mini bike, go-cart or other self-propelled on-or-off road vehicle.

"Person" shall mean an individual, firm, association, partnership, joint venture, corporation or any other such entity.

"Responsible Person" means

- i. Any person who owns, has custody of, or is in charge of the property or motor vehicle from which any noise in violation of this Chapter emanates, or
 - ii. Any person who owns or controls the source of the noise.

If the Responsible Person is a minor, then the parent or guardian who has custody of the minor at the time of the violation shall be the Responsible Person who is liable under this Chapter. (Ord. No. 914, § I, 7-3-07)

9.02.030 Prohibited Noise in Residential Zones Notwithstanding any other provision of this Code, and in addition thereto, it shall be unlawful, and it is hereby declared a public nuisance, for any person to make, suffer, permit, continue, or cause to be made or continued, any loud noise, commotion, gathering or event, which disturbs the peace or quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity. Further, it shall be unlawful for any person to make, or permit the making of, noise related to landscape maintenance or construction, including the erection, excavation, demolition, alteration or repair of any structure or improvement, which disturbs the peace or quiet of the neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity, between the hours of 8:00 p.m. in the evening and 6:00 a.m.

9.02.040 Prohibited Noise in Public Places. Notwithstanding any other provision of this Code, and in addition thereto, it shall be unlawful, and it is hereby declared a public nuisance, for any person to make, suffer, permit, continue, or cause to be made or continued, any loud noise, commotion, gathering or event, which disturbs the peace or quiet of a public park or other public

facility, including any school, church, court, library, hospital or health care facility, or which causes discomfort or annoyance to any reasonable person of normal sensitivity within such park or facility. (Ord. No. 914, § 1, 7-3-07)

9.02.050 Prohibited Noise by and from Motor Vehicles. Notwithstanding any other provision of this Code, and in addition thereto, it shall be unlawful, and it is hereby declared a public nuisance, for any person to operate or use a motor vehicle, whether stationary or in motion on any public right-of-way, public place, or on private property within a residential zone, in a manner that produces a loud noise which disturbs the peace or quiet of any residential neighborhood or which causes discomfort or annoyance to any reasonable person of normal sensitivity. Examples of sources of unlawful noise include, but are not limited to:

A. Automobile radios, tape and compact disc players;

- B. Racing the engine of a stationary motor vehicle, except when necessary to do so in the course of repairing, adjusting or testing the same;
- C. Operating a motor vehicle with an exhaust muffler that has been removed or modified in a manner such that the noise produced by the vehicle is greater than as originally equipped by the manufacturer;
- D. Motor vehicle alarms, except those equipped to automatically terminate operation within 15 minutes of activation:
- E. Sounding a motor vehicle horn, except when sounded for safety reasons or any purpose required or permitted by the Vehicle Code or other state law. (Ord. No. 914, § 1,7-3-07)
- <u>9.02.060 Prohibited Noise-Exemptions</u>. The following activities and noise sources shall be exempt from the provisions of this Chapter:
- A. Activities conducted on the grounds of any public or private school during regular hours of operation;
- B. Outdoor gatherings, public dances, shows, sporting and entertainment events authorized by permit issued by the City;
- C. Warning devices necessary for public safety including, but not limited to, police, fire and ambulance sirens, train horns and other sounds used for the purpose of alerting persons to the existence of a danger or emergency;
 - D. The following construction, repair or excavation activities:
 - i. Such activities necessary for the immediate preservation of life or property;
- ii. Such activities performed in connection with public works projects, public service projects and public utilities services;
 - iii. Such activities performed on private property pursuant to a permit issued by the City;
- iv. Any activity to the extent regulated by state or federal law or by permit issued by the City;
- v. Noise generated in retail, commercial and industrial zones that are necessary and incidental to the uses permitted therein, provided that such noise does not disturb the peace and quiet of adjacent residential zones. (Ord. No. 914, § 1,7-3-07)
- 9.02.070 <u>Violations Subject to Administrative Fines or Penalties;</u> Confiscation. All violations of this Chapter shall be subject to Administrative Fines imposed, levied and collected pursuant to Chapter 1.16 of this Code. Alternatively, in the discretion of the Enforcement Officer, violations shall be subject to the penalties set forth in Section 9.02.090. In any case, the Enforcement Officer has the authority to confiscate and impound, as more specifically provided for in Section 9.02.100. (Ord. No. 914, § 1,7-3-07)

- <u>9.02.080</u> <u>Administrative Enforcement.</u> In the event the Enforcement Officer determines that there is a possible violation of this Chapter, the Officer shall issue a written notice to the Responsible Person, pursuant to BMC Section 1.16.050, requiring the immediate abatement of the violation. Such notice shall also include the following warnings:
- i. that a second violation of the same provision within a seventy-two-hour period shall result in an Administrative Fine of one hundred dollars (\$100.00) for a first violation;
- ii. an Administrative Fine of two hundred dollars (\$200.00) for a third violation within one (I) year;
- iii. an Administrative Fine of up to five hundred dollars (\$500.00) for each additional violation of the same provision within one (I) year; and
- iv. that the object, equipment or motor vehicle producing the noise may be confiscated and impounded as evidence upon issuance of the first violation and/or any violation thereafter. (Ord. No. 914, § 1,7-3-07)
- <u>9.02.090</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

<u>9.02.100</u> <u>Confiscation and Impoundment.</u> The Enforcement Officer is authorized to confiscate and impound, as evidence, the object, equipment or motor vehicle that produces the noise in violation of this Chapter. The owner thereof shall be entitled to submit a written request to the Police Department for return of the confiscated item upon payment of the infraction penalty or upon payment of the administrative fine or upon timely filing of a Request to Appeal pursuant to Section 1.16.050.5 of this Code, whichever occurs first. (Ord. No. 914, § 1, 7-3-07)

CHAPTER 9.03 REGULATION OF SPECIAL EVENTS

Sections:	
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9.03.050	Permit ApplicationFiling and Fee
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9.03.010 Intent and Purpose. The intent of this Chapter is to provide a regulatory framework for permitting special events. The use of City streets or other City-owned or controlled property and private property by large groups causes wear and tear on the turf, park equipment and facilities. Further, it requires City staff time to provide coordination. Such uses also subject neighboring residents to excessive noise and traffic, particularly when the property or facility is small or the use is intense. As such, the purpose of this Chapter is to ensure that special events are conducted so as not to violate any other Chapter or regulation of the City or cause any detrimental effects to surrounding properties and the community. The provisions set forth in this Chapter shall establish criteria for characterizing events as "special events" and standards and conditions for approving and permitting such special events.

9.03.020 Definitions The following words, terms and phrases when used in this Chapter shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. "Administrative authority" means the City manager of the City of Beaumont or his or her designee.

- B. "Air-medical operations permit" means a permit issued by the fire chief or his or her designee, allowing the landing and takeoff of EMS air rescue or air ambulance helicopters for the purposes of special event stand-by services.
- C. "City Manager" means the City manager of the City of Beaumont or his or her designee.
- D. "Departmental service charges" means the actual costs which a department of the City incurs in connection with activities for which a permit is required under this Chapter, including, but not limited to, the costs of administration or coordination services, support personnel, equipment, materials and supplies.
- E. "Free speech rights" means expressive activity protected by the First Amendment of the United States Constitution or Article 1, Section 2 of the California Constitution, provided that such activity is the principal purpose of the event.
- F. "Indigent natural person" means a person eligible for county relief and support as an indigent person under Section 17000 of the California Welfare and Institutions Code.
- G. "Medical operations permit" means a permit issued pursuant to Health and Safety Code section 1797.201, which gives the City the right to require and evaluate, modify, approve or reject the "medical operations plan" of any applicant wishing to conduct a special event within the City.
- H. "Parade" means a parade, procession, march, pageant, review, ceremony or exhibition which is conducted in, on, upon or along any portion of any public street, sidewalk or other property owned or controlled by the City, so as to impede, obstruct, impair or interfere with the free use of such public street, sidewalk or other public property of the City; except, however, the provisions of this Chapter shall not apply to funeral processions.
- I. "Special event" means any temporary event, as further described herein, not exceeding thirty days whether indoors or outdoors, or on improved or unimproved public or private property, which is inconsistent with the permanent use to which the property may legally be put, or the occupancy levels permitted thereon. "Special event" shall also refer to any activity that may result in the closure of any public streets, or any activities which may temporarily require the installation of materials or devices using building, electrical, mechanical, plumbing, flammable or similar materials. "Special events" may include, but are not limited to, short-term events such as any show, circus, concert, festival, carnival, dance open to the public, exhibition, lecture, auction, rave, boxing match, wrestling match, walk-a-thon, marathon run, cycling event, sporting event, permitted film production event, farmers' market, pumpkin patch, , outdoor sales, including, but not limited to, vehicle sales, or any combination thereof which members of the public are invited for free or admitted for a fee. All "special events" shall be classified under one of the following categories: (Ord. No. 1019, May 15, 2012)
- 1. "Major special events" shall mean those events that impact multiple departments within the City and (a) have participation by five hundred or more persons, or (b) will result in the closure of a City roadway, street, right-of-way, or highway, or more than fifty percent of a City park (i.e., carnivals, parades, festivals, car races, marathon events, street fairs).
- 2. "Minor special events" shall mean those events that impact multiple City departments and (a) have participation by less than five hundred persons, or (b) will have an impact on City rights-of-way (i.e., 5K/10K races, bicycle rides, boxing matches, block parties, grand openings).
- 3. "Miscellaneous special events" means those events which impact only one City department, including, but not limited to, the following departments:
 - a. Community Services;
 - b. Police department;
 - c. Parks, recreation and family services; or
 - d. Fire department.

- 4. "Working day" means a weekday (e.g., Monday through Thursday) in which City Hall is open and conducts business. Fridays, Saturdays, Sundays and holidays are not working days within the meaning of this Chapter.
- <u>9.03.030</u> <u>Special Events Committee Established</u> A special events committee composed of representatives from each City department is hereby established. The committee will meet on an as-needed basis to review special event applications. The chair for the special events committee shall be the administrative authority.
- **9.03.040 Permit Required** No person or organization shall conduct, operate, maintain, organize, advertise, or sell or furnish tickets for a special event or permit its premises to be used for any special event without first obtaining a special event permit as provided for by this Chapter. Special event permits for events which fall into the "major," "minor" and "miscellaneous" special events categories shall be approved by the administrative authority and issued prior to the commencement of the special event. No permit issued under the provisions of this Chapter shall be transferable or movable to another location or another applicant.

9.03.050 Permit Application--Filing and Fee

- A. Applications for permits to conduct special events shall be completed in writing on a form provided by the City and shall be filed with the administrative authority within the time frames listed below:
- 1. Major Special Events. Applications shall be filed not less than sixty working days prior to the opening date of the event.
- 2. Minor Special Events. Applications shall be filed not less than thirty working days prior to the opening date of the event.
- 3. Miscellaneous Special Events. Applications shall be filed not less than seven working days prior to the event. If an application on its face demonstrates that the applicant wishes to exercise his or her free speech rights, as defined in this article, such application shall be filed not less than four working days prior to the event.
- B. Only one special event permit may be obtained every three months for any particular event site or for the same person, persons or organization. Requested for additional events may be approved by the special events committee. This subsection, however, shall not apply to an event involving an exercise of free speech rights. (Ord. No. 1019, May 15, 2012)
- C. Except as otherwise provided by this code or other applicable law, rule or regulation, or by the terms of a permit, license, lease or contract which has been specifically authorized by the City Council, the permit application fee for use of City streets or other City-owned or controlled property and private property pursuant to this Chapter shall be established by the City Council by resolution and is non-refundable. The applicant shall obtain all required permits and pay all fees required under this Chapter and any other permits and fees required under this code. Any applicant who pays an application fee under this Chapter for a City-sponsored special event shall be exempt from paying a business application fee under Chapter 5.04 of this code.
- D. Any 501(c)(3) nonprofit organization may claim an exemption from the established fee schedule by filing proof of such status and explaining why such an exemption is appropriate. Such an exemption shall only be granted when the administrative authority determines that there is an alternate source of funding available to cover the cost of the City inspection necessitated by the event.

- E. Any indigent, natural person who cannot apply for a permit because of an inability arising from such indigence to pay this application fee shall not be required to pay the fee. Application for indigent status shall be made at the time the permit application and shall be accompanied by such relevant information and documentation as may, in the opinion of the administrative authority, be reasonable necessary to verify such status.
- F. If an application is filed after the time prescribed in this Chapter, the administrative authority shall immediately investigate to determine if he or she has sufficient time to process the application, what the effects of the proposed special event on traffic and other conditions may be, and whether police services may be available for such special event. The applicant shall have the opportunity to demonstrate that the circumstances giving rise to the proposed special event did not reasonably allow the applicant to file for a permit within the time prescribed and that imposition of the time limitation would unreasonably restrict the right of free speech or assembly. If such demonstration is made, and the administrative authority makes none of the findings set forth in Section 9.03.070 of this Chapter, he or she shall issue a permit despite the lack of advanced notice.
- <u>9.03.060</u> <u>Permit Application--Required Information</u> Applications shall be upon a form which is furnished by or acceptable to the administrative authority. Each application shall provide full, complete and detailed information including, but not limited to, the following:
 - A. All special events:
- 1. The name, address, telephone number and California Driver's License number or California Identification number of both the applicant and any alternative contact person;
- 2. If the event is proposed to be sponsored by an organization, the name, address and telephone number of the organization, and the authorized head of the organization. If the application is made by a partnership, the names and addresses of the partners must appear. If the application is a corporation, the application must be signed by the president, vice president and secretary thereof and must contain the addresses of the corporate officers and a certified copy of the articles of incorporation shall be submitted with the application;
- 3. The name, address and telephone number, and California Driver's License number or California Identification number of the person(s) who will be present and in charge of the event on the day(s) of the event. All persons listed pursuant to this subsection shall be deemed responsible for the special event and any and all conditions imposed pursuant to a permit;
 - 4. The nature/purpose of the event;
- 5. Date and estimated start and ending time of the event, and days and hours of operation, including set-up and clean-up times;
 - 6. Location of the event, including its boundaries;
 - 7. Site plan and/or building elevations for the event;
- 8. Estimated number of participants and spectators in the event, including estimated number of vendors and contractors involved with the event;

- 9. Number of applicant's agents or employees to be working at the event:
- 10. The type and estimated number of vehicles, animals, and structures which will be used at the event:
- 11. The size, shape and material of signs or banners to be posted at the event or along a parade route, if any, and the method of posting. All signs posted must be in compliance with the regulations concerning signs as set forth in Chapter 18 of this code and such reasonable time, place and manner restrictions imposed by the administrative authority on the permit issued hereunder;
 - 12. Description of the availability of water and toilets;
- 13. Description of any sound amplification equipment which will be used at the event. Any amplification of sound must comply with the City's noise standards as set forth in Chapter 10.16 of this code;
 - 14. Whether any food, beverages or merchandise will be sold at the event;
- 15. Whether any alcoholic beverages will be sold or dispensed at the event. Any sale or consumption of alcoholic beverages at a special event must comply with the City's regulations regarding the public consumption and possession of alcohol beverages as set forth in Section 9.20 of this code:
 - 16. Whether volunteers will be employed to monitor the event;
- 17. Description of vehicle parking spaces needed, vehicle access and on-site traffic control for the event. A plot plan showing arrangement of the facilities including those for parking, egress and ingress shall be submitted with the application;
- 18. Description of type of medical services and fire protection services to be provided for the event such as first aid stations, medical triage areas and stand-by ground ambulances;
- 19. If medical aircraft such as air rescue or air ambulance services will be utilized, a description of the type of aircraft, the estimated arrival time, location of the landing site and contact person responsible for air operations;
- 20. A statement of any specialized medical resources or personnel that are required by the rules or regulations of the event, above the level of advanced first aid, in order for the event to be conducted, i.e. physicians for boxing matches;
- 21. Number of tickets sold at a previous event, if applicable, and number of tickets anticipated to be sold at the event;
- 22. If it is proposed or expected that spectators or participants will remain at night or overnight, a statement of arrangements for illuminating the premises and for camping or similar facilities:

- 23. A statement of the proposed cleanup of the premises and removal of trash after the event has concluded:
- 24. The name, telephone number, address and business license number of any business providing security officers;
- 25. The number and ratio of Security Personnel provided. Note: Any event that permits or provides alcohol beverages, and/or permits dancing, shall be required to include a uniformed, licensed and bonded security guard or Peace Officer for every 50 attendees/patrons expected to participate, with a minimum of one such guard or Officer;
- 26. A security plan that includes the regular patrol of restrooms, parking lots and areas adjacent thereto and adjacent to the event location for the purpose of protecting against illegal activities, including, without limitation, motor vehicle burglaries, the sale, possession or use of drugs, and sexual activities;
- 27. A description of the time and manner by which the applicant/event organizer shall notify all residents within 500 feet of the exterior boundaries of the event, of the nature of the event, and the beginning and ending times of the event.
- B. Additional information required for parades, races and other events affecting City right-of-ways:
- 1. The assembly point for the event, the time at which units of the parade or other event will begin to assemble;
 - 2. The route to be traversed;
- 3. Whether the parade or other event will occupy all or only a portion of the streets proposed to be traversed;
 - 4. The intervals of space to be maintained between units of a parade or other event;
 - 5. The number, types and size of floats, if any;
 - 6. Material and maximum size of any signs or banners to be carried along the route.
- C. The administrative authority may request supplemental application information from the applicant which the administrative authority deems reasonably necessary, under the particular circumstances of the special event application, to determine whether to approve, deny or conditionally approve a special event permit application. A request for supplemental application information shall not effect the relevant application processing time period set forth in this Chapter.
- D. An application will be deemed incomplete if it lacks any information required by Section 9.03.060 of this Chapter. An incomplete application shall not trigger the relevant application processing times prescribed in Section 9.03.050 of this Chapter until the applicant submits a full, complete and detailed application. The City reserves the right to amend or modify the permit application form at any time.

9.03.070 Permit Issuance or Denial

- A. The administrative authority shall approve, conditionally approve or deny applications for special event permits based, on compliance or noncompliance with the provisions set forth within this Chapter. The administrative authority may refer the application to such appropriate City departments as he or she deems necessary from the nature of the application for review, evaluation, investigation and recommendations by the departments regarding approval or disapproval of the application.
- B. The administrative authority shall issue the permit, conditioned upon the applicant's written agreement to comply with any and all terms of this Chapter and any conditions imposed on the issuance of the permit, unless he or she finds that:
- 1. The information contained in the application is false or intentionally misleading, the applicant failed to remit fees and deposits, or failed to provide proof of insurance and an indemnification agreement if required, or failed to provide supplemental application information after having been notified;
- 2. The temporary use of the City's rights-of-way or property will endanger public health, welfare or safety for the reasons set forth herein, and reasonable adjustments to the community traffic control, street and property maintenance, or police, fire or ambulance protection would not alleviate such danger:
 - a. An application received prior in time has been approved for the same time and place so close as to cause undue traffic congestion or exceed the ability of the City to provide police and other services for both uses, events or activities;
 - b. The time, route or size of the proposed use, event or activity will disrupt traffic within the City beyond practical solution;
 - c. The proposed use, event or activity will prevent proper police, fire or ambulance service to contiguous areas or interfere with access to fire stations and fire hydrants:
 - The location of the proposed use, event or activity will substantially interfere with construction or maintenance work scheduled upon or along the City streets or rights-of-way;
 - e. The preparation for or the conduct of the proposed use, event or activity will unduly impede, obstruct or interfere with the City's ability to perform municipal functions or furnish City services in the vicinity of the event area;
 - f. The parade or other event moving along a route within the City and on City rights-of-way will not move from its point of origin to its point of termination in three hours or less:
 - g. The event shall occur at a time when a school is in session, at a route or location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class thereof:
 - h. The event shall occur at a route or location adjacent to a hospital, fire station or place of worship and the noise or other disruptions created by the event would substantially disrupt the activities of said hospital, fire station or place of worship.

- C. Within thirty working days after the filing of the permit application for a "major special event," the administrative authority shall issue, conditionally approve or deny the permit, and shall notify the applicant, in writing, of the action taken.
- D. Within five working days after the filing of the permit application for a "minor special event," the administrative authority shall issue, conditionally approve or deny the permit, and shall notify the applicant, in writing, of the action taken.
- E. Within five working days after the filing of the permit application for a "miscellaneous special event," the administrative authority shall issue, conditionally approve or deny the permit, and shall notify the applicant, in writing, of the action taken. If a permit application on its face demonstrates that the applicant wishes to exercise his or her free speech rights, as defined in this Chapter, the administrative authority shall issue, conditionally approve or deny the permit application within three working days after the filing of the permit application, and shall notify the applicant of the action taken.
- F. In those instances when issuance or denial occurs three days or less before the proposed use, event or activity the administrative authority is authorized to use other reasonable means of notification provided the applicant is provided with actual notification.
- G. If the administrative authority denies the permit, he or she shall set forth the reasons for denial. The administrative authority's decision shall be final unless appealed.
- H. If the application could be approved subject to conditions, as authorized in Section 9.03.080 of this Chapter, the administrative authority shall, instead of denying the application, conditionally approve the application subject to such corrections and conditions. The conditions imposed shall provide only for such modifications of the applicant's proposal as are reasonably necessary to avoid situations described in subsections (B)(2)(b) through (B)(2)(h) of this section.
- **9.03.080 Permit Conditions** The administrative authority may condition the issuance of a special events permit by imposing reasonable requirements concerning the time, place and manner of the event, and such requirements as necessary to protect the safety of persons and property, and the control of traffic, provided such conditions shall not unreasonably restrict free speech rights. Such conditions include, without limitation:
- A. Alteration of the date, time, route or location of the event proposed on the event application;
- B. Conditions concerning the area of assembly and disbanding of parade or other events occurring along a route;
- C. Conditions concerning accommodation of pedestrian, adequate parking space, or vehicular traffic and control, including restricting the event to only a portion of a street traversed;
 - D. Requirements for the use of traffic cones, delineators or barricades;
 - E. Requirements for the provision of first aid, medical or sanitary facilities;

- F. Requirements for use of event monitors, and providing notice of permit conditions to event participants;
- G. Restrictions on the number and type of vehicles, animals or structures at the event, and inspection and approval of floats, structures and decorated vehicles for safety purposes;
 - H. Compliance with animal protection Chapters and laws;
- I. Requirements for use of trash containers, cleanup and restoration of City property or right-of-way;
 - J. Restrictions on use of amplified sound;
- K. Notification to businesses and residences along the affected street(s) and businesses and residents within 500 feet of the exterior boundaries of the event site:
- L. Compliance with any relevant Chapter or, law and obtaining any legally required permit or license;
 - M. Restrictions on the consumption of alcoholic beverages;
 - N. Inspection by City staff or designee(s) before, during and after the event;
- O. Requirements for additional police officers or security officers for an event of five hundred or more participants. Said security officers must be uniformed guards licensed by the state and in possession of a valid guard card at all times during the special event. Said security officers must present their valid guard cards upon the request of any police officer. This subsection, however, shall not apply to an event involving an exercise of free speech rights;
- P. Requirements for additional fire protection if the event is located in or near a hazardous fire area;
- Q. Requirements for the provision of fire protection equipment or the removal of flammable vegetation, materials or other fire hazards;
- R. Requirements for an ample supply of portable water for drinking and sanitation purposes on the premises of the event. All water shall meet federal, state and county health and safety standards;
- S. Requirements that food concessionaires be licensed and operate under a valid health department permit pursuant to state and local laws and that an adequate supply of food available at the event for each day of operation to adequately feed the number of persons expected to be in attendance;
- T. Requirements for the use of electrical illumination for special events occurring after dark;

- U. Requirements for the use of overnight camping facilities and overnight areas that meet the requirements of Title 25 of the California Code of Regulations for mobile home parks, special occupancy trailer parks and campgrounds, including travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas and tent camps, for events that allow persons attending the event to remain on the premises overnight.
- V. A requirement that the applicant/event organizer notify the Beaumont Police Department in the event of a threat of violence, or an act of violence, or in the event that a crime has been or is about to be committed.
- W. A requirement that offsite signs for the event be prohibited except for events with an expected attendance of over 500 attendees, for the purpose of providing motor vehicle traffic and parking directions. The size, placement and number of such signs shall be determined by the administrative authority in consultation with the Police Department.
- 9.03.090 <u>Business License Required</u> A business license shall be required for any special event which involves the conduct of business within the City of Beaumont as defined by Chapter 5.02 of this code. Said permit application shall be reviewed and approved by the administrative authority and the business license officer or his or her designee, under the provisions of this code. Any applicant who pays an application fee under this Chapter for a City-sponsored special event shall be exempt from paying a business application fee under Chapter 5.04 of this code.
- <u>9.03.100</u> <u>Medical Operations Permit Required</u> A special medical operations permit shall be required for any special event, where, in the opinion of the fire chief, it is essential for public safety in a place of assembly or any other place where people congregate, due to the number of persons participating in the special event or the projected impact to the emergency medical services system within the City. Where required, the owner, agent or licensee shall submit for approval to the fire chief, or his or
- her designee, a medical operations plan in accordance with the criteria established by the emergency medical service office of the Beaumont fire department. This plan may require the owner, agent or licensee to employ one or more medically qualified persons, including medically trained fire department personnel, as required and approved, to be on duty at such a place. Such individuals shall be subject to the fire chief's orders, or his or her designee's, at all times when so employed and shall be in uniform and remain on duty during times that such places are open to the public, or when such activity is being conducted. Before each performance or the start of such activity, such individuals shall inspect the required medical equipment to see that they are in the proper place and in good working order, and shall keep a diligent watch for medical emergencies during the time such place is open to the public or such activity is being conducted. Events that may require a special medical operations permit include, but are not limited to:
- A. Any event in which specialized emergency medical services are provided above the level of Advanced First Aid, such as Emergency Medical Technician-1, paramedics, nurses, physician assistants and/or physicians;

- B. Any event, by the rules of the event, which requires the need to have contract emergency ambulance service providers or personnel on site in order to conduct said event, (i.e., boxing matches, BMX bicycle races or similar high-risk injury activities);
 - C. Any event utilizing standby air rescue or air ambulance services.
- D. Any event the fire chief or his or her designee deems may adversely impact the emergency medical services response capability of the City of Beaumont based upon:
 - 1. The location of the event;
 - 2. Projected event participation; or
 - 3. Any other applicable criteria as established by the fire chief.
- E. Public safety agencies conducting special events within the City may be exempt from some requirements upon approval of the fire chief or his or her designee.
- <u>9.03.110</u> <u>Air-Medical Operations Permit Required</u> A special air-medical operations permit shall be required for all events utilizing standby air rescue or air ambulance services. The fire chief or his or her designee shall direct the landings and takeoffs of all EMS air rescue or air ambulance operations within the City of Beaumont. Standby fire department and/or police department resources may be required during landing or takeoff operations for safety and security reasons. An air-medical operations plan shall be submitted, for the approval of the fire chief or his or her designee, to include the following information:
 - A. Name of the air rescue or air ambulance provider;
 - B. Contact person for air operations;
 - C. Type and size of aircraft;
 - D. Patient transport capability:
 - E. Level of medical staffing:
 - F. Frequency or list of frequencies available for ground-to-air contact;
 - G. Landing zone site and alternate landing zone site;
 - H. Security for landing zone site.
- <u>9.03.120</u> <u>Park Events--Additional Requirements</u> In addition to any and all regulations or conditions that may be imposed pursuant to this Chapter, applicants must also comply with all regulations affecting the use of City parks as provided in Chapter 12.24 of this code.
- <u>9.03.130</u> <u>Parades--Prohibition of Throwing Objects</u> All parade participants are prohibited from throwing any objects from any float, vehicle, horse or movable object during the parade procession. This prohibition does not preclude parade participants from handing out any objects, such as candy, pamphlets or any written materials along the side of the parade route. Those handing out such materials must not impede the flow of traffic in the parade or cause unnecessary or disruptive delays of the parade.
- <u>9.03.140</u> <u>Hours of Operation</u> All events which are subject to this Chapter shall close and cease operation continuously between the hours of two a.m. and six a.m. of each and every day, unless otherwise provided in a permit issued pursuant to this Chapter.

9.03.150 Departmental Services Charge

- A. In addition to the payment of the permit application fee, an applicant shall pay the City for all City departmental service charges incurred in connection with or due to the applicant's activities under the permit. Additionally, if City property is destroyed or damaged by reason of the applicant's use, event or activity, the applicant shall reimburse the City for the actual replacement or repair cost of the destroyed or damaged property.
- B. At least three days prior to a parade, event or activity permitted under this Chapter, the applicant shall pay to the City a deposit in an amount sufficient to cover the total estimated City departmental charges which the administrative authority estimates will be incurred in connection with the permit.
- C. City departments shall submit the final invoices and billings for departmental charges actually incurred to the administrative authority no later than ten working days after the expiration date of the permit.
- D. If the deposit is less than the final charges pursuant to this section, the applicant shall pay the difference to the City within ten working days of billing. If the deposit is more than such final charges, the City shall refund the difference to the applicant within the twenty working days after the expiration of the permit.
- <u>9.03.155</u> <u>Special Events Recycling.</u> The applicant shall provide recycling receptacles throughout the event venue, and shall comply with the following additional requirements:
- A. The number of recycling receptacles shall equal the number of solid waste receptacles;
- B. The solid waste and recycling receptacles shall be placed next to one another throughout the event venue;
- C. The types of recyclable materials suitable for deposit into each recycling receptacles shall include, at a minimum, aluminum and metal cans, and glass and plastic bottles and jars;
- D. Each recycling receptacle shall be clearly identified as a recycling receptacle and shall display a list of the types of recyclable materials which may be deposited therein; and
- E. The applicant shall ensure that the recyclable materials deposited into the recycling receptacles are delivered to the appropriate recycling facility. The recycling facility may be located at a landfill, but recyclable materials shall not be delivered to a landfill for disposal." (Ord. 974, 10/5/2010)

9.03.160 Security for Cleanup

A. At the time of filing an application for special event the applicant shall submit an agreement on a form provided by the City and signed by the applicant stating that, within twenty four hours after the conclusion of the special event, the applicant will clean and restore or cause to be cleaned or restored to its original condition the property upon which the special event is to occur and remove any notices posted pursuant to Section 9.03.200 of this code.

- B. To ensure the property is restored to the condition it existed in immediately prior to the effective date of the permit, the administrative authority shall require a cash deposit or other City attorney-approved form of financial arrangement from an applicant as a condition to the issuance of permit. The deposit shall be in the amount established by resolution adopted by the City Council.
- C. A designated representative of the City shall inspect the property within three days of the expiration date of the permit to determine whether the applicant has complied with this section.
- D. The security deposit, pursuant to subsection (C) of this section, shall be refundable on compliance with the provisions and requirements of this Chapter, including but not limited to the removal of trash and debris, temporary signs, temporary circulation improvements, temporary fencing and appurtenant accessory facilities and structures and the cleanup of the site. In the event the applicant fails to comply with the terms of this Chapter and remove all temporary facilities and structures or clean the site in a manner satisfactory to the administrative authority, the City may do so cause the same to be done immediately after twenty hours of the conclusion of the event and the actual costs thereof and any storage costs incurred by the City shall be charged against the applicant and its cash deposit or bond or against the liability insurance provider. In the event the City removes or causes to be removed any temporary improvements, notice shall be given to the applicant indicating that the City has removed such temporary facilities or structures and that they will be destroyed and/or will become the property of the City within thirty days of such notice if neither the applicant nor any representative of the same has contacted the City prior to the expiration of the thirty-day period. All notices shall be sent to the applicant's address as provided on the special event permit application unless the applicant supplies the City a substitute address in writing.

9.03.170 <u>Liability and Property Damage Insurance</u>

- A. Concurrent with the issuance of a permit under this Chapter, and as a condition precedent to the effectiveness of the permit, the applicant shall procure and maintain in full force and effect during the term of the permit a policy of insurance from an insurance company with an A.M. Best's insurance rating of A:VIII or better, authorized to do business in the state, and which policy includes the City, its boards, officers, agents and employees as named insured or additional named insured. Proof of insurance shall be submitted to the administrative authority not less than fifteen days prior to major special events, not less than ten days prior to minor special events, and not less than two days prior to miscellaneous special events. The minimum limits of liability coverage shall conform to a schedule as adopted by resolution of the City Council.
- B. If the administrative authority determines that a particular use, event or activity which is for a permit period of no more than one day does not present a substantial or significant public liability or property damage exposure for the City or its officers, agents and employees, the administrative authority may give a written waiver of the insurance requirements of this section. Provided, however, a carwash shall not be required to provide insurance. (Ord. No. 1019, May 15, 2012)
- C. This requirement, as set forth in subsection (A) of this section, however, shall not apply to an event involving an exercise of free speech rights provided that, to the extent possible, such an event is redesigned or rescheduled to respond to specific risks, hazards and dangers to the public health and safety identified by the administrative authority as being reasonably foreseeable consequences of the event.

- D. A claim for exclusion and alternative treatment under subsection (C) of this section shall be filed with and at the same time as the special event application and an agreement or proof of insurance, as applicable, shall be filed prior to permit issuance. The administrative authority may require such proof and documentation as he or she deems reasonably necessary to verify the constitutionally protected status of the event and the applicability of subsection (C) of this section.
- Hold-harmless Agreement Prior to the issuance of a special event permit or temporary use permit, the applicant shall provide the City with an executed holdharmless agreement on a form provided by the administrative authority, which shall substantially state that the applicant agrees to indemnify, hold harmless, defend and reimburse the City, its officers, employees, volunteers and agents from any liability, damage, penalty, expense or loss of any nature, including but not limited to, liability for injury to or death of persons, or damage to property arising out of or in connection with the special event or approximately caused by the negligent or intentional act or omission of the applicant, any officer, employee or agent of the applicant, or any person who is under the applicant's control. In addition, such an agreement shall provide that in the event a claim is made against the City of Beaumont, its officers, employees, volunteers or agents by suit or otherwise, whether the same be groundless or not, arising our of such negligent or intentional act or omission, the applicant shall defend and indemnify the City, its officers, employees, volunteers or agents for any judgment rendered against it or any sums paid out in settlement or otherwise. The City shall choose its legal counsel in defending the City from any and all liability, damage, penalty, expense or loss of any nature arising out of or in connection with the special event or approximately caused by the negligent or intentional act or omission of the applicant, any officer, employee or agent of the applicant, or any person who is under the applicant's control. Such agreement shall be filed with the administrative authority prior to the issuance of the permit.
- <u>9.03.190</u> <u>Clearances and Inspections--Posting Permit</u> No special event permit shall be issued until clearance and inspections from the appropriate agencies and departments have been completed. The special event permit and all business permits relating to the event must be posted on the premises in a conspicuous place, and a copy thereof must be in the possession of the individual responsible for the supervision of the event.
- <u>9.03.200</u> <u>Notice of Street Closures</u> If a special event requires the closure of a street or streets, the applicant of the special event may be required to provide proof to the administrative authority of one of the following:
- A. Notice via United States Mail to property owners and occupants whose property is located on the closed streets that a street closure will occur on a date or dates certain due to a special event;
- B. Notice via publication in a newspaper of general circulation that a street closure will occur on a date or dates certain due to a special event;
- C. Notice via posting at properties located on the closed streets that a Street closure will occur on a date or dates certain due to a special event. Such notice shall be posted according to specifications as provided by the administrative authority, including, but not limited to, the distance required between notices, quantity of notices, and the size of such notices. Pursuant to Section 9.03.160 of this code, within twenty-four hours of the completion of the event, the applicant must remove all such notices posted.

- D. Such notices shall be mailed, published or posted not less than twenty days prior to major special events and not less than ten days prior to minor special events. Notices for miscellaneous special events shall be mailed, published or posted as provided by the administrative authority.
- <u>9.03.210</u> <u>Inspections</u> The chief of police, fire chief, community development director or their designees may conduct, at any time, on-site inspections of special events permitted pursuant to this Chapter for compliance with the imposed requirements and the medical operations plan or air-medical operations plan. In addition to any and all regulations or conditions that may be imposed pursuant to this Chapter, applicants must also comply with all fire code regulations and requirements as set forth in this code, including payment for inspection costs by the fire chief or designee. The chief of police or the fire chief, or his or her designee, reserve the right to:
- A. Require immediate correction of hazards, dangerous conditions or deficiencies that have been deemed to place the public health or safety at risk for harm or injury; and,
- B. Revoke the special event permit immediately if substantial violation or noncompliance with the previously submitted plans is deemed to place the public health or safety at risk for harm or injury.

9.03.220 Appeals

- A. Any applicant may appeal the final decision of the administrative authority or the revocation of a permit granted pursuant to this Chapter to the City Council within two days thereafter. Appeals shall be filed with the City Clerk, either by personal service, fax or first class mail (postage prepaid). Any such appeal shall set forth the reasons for the appeal and shall be accompanied by an appeal filing fee. The appeal filing fee shall be established by the City Council by resolution. Failure of any person to receive written notice shall not invalidate same. The City Council shall act upon the appeal at the next regularly scheduled council meeting held more than five working days and less than ten working days after the filing of the appeal. If no such meeting is scheduled, or if a regularly scheduled meeting is not held within such times, the mayor may call a special City Council meeting to consider and act upon such appeal within ten working days after the filing of such appeal. The decision of the City Council regarding such an appeal shall be final.
- B. If there is insufficient time for a timely appeal to be heard by the City Council prior to the date on which the proposed use event or activity is scheduled, the applicant may, at his or her option, request an appeal before the City Manager or a neutral hearing officer. Any such appeal shall set forth the reasons for the appeal and shall be accompanied by an appeal filing fee. The appeal filing fee shall be established by the City Council by resolution. Upon request for an appeal, the City Manager or neutral hearing officer, shall hold a hearing no later than two working days after the filing of the appeal but in any case before the date of the proposed special event, and will render his or her decision no later than one working day after hearing the appeal but in any case before the date of the proposed special event. Upon such appeal, the City Manager or neutral hearing officer may reverse, affirm or modify in any regard the determination of the administrative authority or impose any conditions upon approval that the administrative authority could have imposed. The decision of the City Manager or neutral hearing officer regarding such an appeal shall be final.

<u>9.03.230</u> <u>Right to Judicial Appeal</u> Any person who has been denied issuance of a permit under this Chapter for an activity involving free speech rights shall have the right to judicial review pursuant to the terms and procedures of Section 1094.8 of the California Code of Civil Procedure.

9.03.240 Revocation of Permit

- A. A special event permit may be revoked if the administrative authority or community development director finds that one or more of the following conditions exists:
 - 1. The special event permit was obtained in a fraudulent manner.
 - 2. The applicant fails, neglects or refuses to fulfill any of the conditions imposed upon the granting of the permit.
 - 3. The applicant violates or attempts to violate any law of the state, or the provisions of this Chapter, or any other law, Chapter or policy of the City.
 - 4. Failure to comply with notice to correct hazards, dangerous conditions or other deficiencies that are deemed to place the public health or safety at risk for harm or injury. A revocation under this subsection shall become effective immediately upon order by the chief of police services or fire chief.
- B. All revocations shall be in writing and shall set forth the basis for the revocation. The permit shall be reinstated as soon as the conditions constituting the revocation have abated.
- C. When any permit is revoked pursuant to this section, the permit shall be reinstated as soon as the conditions constituting the revocation have abated.
- <u>9.03.250</u> <u>Violations</u> Any person who willfully fails to comply with the requirements of this Chapter, or of any conditions attached hereunder, or who falsifies any information on any application hereunder is guilty of a misdemeanor punishable as set forth by state law and is subject to administrative penalties and fines as set forth in Chapter 1 of this code. Any special event otherwise in accordance with this Chapter shall be a public nuisance which may be enjoined or abated as allowed by law. The City retains any and all civic remedies, including the right of civil injunction for the prevention of the violations and for the recovery of money damages therefor

Chapter 9.04 ALCOHOLIC BEVERAGE CONTAINERS IN PUBLIC

Sections: 9.04.010 Possession of Containers. 9.04.020 Possession of Open Containers. 9.04.030 Exception to Chapter. 9.04.040 Penalty.

- <u>9.04.010</u> <u>Possession of Containers.</u> No person shall have in his or her possession, while in any public park or playground, any bottle, can, or other container containing any alcoholic beverage. (Ord. No. 923, § I, 12-18-07)
- <u>9.04.020</u> <u>Possession of Open Containers.</u> No person shall have in his or her possession, while in or upon any public park, playground, street or in any parking lot, publicly or privately owned, any open container containing any alcoholic beverage. (Ord. No. 923, § I, 12-18-07)
- 9.04.030 Exception to Chapter. The exception to the provisions of this Chapter shall be when an organization or group has reserved the pavilion for an organized function. (Ord. No. 23, § I, 12-18-07)
- <u>9.04.040</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

Chapter 9.08 GAMBLING

Sections:

9.08.010 Prohibited Games.

9.08.020 Permitting Prohibited Games on Premises Prohibited.

9.08.010 Prohibited Games. Every person who deals, plays or carriers on, opens or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game not mentioned or included in Section 330 of the Penal Code of the state, played with cards, dice, or any other device of whatsoever nature, for money, checks, credit, merchandise, or other representative of value, and every person who plays or bets at or against any of the prohibited games, is guilty of a misdemeanor, and shall be punished by a fine of not less that two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00) or by imprisonment in the city jail not exceeding six (6) months, or by both such fine and imprisonment. (Ord. 269 §1, 1954)

<u>9.08.020</u> <u>Permitting Prohibited Games on Premises Prohibited.</u> Every person who, knowingly, permits any of the games mentioned in Section 9.08.010 to be played, conducted or dealt in any house owned or rented by such person, in whole or in part, is punishable as provided in Section 9.08.010. (Ord. 269 §2, 1954)

Chapter 9.10 RESTRICTIONS ON THE PUBLIC DISPLAY OF HARMFUL MATERIALS TO MINORS

Sections:	
9.10.010	Purpose; Authority.
9.10.020	Definitions.
9.10.030	Requirement of Blinder Racks
9.10.040	Supervision of Blinder Racks
9.10.050	Penalty for Violations.
9.10.030 9.10.040	Requirement of Blinder Rack Supervision of Blinder Racks

9.10.010 Purpose; Authority. The purpose of this Chapter is to protect public health, safety and welfare and to protect minors in this City from viewing harmful matter as defined herein. This Ordinance is authorized by California Penal Code, Section 313.1. (Ord. No. 809, § 1, 3-6-01)

9.10.020 Definitions. For the purpose of this Chapter, the following words and phrases shall have the meanings respectively ascribed to them by this Section:

"Blinder racks" means any opaque item or device which rests on or in front of harmful matter in such a manner that the lower two-thirds of the matter is not exposed to view.

"Business establishment" means any indoor or outdoor commercial enterprise which distributes or exhibits harmful matter in such a manner that such matter can be viewed by passersby or by patrons inside the enterprise.

"Distribute" or "distribution" means to transfer possession of, whether with or without consideration.

"Exhibit" or "exhibition" means to show.

"Harmful matter" shall have the same meaning as the term "harmful matter" prescribed by paragraph (a) of Section 313 of the California Penal Code, as that Section may hereafter be amended.

"Matter" means any book, magazine, newspaper or other printed or written material, or any picture, drawing or photograph, or any statue or other figure.

"Minor" means any natural person who is under the age of eighteen (18) years

"Newsrack" or "vending device" means any mechanism which is located on public property or located in a business establishment in such a manner that the contents can be viewed by members of the general public, and which contains harmful matter for purposes of distribution or exhibition which can be seen by the general public.

"Person" means any corporation, partnership, limited liability company or sole proprietorship which owns a business establishment, newsrack or vending device, and any natural person who is responsible for the operation or maintenance of a business establishment, newsrack or vending device including, but not limited to, clerks who are responsible for on-site operation or maintenance of a business establishment. (Ord. No. 809, § 1, 3-6-01)

<u>9.10.030</u> Requirement of Blinder Racks. It is unlawful for any person to own, operate or maintain a newsrack or vending device exhibiting harmful matter within the City unless blinder racks are placed in front of harmful matter thereon or contained therein, or such newsracks or vending devices are located in an area from which minors are excluded. (Ord. NO. 809, § 1, 3-6-01)

<u>9.10.040</u> <u>Supervision of Blinder Racks.</u> Any person who owns, operates or maintains a news rack or vending device exhibiting harmful matter within the City, whether or not blinder racks are placed in front of harmful matter thereon or contained therein, shall supervise access to such racks or devices by minors. Every person who, with knowledge that a person is a minor, or who fails to exercise reasonable care in ascertaining the true age of a minor, knowingly fails to supervise access to harmful matter by such minor, shall be guilty of an unlawful distribution of such matter and shall be punished as specified in Section 9.10.050 of this chapter. (Ord. 819, 12/01, Section 1)

<u>9.10.050</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

Chapter 9.12 PUBLIC NUDITY

Sections:	
9.12.010	Legislative authorization.
9.12.020	Exposure by waiters, waitresses and entertainers.
9.12.030	Exposure by perfonners in public.
9.12.040	Counseling or assisting.
9.12.050	Exemption of theatrical establishments.
9.12.060	Violation-Penalty.

<u>9.12.010</u> <u>Legislative authorization.</u> This Chapter is adopted pursuant to Sections 318.5 and 318.6 of the Penal Code. All words used in this chapter which also are used in Sections 18.5 and 318.6, are used in the same sense and mean the same as the same respective words used in Sections 318.5 and 318.6. (Ord. 455 §I, 1974)

9.12.020 Exposure by waiters, waitresses and entertainers.

- A. No person shall, while acting as a waiter, waitress or entertainer in an establishment which serves food, beverages, or food and beverages including, but not limited to, alcoholic beverages, for consumption on the premises of such establishment:
- 1. Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
- 2. Expose any device, costume or covering, which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
 - 3. Expose any portion of the female breast at or below the areola thereof.
- B. A person shall be deemed to be a waiter, waitress, or entertainer if such person acts in that capacity without regard to whether of not such person is paid any compensation by the management of the establishment in which the activity is performed. (Ord. 455 §2, 1974)
- <u>9.12.030</u> <u>Exposure by performers in public.</u> No person shall, while participating in any live act, demonstration, or exhibition in any public place, place open to the public, or place open to public view:
- A. Expose his or her genitals, pubic hair, buttocks, natal cleft, perineum, anal region, or pubic hair region; or
- B. Expose any device, costume or covering, which gives the appearance of or simulates the genitals, pubic hair, buttocks, natal cleft, perineum, anal region or pubic hair region; or
- C. Expose any portion of the female breast at or below the areola thereof. (Ord. 455 §3, 1974)

- **9.12.040 Counseling or assisting.** No person shall cause, permit, procure, counselor assist any person to expose a simulate exposure as prohibited in Sections 9.12.020 and 9.12.030. (Ord. 455 §4, 1974)
- <u>9.12.050</u> <u>Exemption of theatrical establishments.</u> The provisions of this Chapter shall not apply to a theater, concert hall, or similar establishment which is primarily devoted to theatrical performances. (Ord. 455 § 5, 1974)
- <u>9.12.060</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

Chapter 9.16 OBSTRUCTING PASSAGE

Sections:

9.16.010 Prohibited acts.

<u>9.16.010</u> <u>Prohibited acts.</u> It is unlawful for any person or persons within the city to engage in any game sport or amusement or exhibit any contrivance or show, or do any other thing in the streets of the city which will interfere with the free and unrestricted use of the streets, sidewalks, alleys, and public places, unless operating under a license granted by the city council. (Ord. 37 § 16, 1913)

Chapter 9.20 DAMAGING PUBLIC PROPERTY

Sections:

9.20.010 Damaging public street or sidewalk prohibited.

<u>9.20.010</u> <u>Damaging public street or sidewalk prohibited.</u> It is unlawful for any person, firm or corporation, their agents or employees, to dig holes or ditches in or otherwise destroy or deface any street, alley, lane, curb, gutter or sidewalk belonging to the city. But this shall not be construed to apply to any person, firm or corporation exercising their right or pursuing their work pursuant to any franchise or right granted by the city to erect poles, string wires or lay pipes over and upon the streets, avenues, alleys and lanes of the city. (Ord. 37 § 29, 1913)

Chapter 9.22 JUVENILE DAYTIME LOITERING AND TRUANCY

Sections:	
9.22.010	Purpose.
9.22.020	Definitions.
9.22.030	Daytime Loitering or Truancy.
9.22.040	Parental or Guardian Responsibility.
9.22.050	Violation and Enforcement.

9.22.010 Purpose The City Council is concerned with the level of juvenile delinquency, juvenile graffiti activity, and juvenile crime in the City. The City Council finds that juveniles who are not exempt from compulsory education are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities, and to be victims of older perpetrators of crime during daytime hours. The City Council believes that having an enforceable daytime loitering and truancy ordinance for juveniles who are not exempt from compulsory education requirements is critical to preserving the public health, safety and welfare. (Ord. No. 926, § I, 2-19-08)

9.22.020 Definitions.

"Emergency" means the unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes but is not limited to fire, natural disaster, automobile accident or requirement for immediate medical care for another person.

"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.

"Juvenile" means any person under (18) eighteen years of age who is not emancipated pursuant to law.

"Parent" means a person who is the natural or adoptive parent of a person. The term includes a court appointed guardian or other person eighteen (18) years of age or older authorized by the parent, by a court order or by a court appointed guardian to have the care and custody of that juvenile.

"Public place" means any place to which the public has access and includes but is not limited to streets, highways, parks and the common areas of schools, hospitals, office buildings, transport facilities, shopping centers, and malls. (Ord. No. 926, § I, 2-19-08)

- <u>9.22.030</u> <u>Daytime Loitering or Truancy.</u> It is unlawful for any juvenile, who is subject to compulsory full-time education or to compulsory continuation education under state law, to remain in or upon any public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, or the premises of any establishment, vacant lots, or other place away from his or her place of residence, including any railway car, engine, truck or other vehicle without the consent of the owner or person rightfully in charge thereof during the hours and on days when the juvenile's school is in session. The provisions of this Section do not apply if:
- A. The juvenile is accompanied by his or her parent, legal guardian or other adult having the care and custody of the juvenile; or
- B. The juvenile is on an emergency errand directed by a parent, legal guardian or other adult having care and custody of the juvenile; or
- C. The juvenile is going to or coming directly from his or her place of employment; or
 - D. The juvenile is going to or from a medical appointment; or
- E. The juvenile is a student who has permission to leave the school campus for lunch or school related activity, and has in his or her possession a valid, school-issued, off-campus permit; or
- F. The juvenile is going to or coming from a compulsory alternative education program activity; or
- G. The juvenile is attending or, without any detour or stop, going to or returning form an official school, religious, government-sponsored activity, or other recreational activity supervised by adults; or
- H. The juvenile is attending or, without any detour or stop, going to or returning from an event or activity directly related to the medical condition of the parent or legal guardian; or
 - I. The juvenile is officially enrolled in home schooling; or
- J. The juvenile is exempt by law from compulsory education or compulsory continuation education; or
- K. The juvenile is authorized to be absent from his or her school pursuant to the provisions of California Education Code Section 48205, or any other applicable state or federal law. (Ord. No. 926, § 1,2-19-08)
- <u>9.22.040</u> Parental or Guardian Responsibility. It is unlawful for the parent or legal guardian of any juvenile to knowingly permit or, by insufficient control, to allow the juvenile to be in violation of Section 9.22.030 of this Chapter. (Ord. No. 926, § 1,2-19-08)
- <u>9.22.050</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

Chapter 9.24 CURFEW FOR MINORS

Sections:	
9.24.010	Purpose and Intent
9.24.020	Definitions.
9.24.030	Offenses.
9.24.040	Defenses.
9.24.050	Enforcement.
91.24.060	Penalties.

9.24.010 Purpose and Intent. The City Council finds that a juvenile curfew ordinance is necessary and desirable because the protection of minors warrants a higher degree of governmental regulation. This higher degree of regulation is premised upon the peculiar vulnerability of children and minors' inability to make critical decisions in an informed and mature manner. The City recognizes a compelling interest in preserving the safety of the community generally and providing a higher degree of protection for its minors specifically during nighttime hours. (Ord. No. 768, § 2, 9-22-97)

<u>9.24.020</u> <u>Definitions.</u> The following definitions are applicable to this Chapter:

"Curfew hours" means the period from 10:00 p.m. any night until 6:00 a.m. the following morning.

"Emergency" means unforeseen circumstances or a situation that calls for immediate action. The term includes, but is not limited to, an automobile accident, fire or explosion, natural disaster or any condition requiring immediate action to prevent bodily injury or loss of life.

"Establishment" means any privately-owned place of business operated for profit to which the public is invited including, but not limited to, any place of amusement or entertainment.

"Guardian" means (a) a person who, under court order, is the guardian of the minor; or (b) a public or private agency with whom a minor has been placed by a court.

"Minor" means any person under eighteen (18) years of age.

"Operator" means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment.

"Parent" means a person who is a natural parent, adoptive parent or step-parent of a minor.

"Responsible adult" means 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.

"Public place" means any place the public or a substantial group of the public has access and includes, but is not limited to, streets, highway, common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"Remain" means to (a) linger, stay or be present; or (b) fail to leave the premises when requested to do so by a peace officer, the owner, operator or other person in control of the premises. (Ord. No. 768, § 2, 9-22-97)

9.24.030 Offenses. It is unlawful for:

- 1. Any minor to remain in any public place or on the premises of any establishment within the City during curfew hours, or
- 2. Any parent or guardian of a minor to knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours, or
- 3. Any owner, operator or employee of an establishment to knowingly permit a minor to remain in or upon the premises of an establishment during curfew hours. (Ord. No. 768, § 2, 9-22-97)

9.24.040 <u>Defenses.</u>

A. It is a defense to prosecution of the above offenses that the minor was:

- 1. Accompanied by the minor's parent or guardian or by a responsible adult;
- 2. On an errand at the direction of the minor's parent or guardian or responsible adult, without detour or delay:
 - 3. In a motor vehicle involved in intrastate or interstate travel;
- 4. Engaged in employment, or going to or returning home from employment, without detour or delay:
 - 5. Involved in an emergency;
- 6. On the sidewalk adjacent to the minor's resident, providing the minor is not otherwise violating the law;
- 7. Attending an official school, religious or other adult supervised recreational activity sponsored by the City, a civic organization or other similar entity that takes responsibility for the safety of the minor, or going to or returning home from such an activity, without detour or delay;
- 8. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech and the right to assembly;
 - 9. Emancipated pursuant to law.
- B. It is a defense to prosecution under Section 9.24.030(3) above, that 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. (Ord. No. 768, § 2, 9-22-97)

- <u>9.24.050</u> <u>Enforcement.</u> Before taking any enforcement action hereunder, a peace officer shall ask the apparent offender's age and reason for being in a public place or on the premises of an establishment during curfew hours. The officer shall not issue a citation or detain a minor under this ordinance unless the officer reasonably believes an offense has occurred and based upon the minor's response(s) and other circumstances, no defense hereunder appears present or applicable. (Ord. No. 768, § 2, 9-22-97)
- **9.24.060 Penalties.** Any person who violates a provision of this Chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted. Any person who violates the offenses described in this Chapter shall be guilty of an infraction.
 - 1. A first violation is punishable by a fine not exceeding one hundred dollars (\$100.00);
- 2. A second violation within one (I) year is punishable by a fine not exceeding two hundred dollars (\$200.00);
- 3. Each additional violation within one (I) year is punishable by a fine not exceeding five hundred dollars (\$500.00).

Chapter 9.26 REPEAT CURFEW/DAYTIME LOITERING VIOLATORS

Sections:	
9.26.010	Purpose.
9.26.020	Definitions.
9.26.030	Police Service Fee Established-Debt to City.
9.26.040	Billing.
9.26.050	Appeal.

<u>9.26.010</u> <u>Purpose.</u> The City Council finds and determines that juveniles who are repeatedly detained and supervised by law enforcement personnel for violating curfew, truancy and daytime loitering laws impose an extraordinary burden on the manpower and resources of the City's Police Department because juveniles taken into custody must be supervised in an unsecured area of the police station until they are released to a parent or guardian. Law enforcement personnel needed to supervise juveniles are then unavailable to carry out law enforcement duties in the field which decreases the level of police protection thereby decreasing public safety in the community. One purpose of this Chapter is to inhibit crime committed by juveniles at night and by truants during the day and to defray the reasonable costs that the City incurs to provide extraordinary law enforcement services to respond to, detain arid supervise repeat curfew, truant and daytime loitering violators. (Ord. No. 927, § 1,2-19-08)

9.26.020 Definitions. As used in this Chapter, the following terms shall have the following meanings:

"Repeat curfew or daytime loitering violator" means any minor (1) who has been detained and taken into custody by City law enforcement personnel on more than one (I) occasion in a twelve-month period for violating Section 9.22.030 of this Code and (2) who has been adjudicated by the Riverside County Superior Court because said Court found it to be true that the minor violated Section 9.22.030 of this Code on more than one (1) occasion in a twelve-month period.

"Responsible party" means any parent, legal guardian, or other person in charge or control of a repeat violator. (Ord. No. 927, § 1,2-19-08)

9.26.030 Police Service Fee Established-Debt to City.

- A. A responsible party shall be liable to pay a police services fee whenever the City law enforcement personnel respond to, detain and supervise a repeat curfew, truant or daytime loitering violator. The City Council shall establish, from time-to-time, the amount of the police services fee by resolution.
- B. The police services fee charged to a responsible party shall be a debt to the City by the responsible party. Any responsible party owing money to the City pursuant to this Chapter shall be liable in an action brought by the City in its own name to recover such amount, including reasonable attorney's fees. (Ord. No. 927, § 1,2-19-08)
- <u>9.26.040</u> <u>Billing.</u> The Chief of Police or his or her designee shall notify the Finance Department in writing of (A) the name and address of the responsible party; (B) the date and time of the initial violation and the repeat violation of Section 9.22.030 of this Code; (C) the names of the law enforcement personnel who responded to, detained and supervised the repeat curfew, truant or daytime loitering violator; and (D) the date that the repeat curfew, truant or daytime violator was adjudicated by the Riverside County Juvenile Court for the repeat violation. The Finance Department will bill the responsible party for the police services fee. (Ord. No. 927, § 1, 2-19-08)
- <u>9.26.050</u> <u>Appeal.</u> Any responsible party who receives a bill from the Finance Department pursuant to this Chapter may, within fifteen (15) days after receiving such bill, file a written request with the City Clerk appealing the bill. The written appeal shall state the grounds for such appeal and the specific factual basis for the appeal. The responsible party is deemed to have received the bill on the third day following the date the Finance Department caused the bill to be placed in the United States mail. The City Manager or his or her designee shall review any written appeal filed with the City Clerk pursuant to this Chapter and shall prepare written decision on the appeal within thirty (30) days from the date that the written appeal is received by the City Clerk. All decisions by the City Manager or his or her designee shall be final. (Ord. No. 927, § 1, 2-19-08)

Chapter 9.28 SALE OF TOBACCO TO MINORS

Sections:

9.28.010 Prohibited acts.

9.28.010 Prohibited acts. It is unlawful for any person or persons, either as owner, principal, agent, servant or employee, to barter, sell or give to any person under the age of eighteen years, any tobacco, snuff, cigars, cigarettes or other article of which tobacco is the chief component material. (Ord. 37 § 34, 1913)

Chapter 9.30 DANGEROUS WEAPONS

Sections:	
9.30.010	Prohibition: Discharging Weapons
9.30.020	Exceptions.
9.30.030	Violation: Penalty.
9.30.040	Violation: Confiscation.
9.30.050	Severability.

9.30.010 Prohibition: Discharging Weapons. Except as otherwise provided in this Chapter, no person shall, within the City limits, shoot, fire or discharge, nor cause or permit to be shot, fired or discharged:

- A. Any rifle, shotgun, revolver, pistol, cannon or other firearm of any kind;
- B. Any air gun, air rifle or air pistol;
- C. Any spring gun, spring rifle or spring pistol;
- D. Any BB gun, pellet gun or any carbon dioxide or gas operated gun;
- E. Any crossbow of any type, compound bow, or a bow more than three feet in length;
- F. A sling for the purpose of throwing a rock, ball bearing or other missile;
- G. Paint ball rifle or gun, or any spot marker rifle or gun. (Ord. No. 818, § 1,3-19-02)
- **9.30.020 Exceptions.** The prohibitions set forth in this Chapter shall not apply to any of the following:
 - A. Peace Officers and military forces engaged in the performance of their duties;
 - B. Lawful self-defense, and the lawful defense of others and property;

- C. Shooting ranges or other structures, facilities or clubs which are used for shooting or archery in the context of a recreational or sporting activity;
- D. Starter and timing guns firing blank cartridges in shows, sporting events, athletic contests or other public performances, or signal cannons that do not discharge projectiles;
- E. Minors engaged in lawful activities involving the use of dangerous weapons provided (i) such minor is under the direct supervision and control of a parent, guardian or responsible adult, or (ii) is at least sixteen (16) years of age and has the prior written consent of his or her parent or legal guardian, or (iii) the minor has the prior written consent of his or her parent or legal guardian and is on lands owned or lawfully possessed by his or her parent or guardian. (Ord. No. 818, § 1,3-19-02)
- <u>9.30.030</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

- 9.30.040 <u>Violation: Confiscation.</u> In addition to the penalties set forth in Section 9.30.030, a violator of this Chapter shall suffer the confiscation of the weapon. (Ord. No. 818, § 1, 3-19-02)
- **9.30.050 Severability.** If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that anyone (I) or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional. (Ord. No. 818, § 1,3-19-02)

CHAPTER 9.32 POSSESSION OF FIREARMS ON CITY PROPERTY PROHIBITED

Sections:	
9.32.010	Definitions
9.32.020	Applicability
9.32.030	Prohibition
9.32.040	Severability
9.32.050	Penalty for Violation

9.32.010 Definitions

The following definitions shall apply to the terms used in this Chapter:

- A. "City Property" shall mean real property, including any buildings thereon, owned or leased by the City, and in the City's possession, or in the possession of a public or private entity under contract with the City to perform a public purpose including, but not limited to, real property owned or leased by the City, but does not include any "local public building" as defined in Penal Code, Section 171b(c), where the state regulates possession of firearms pursuant to Penal Code Section 171b.
- B. "Firearm" shall mean any gun, pistol, revolver, rifle or any device, designed or modified to be used as a weapon, from which is expelled through a barrel a projectile by the force of an explosion or other form of combustion. "Firearm" does not include imitation firearms or BB guns and air rifles as defined in Government Code Section 53071.5.
- C. "Ammunition" shall mean any ammunition as defined in Penal Code Section 12316(b)(2).

<u>9.32.020</u> Applicability This Chapter does not apply to the following:

- A. A peace officer as defined in Title 3, Part 2, Chapter 4.5 of the California Penal Code (Sections 830 et seq.);
- B. A guard or messenger of a financial institution, a guard of a contract carrier operating an armored vehicle, a licensed private investigator, patrol operator, or alarm company operator, or uniformed security guard as these occupations are defined in Penal Code Section 12031(d) and who holds a valid certificate issued by the Department of Consumer Affairs under Penal Code Section 12033, while actually employed and engaged in protecting and preserving property or life within the scope of his or her employment;
- C. The possession of a firearm by an authorized participant in a motion picture, television, video, dance or theatrical production or event, when the participant lawfully uses the firearm as part of that production or event, provided that when such firearm is not in the actual possession of the authorized participant, it is secured to prevent unauthorized use;

- D. A person lawfully transporting firearms or ammunition in a motor vehicle on City roads:
 - E. A federal criminal investigator or law enforcement officer;
- F. A member of the military forces of the State of California or of the United States while engaged in the performance of his or her duty.

9.32.030 Prohibition

It is unlawful for any person to carry onto or possess on City Property a firearm, loaded or unloaded, or ammunition for a firearm.

9.32.040 Severability

If any provision of this Chapter or the application thereof to any person or circumstances held in valid, such invalidity shall not affect any other provision or application of this section which can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

<u>9.32.050</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

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Chapter 9.34 GRAFFITI AND RELATED VANDALISM

Sections:	
9.34.010	Purpose and Intent.
9.34.020	Definitions.
9.34.030	Prohibition of Graffiti and Related Vandalism.
9.34.040	Possession of Graffiti Implements, Paraphernalia or Spray Actuator
9.34.050	Prohibition of Furnishing of Graffiti Implements or Paraphernalia to a Minor.
9.34.060	Commercial Display.
9.34.070	Penalties for Violation.
9.34.080	Severability.
9.34.090	Chapter Shall Work in Conjunction with State Statutes and Local Ordinances.
9.34.100	Reward for Information
9.34.110	Graffiti Implement Sales License.
9.34.120	Effective Date.

9.34.010 Purpose and Intent. It is the purpose and intent of this Chapter to prevent graffiti and to promote its eradication and to prevent related vandalism, as they adversely affect property (both public and private), including, but not limited to, trees, signs, poles, fixtures, utility boxes, walls, paths, walks, streets, under/overpasses, bridges, trestles, buildings and/or any other structures or surfaces which contain graffiti or are subject to graffiti related vandalism. It is the further intent of this Chapter to fight against blight, to preserve the value of property (both public and private) and to promote the security of the community, all of which are now being threatened by the spread of graffiti and graffiti related vandalism. (Ord. No. 910, § 2, 2-20-07)

<u>9.34.020</u> <u>Definitions.</u>

"Aerosol Paint Container." Any canister, can, bottle, container, or other receptacle which contains any substance commonly known as paint, stain, dye and/or any other pigmented substance which is and/or can be modified to contain pressure (or be pressurized) in order to impel, spray, eject and/or propel any such substance.

"Etchers." Any tool, device, and/or other mechanism including, but not limited to, any tool, device, and/or other mechanism commonly known as "glass etchers", "glass cutters", "metal etchers", "cutting instrument", "drill bits" or any other instrument that can be applied by pressure or any other contact with any surface including, but not limited to, glass, metal, plastic, concrete or any other surface which can cause any markings commonly known as graffiti or related vandalism (as defined above).

"Felt Tip Markers." Any implement commonly known as an indelible or permanent ink marker and/or marking pen and/or any similar implement which contains any pigmented substance including, but not limited to, ink or any other substance which cannot be easily and completely removed with water after said substance has dried; where the width of the marking is three-eighths (1/8) of one (I) inch or greater.

"Graffiti and Related Vandalism." Any unauthorized inscription, word, figure, mark, symbol, design and/or configuration of letters and/or numbers written, drawn, scribed, etched, scratched, marked, painted, stained, stuck on or adhered to any real or personal property surface (public or private), including, but not limited to, trees, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, streets, under/overpasses, bridges, trestles, buildings, and/or any other structures or surfaces, regardless of the nature of the material of which the surface is composed.

"Graffiti Implements." Aerosol paint containers, felt tip markers, paint sticks, etchers, gum labels, paint balloons, stamp or stamping devices, tips that can be attached to an aerosol paint container, nozzles that can be attached to an aerosol paint container, or spray actuators as defined in this Chapter.

"Graffiti Implements or Paraphernalia." Any substance or material such as, but not limited to, aerosol paint containers, markers, paint sticks, etchers, gum labels, paint balloons, stamps or stamping devices; also including, but not limited to, spray actuators, tips (or nozzles) which can be applied to aerosol paint containers; any records of graffiti or related vandalism including, but not limited to, pictures, photographs, drawings, scrap books and/or other records depicting or illustrating any forms of graffiti or related vandalism (as described above).

"Gum Label." Any substance consisting of a material such as, but not limited to, paper, fabric, cloth, plastic, vinyl and/or any other similar material, where the material also contains one (1) or more surfaces containing a substance such as, but not limited to, any material commonly known as an adhesive or glue, which can not be removed from the surface in an intact condition and with minimal efforts, including, but not limited to, decals, stickers, patches, stamps or labels.

"Paint Balloon." Any canister, can, container, bottle or other receptacle including, but not limited to, anything commonly known as a balloon or other receptacle made of any material such as, but not limited to, latex, plastic, rubber, paper, glass or other material which contains any substance commonly known as paint, stain, dye or any other pigmented substance intended for the purpose of defacing any property, public or private, upon impact or contact of any surface including, but not limited to, trees, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, streets, under/overpasses, bridges trestles, buildings and/or any other structures or surfaces regardless of the material of the component.

"Paint Stick." Any device which contains any substance, solid or liquid, including, but not limited to, any form of any substance commonly known as paint, stain, ink, chalk, wax, epoxy and/or any other similar substance that is not water soluble which can be applied to any surface by such means as applying pressure to and/or contacting any surface in such a way as to leave any visible mark measuring at least three-rights *C/8*) of one (1) inch at any point - otherwise described as graffiti or related vandalism (as described above), visible from a distance of twenty (20) feet. Provided, however, that this definition of "paint stick" shall be limited to devices which create such a mark that is indelible or permanent in nature (and cannot therefore easily and completely be removed with water after the mark has dried).

"Pressurized Container." Any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps or similar propulsion devices.

"Spray Actuator." Any object capable of being attached to an aerosol paint container for the purpose of spraying the substance contained therein. Common examples of a spray actuator include, but are not limited to, terms such as "spray tip", "nozzle" or "button".

"Stamp or Stamping Device." Any tool, device or implement which can cause upon impact or contact any mark (described above as graffiti or related vandalism) by means of ink, paint, stain or any other substance or material including, but not limited to, any device commonly known as a rubber stamp or similar device (whether manufactured, handmade or devised) which cannot be easily removed with water, for the purpose of defacing property, public or private.

"Supplier." Any person(s) or entity such as, but not limited to, any business, company, co-op, corporation, enterprise, manufacturer, organization, partnership, proprietor, retail or wholesale store or outlet which sells, trades, donates, gives or requisitions to the public in any capacity whatsoever, any graffiti implements. (Ord. No. 910, § 2, 2-20-07)

9.34.030 Prohibition of Graffiti and Related Vandalism.

A. It is unlawful for any person or group of persons to commit any overt act resulting in or attempting to result in the application of graffiti or the engaging in or attempting to engage in an act of related vandalism (as set forth above in Section 9.34.020) including, but not limited to, any of the following acts:

- 1. Any act such as drawing, scribing, etching, scratching, marking, painting, staining, sticking on or adhering to any real or personal property surface, public or private, including, but not limited to, trees, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, streets, under/overpasses, bridges, trestles, buildings and/or any other structures or surfaces.
- 2. Any act of participation in applying graffiti such as, but not limited to, conspiring to commit or assist in the applying of graffiti or engaging in or assisting in an act of related vandalism, including, but not limited to, acting as a "look-out", regardless of the fact the "act" was not actually witnessed.
- 3. Any person who knowingly allows any acts of graffiti or related vandalism to occur on or to any property over which he or she has control as owner, tenant or possessor and who thereafter fails to promptly report such acts to the proper authorities is guilty of being a principal to the crime.

Exception: Any mural or work of art approved by the City through a design review or planning process and requiring proper permits prior to commencement of any work, shall not constitute graffiti.

- B. It is unlawful for any person, business, company, or other entity which owns or otherwise controls any building, sign, pole, vehicle, trailer, trash receptacle, wall, parking lot, walkway or any other structure or real property to knowingly allow or permit any graffiti or related vandalism to be placed on, or to take place on, any such structure or property where the graffiti and/or results of the vandalism are visible from any public right-of-way.
- C. Graffiti and/or graffiti related vandalism which appears on property and/or structures where such graffiti or related vandalism is visible from a public right-of-way shall be deemed to be a public nuisance and shall be subject to abatement as provided for in Beaumont Municipal Code, Chapter 8.32. (Ord. No. 910, § 2, 2-20-07)

9.34.040 Possession of Graffiti Implements, Paraphernalia or Spray Actuator.

A. It is unlawful for any person under the age of eighteen (I8) years to possess any graffiti implement, paraphernalia or spray actuator with the intent of applying graffiti markings or engaging in related vandalism.

Exceptions:

- 1. Any minor enrolled in any education class which requires otherwise legal possession of any graffiti implement, paraphernalia or spray actuator provided the minor is carrying written verification of any such requirements including color(s), size(s), and quantity, and written consent from his or her parent or lawfully designated custodian dated and signed.
- 2. Any minor whose employment requires possession of any graffiti implement, paraphernalia or spray actuator provided minor is carrying written verification of any such job requirements including color(s), size(s), quantity, job information and purpose, and written consent from the employer dated and signed.
- B. It is unlawful for any unauthorized person to possess any graffiti implement, paraphernalia or spray actuator while in, on, at or about any public property, including, but not limited to, public parks, playgrounds, swimming pools, recreation facilities, schools, school district facilities, libraries, court houses, utility stations, storm drains or any other publicly owned, operated and/or maintained facility. (Ord. No. 910, § 2, 2-20-07)
- 9.34.050 Prohibition of Furnishing of Graffiti Implements or Paraphernalia to a Minor. It is unlawful for any person, firm or corporation, other than the parent or lawfully designated custodian of the minor, to sell, loan, give, exchange or otherwise furnish any aerosol paint containers, paint sticks or etchers to any person under the age of eighteen (18) years without the advanced written consent (in possession) from the parent or lawfully designated custodian of said minor. (Ord. No. 910, § 2, 2-20-07)

9.34.060 Commercial Display.

- A. It is unlawful for any supplier to display any graffiti implement, paraphernalia or spray actuator including any such tool, device, material or substance including, but not limited to, aerosol paint containers, felt-tip markers, paint sticks and/or etchers, in such a way as to be accessible by anyone who is not an employee or other authorized personnel pending lawful distribution of said implement or product. In the absence of constant supervision or surveillance by responsible personnel, said graffiti implement, paraphernalia or spray actuator shall be kept in a locked area not accessible to members of the public but may be displayed in plain view of potential retail customers.
- B. It is unlawful for any supplier to store, stock or display any graffiti implement, paraphernalia or spray actuator in such a way as to be handled (or be removable) by anyone who is not an employee or authorized personnel for purposes of demonstration, advertising or other display. In the absence of constant supervision or surveillance by responsible personnel, said graffiti implement, paraphernalia or spray actuator shall be kept in a locked area not accessible to members of the public but may be displayed in plain view of potential retail customers.

- C. It is unlawful for any supplier to display any graffiti implement, paraphernalia or spray actuator outdoors in a nonpermanent structure or facility; unless displayed in an area under constant supervision or surveillance by responsible personnel or in a lock-up device, i.e., a locked metal, glass or other similar cage or case, securely fastened to the ground so as not to be able to be caused to slide, roll, be lifted or otherwise moved more than two (2) inches in any direction. All lock-up devices shall maintain a minimum size as follows: height of thirty-six (36) inches, width (or length) of seventy-two (72) inches, depth of eighteen (18) inches, or greater, with no more than one (1) opening side.
- D. All suppliers doing business in the City of Beaumont shall display one (1) or more signs stating substantially the following:

Must Be 18 Years Of Age To Purchase. Must Have Valid I.D. To Purchase. Any Person Who Maliciously Defaces Real Or Personal Property With Graffiti Or By Related Vandalism Is Guilty Of A Misdemeanor Punishable By Fine, Imprisonment, Or Both, And May Also Be Held Responsible For Payment Of Restitution To The Victim.

All signs must be at least ten (10) inches by sixteen (16) inches, with letter size of at least one (I) inch, and posted in a conspicuous place within three (3) feet of said implement or product.

E. It shall be the joint and individual responsibility of the supplier, vendor, property owner, property manager, store manager and/or district manager or corporate officer to comply with any and all applicable sections of this Chapter. (Ord. No. 910, § 2, 2-20-07)

9.34.070 Penalties for Violation.

- A. A violation of this Chapter is a misdemeanor or an infraction as hereinafter specified.
- 1. A violation when charged as a misdemeanor shall be punishable by a fine of up to one thousand dollars (\$1,000.00) or up to six (6) months in the County Jail, or both and/or community service to abate graffiti. For the purpose of community service, where the defendant is a minor, one (1) parent or guardian shall accompany the minor in the performance of said service unless excused by the court upon a showing of good cause. Payment of any fine or completion of a jail term shall not relieve a person from the responsibility of correcting the violation.
- 2. A violation for a first time offense only, may be charged as an infraction and shall be punishable by a fine not exceeding one hundred dollars (\$100.00). Payment of any penalty herein shall not relieve a person from the responsibility for correcting the violation and the court may, in addition to any fine imposed or in lieu of imposing a fine, order the party to perform community service to abate graffiti. For the purpose of community service, where the defendant is a minor, one (I) parent or guardian shall accompany the minor in the performance of said service unless excused by the court upon a showing of good cause.
- B. As a part of any sentence imposed, the court may also order that restitution be paid to the victim by the admitted or convicted perpetrator and, in the case of a perpetrator who is a minor, by the minor's parent or lawfully designated guardian or custodian.

- C. Upon conviction, the perpetrator and/or parent or lawfully designated guardian or custodian may be required to enroll in and attend a diversionary program possibly requiring liability waivers and/or payment towards all or a portion of the cost of the program, as such costs shall have been established by the Board of Supervisors of the County of Riverside. (Ord. No. 910, § 2, 2-20-07)
- **9.34.080 Severability.** If any portion, provision, section, paragraph, sentence, or word of this Chapter is rendered or declared to be invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining portions, provisions, sections, paragraphs, sentences, and words of this Chapter shall remain in full force and effect and shall be interpreted by the court so as to give effect to such remaining portions of the Chapter. (Ord. No. 910, § 2, 2-20-07)
- <u>Ordinances.</u> This Chapter shall work in Conjunction With State Statutes and Local Ordinances. This Chapter shall be interpreted so as to work with and in conjunction with (when and where applicable) any and all state and/or local ordinances relating to the control of graffiti and/or related vandalism, including, but not limited to, Sections 594, 594.1, 594.2, 594.3, 594.5, 594.6, 594.7, 594.8, 640.5, 640.6, 640.7, 640.8 of the California Penal Code; Section 1714.1 of the California Civil Code; Section 53069.3 of the California Government Code; and Beaumont Municipal Code, Section 8.32. (Ord. No. 910, § 2, 2-20-07)
- **9.34.100 Reward for Information.** The City Council determines that rewards for any information leading to the identification, apprehension and conviction of any person who has placed graffiti upon any public or private property within the City of Beaumont shall be in a range from one hundred dollars (\$100.00) to one thousand dollars (\$1,000.00), to be specifically determined by the City Manager or that person's designee, and the Chief of Police, or that person's designee, based on the severity of the crime. The identity of those seeking rewards shall be considered confidential and shall not be released to members of the public. The City Council reserves the right to require that the convicted offender reimburse the City for any reward paid, and place the responsibility for such reimbursement upon the parent(s) or legal guardian(s) of any minor so convicted. (Ord. No. 910, § 2, 2-20-07)

9.34.110 Graffiti Implement Sales License.

- A. Beginning on July 1, 2007, it shall be unlawful for any person to sell, offer for sale, display for sale, or otherwise make available for sale within the City of Beaumont any graffiti implement unless that person then holds a valid annual Graffiti Implement Sales License. A valid annual Graffiti Implement Sales License will hereinafter be referred to as a "GIS License."
- B. Each GIS License shall cover an annual period that extends from the beginning of the day on July I until the end of the day on June 30 of the following year. A GIS License shall be obtained in advance (in the manner specified by this Chapter) by any person who intends to sell any graffiti implement during a particular annual period (or during any part of that annual period).

- C. The issuing department for GIS Licenses will be the Office of Code Enforcement for the City of Beaumont. Upon the submission to Code Enforcement of a properly filled-out application for a GIS License (and the payment of the annual regulatory fee for a GIS License), the City shall issue a GIS License to the applicant. In order to obtain the issuance of a GIS License for a particular annual period, the applicant shall submit its application and pay its fee no earlier than the April I date (that is three (3) months prior to the commencement of the annual period for which the GIS License is being requested) and no later than June 29 (of the annual period for which the GIS License is being requested). If a GIS License is issued after July 1 of the annual period for which the license is issued, it shall not have the retroactive effect of legalizing any unlawful act or omission (regarding graffiti implements) that may have occurred between July 1 and the date of license issuance.
- D. The annual regulatory fees for GIS Licenses shall be used to fund the following activities and operations of the City: they shall be used to fund efforts to identify and compile a list of those individuals and companies that are selling or otherwise furnishing graffiti implements or paraphernalia (within the meaning of Sections 9.34.050 and 9.34.060 of this Chapter); they shall be used to fund efforts to compile a list of the stores and other locations from which graffiti implements or paraphernalia are being sold or otherwise furnished (within the meaning of Sections 9.34.050 and 9.34.060 of this Chapter); they shall be used to fund the monitoring of such sellers or furnishers in order to confirm that they are not selling or furnishing graffiti implements or paraphernalia to minors (without receiving the prior written consent of the parents or lawful custodians of those minors) within the meaning of Section 9.34.050 of this Chapter; they shall be used to fund the monitoring of such sellers or furnishers in order to confirm that they are storing, stocking, and displaying their stock of graffiti implements and paraphernalia in a manner that is inaccessible (within the meaning of Sections 9.34.060.A, Band C of this Chapter); they shall be used to fund the monitoring of such sellers or furnishers in order to confirm that they are properly displaying the sign that is required by Section 9.34.060.D of this Chapter; and they shall be used to fund the costs of administering the City's GIS License program.
- E. By March 31, 2007, and by March 31 of each succeeding year, the Office of Code Enforcement for the City shall cause to be estimated (for the annual period beginning approximately three (3) months later) the sum total of funds that will be necessary to fund the regulatory activities and operations described above in Section 9.34.1 10D, and it shall cause to be estimated (for the annual period beginning approximately three (3) months later) the sum total of separate locations from which graffiti implements or paraphernalia will be sold, offered for sale, displayed for sale, or otherwise made available for sale. Under no circumstances shall the annual regulatory fee per location (for a GIS License) exceed a dollar amount that is equal to the number obtained by dividing the sum total of such estimated separate locations into the sum total of such estimated funds. If a person sells graffiti implements or paraphernalia, offers them for sale, displays them for sale, or otherwise makes them available for sale out of more than one (1) separate location during a particular annual period, that person must submit an application for each and everyone of those separate locations, and that person must pay the annual regulatory fee for each and every one of those separate locations.

- F. A violation of Section 9.34.110 of this Chapter is enforceable in the following manner:
- 1. A violation of Section 9.34. 110 of this Chapter may be charged as either an infraction or a misdemeanor. If charged as an infraction, such a violation is punishable by a fine not exceeding one hundred dollars (\$100.00) for a first violation, a fine not exceeding two hundred dollars (\$200.00) for a second violation within one (I) year, and a fine not exceeding five hundred dollars (\$500.00) for each additional violation within one (I) year. If charged as a misdemeanor, a violation of Section 9.34. 110 of this Chapter is punishable by a fine not exceeding one thousand dollars (\$ 1 ,000.00) or by imprisonment in the County Jail not exceeding six (6) months, or by both such fine and imprisonment. Payment of any fine or completion of any jail term shall not relieve a person from the responsibility of correcting the violation.
 - 2. A violation of Section 9.34. I 10 of this Chapter shall constitute a public nuisance.
- 3. A violation of Section 9.34.1 10 of this Chapter may be enforced through a civil action to recover the annual regulatory fee for a GIS License, for damages, for injunctive relief, or for any other civil remedy whatsoever.
- 4. All criminal, administrative, civil, and other remedies mentioned in Section 9.34. I10 of this Chapter shall be cumulative and not exclusive.
- 5. Violations of Sections 9.34.030, 9.34.040, 9.34.050 or 9.34.060 of this Ordinance shall be governed by Section 9.34.070 of this Chapter. (Ord. No. 910, § 2, 2-20-07)

CHAPTER 9.36 PANHANDLING, SOLICITING AND AGGRESSIVE SOLICITATION

Sections: 9.36.010 Findings. 9.36.020 Definitions. 9.36.030 Aggressive Solicitation Prohibited. 9.36.040 Prohibited Solicitation and Panhandling in Specific Locations. 9.36.050 Prior Warning Required. 9.36.060 Penalties. 9.36.070 Severability.

<u>9.36.010</u> <u>Findings.</u> The City Council finds that the problems of panhandling, solicitation, and aggressive solicitation are among the most difficult and vexing faced by the City and that prior approaches have failed.

The City Council finds that aggressive solicitation in public and private places threatens residents' and visitors' safety, privacy and quality of life. The City Council desires to establish a policy that preserves citizens' right to enjoy public spaces free from fear and harassment while protecting the free speech rights of individuals and groups.

- <u>9.36.020</u> <u>Definitions.</u> The following definitions shall apply to the terms used herein:
- A. "Soliciting" or "Panhandling" shall mean to approach with a request or plea, to ask for the purpose of receiving, to endeavor or obtain by asking or pleading, propositioning, or to entreat, implore or importune. Soliciting shall include the use of the spoken, written or printed word, bodily gestures, signs or other means, with the purpose of trying to obtain something, such as money, employment, business, signatures, or votes.

B. "Aggressive Solicitation" shall mean:

- 1. Continuing to solicit from a person after the person has given a negative response to such soliciting;
- 2. Intentionally touching or causing physical contact, in the course of soliciting, with another person without that person's consent;
- 3. Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, causing the pedestrian or vehicle to take evasive action to avoid physical contact;
 - 4. Using violent or threatening gestures toward a person solicited;
 - 5. Following the person being solicited.
- C. "Public Place" shall mean a place where a governmental entity has title, to which the public or a substantial group of persons has access including, but not limited to, any street, highway, parking lot, plaza, transportation facility, school, place of amusement, park or playground.
- D. "Check Cashing Business" shall mean any person licensed by the Attorney General to engage in the business of cashing checks, drafts or money orders for consideration pursuant to California Civil Code, Section 1789.31.
- E. "Automated Teller Machine" shall mean a device, linked to a financial institution's account records, which is able to carry out transactions including, but not limited to, account transfers, deposits, cash withdrawals, balance inquiries and mortgage and loan payments.
- <u>9.36.030</u> <u>Aggressive Solicitation Prohibited.</u> No person shall engage in aggressive solicitation in any public place.

9.36.040 Prohibited Solicitation and Panhandling in Specific Locations.

- A. No person shall solicit or panhandle within 30 feet of any entrance or exit of a bank, credit union, check cashing business or within 30 feet of an automated teller machine without the consent of the owner of the property or other person legally in possession of such business or machine.
- B. No person shall solicit or panhandle an operator or other occupant of a motor vehicle while such vehicle is located on any street or highway, on-ramp or off-ramp.
- C. No person shall solicit or panhandle in any public transportation vehicle, or any public or private parking lot or structure.

<u>9.36.050</u> <u>Prior Warning Required.</u> Before any law enforcement officer may cite or arrest a person under this Chapter, the office must have first warned the person that his or her conduct is in violation of this Code and must give the person an opportunity to comply with the provisions of this Code.

<u>9.36.060</u> <u>Violation—Penalty</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 997, 5.3.11)

<u>9.36.070</u> <u>Severability.</u> If any section, sentence, clause or phrase of this law is held invalid or unconstitutional by any Court of competent jurisdiction, it shall in no way affect the validity of any remaining portions of this law.

CHAPTER 9.38 RESIDENCY RESTRICTIONS FOR REGISTERED SEX OFFENDERS

Sections:	
9.38.010	Definitions.
9.38.020	Prohibited Residency in a Residential Exclusion Zone.
9.38.030	Prohibited Visit to Parks.
9.38.040	Prohibited Residency - Single Family Lots.
9.38.050	Prohibited Residency - Duplex Lots.
9.38.060	Prohibited Residency - Multi-Family Lots.
9.38.070	Prohibited Residency - Hotel/ Motel/ Inn Rooms.
9.38.080	Prohibited Residency - Hotel/Motel/Inn Permanent Resident.
9.38.090	Prohibited Residency - Mobile Home.
9.38.100	Responsible Party - Mobile Home Park Permanent Resident.
9.38.110	Responsible Party Violation - Single Family Lots.
9.38.120	Responsible Party Violation - Duplex Lots.
9.38.130	Responsible Party Violation - Multi-Family Lots.
9.38.140	Responsible Party Violation – Hotel/ Motel/Inn.
9.38.150	Responsible Party Violation – Hotel/Motel/Inn Permanent Resident.
9.38.160	Responsible Party Violation – Mobile Home.
9.38.170	Responsible Party Violation – Mobile Home Park Permanent Resident.
9.38.180	Offenses Constituting Nuisances.
9.38.190	Prohibition Against Loitering.
9.38.200	Nuisances; Recovery Of Abatement Expenses.
9.38.210	Violation—Penalty.
9.38.220	Application of Chapter to Sex Offenders: Effective Date.

- **<u>9.38.010</u> <u>Definitions.</u>** For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - **A.** "Child" or "Children" shall mean any person(s) under the age of 18 years of age.
- **B.** "Child Care Center" shall mean any City-owned or City-operated, or any State of California, Department of Social Services licensed facility, that provides non-medical care to children in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24 hour basis, including but not limited to a family day care home, infant center, preschool, extended-day care facility, or school-age child care center. Child care centers shall include those in, or within 2,000 linear feet of, the jurisdictional boundaries of the City of Beaumont.
- **C.** "**Duplex Lot**" shall mean a lot designed for permanent residency and containing two dwelling units whether attached or detached.
- **D.** "Hotel Lot" or "Motel Lot" shall mean a lot on which there is located a commercial land use for the rental of six or more guest rooms or suites for primarily temporary residency for a period of not more than 30 consecutive days.
- **E.** "Inn Lot" shall mean a lot on which there is located a commercial land use for the rental of five or fewer guest rooms or suites primarily for temporary residency for a period of not more than 30 consecutive days.
- **F.** "**Mobile Home**" shall be considered to be a dwelling and shall mean a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobile home includes a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobile home, as defined in Section 18008 of the Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.29 of the Civil Code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code. Mobile home does not include a trailer or other recreational vehicle located in a recreational vehicle park.
- **G.** "Mobile Home Park" shall mean a residential land use where two or more Mobile Home sites are rented, or held out for rent, to accommodate Mobile Homes designed for permanent residency, with such homes not affixed to a permanent foundation.
- **H.** "Multi-family Lot" shall mean a lot designed for permanent residency and containing three or more dwelling units whether attached or detached. This includes a lot containing apartment houses and condominiums, but does not include hotels, motels, or inns.
- I. "Owner's Authorized Agent" shall mean any natural person, firm, association, joint venture, joint stock company, partnership, organization, club, company, corporation, business trust or the manager, lessee, agent, servant, office or employee authorized to act for the owner of a property.
- **J.** "Park" shall include those areas used as public parks where children regularly gather. Parks shall include those in, or within and inside of 2,000 linear feet of the jurisdictional boundaries of the City of Beaumont.

- **K.** "**Playground**" shall include those areas used within businesses where children regularly gather. Playgrounds shall include those in, or within and inside of 2,000 linear feet of the jurisdictional boundaries of the City of Beaumont.
- L. "Permanent Resident" shall mean any person who, as of a given date, obtained the right to occupy a dwelling on a lot, including, but not limited to, a Single family lot, multifamily lot, duplex lot, mobile home park, hotel lot, motel lot, or inn lot for more than 30 consecutive days.
- **M.** "**Property Owner**" as applied to buildings and land shall mean the owner of record of any parcel of real property as designated on the county assessor's tax roll, or a holder of a subsequently recorded deed to the property, and shall include any part owner, joint owner, tenant, tenant in common, or joint tenant, of the whole or part of such a building or land.
- **N.** "Residential Exclusion Zone" shall include those areas located within 2,000 linear feet of the closest property line of a lot containing a child care center, school, playground or park. A lot shall be considered to be within a Residential Exclusion Zone if its property line closest to a child care center, school, playground or park falls within the 2,000 linear feet distance. In the case of a hotel lot, motel lot or inn lot, the Residential Exclusion Zone shall be calculated using the closest property line of the Hotel Lot, Motel Lot or Inn Lot, and not the room in which the Sex Offender resides. In the case of a mobile home park, the Residential Exclusion Zone shall be calculated using the closest property line of the rented space in which the mobile home is sited, and not the closest property line of the mobile home park.
- **O.** "Responsible Party" shall mean the property owner and/or owner's authorized agent.
- **P.** "**School**" means any public or private school with one or more grades K through 12, located in, or within 2,000 linear feet of, the jurisdictional boundaries of the City of Beaumont.
- **Q.** "Sex Offender" means any person for whom registration is required pursuant to California Penal Code Section 290, regardless of whether that person is on parole or probation, and shall include violent sexual predators as defined under the California Penal Code.
- **R.** "Single Family Lot" shall mean a lot designed for permanent residency and containing one dwelling unit.
- **S.** "**Temporary Resident**" means any person who, as of a given date, obtained the right to occupy a dwelling on a lot, including, but not limited to, a single family lot, multi-family lot, duplex lot, mobile home park, a hotel lot, motel lot or inn lot for 30 days or less.

(Ord. 1013, March 20, 2012)

- 9.38.020 Prohibited Residency in a Residential Exclusion Zone. No Sex Offender shall be a permanent or temporary resident in a Residential Exclusion Zone. (Ord. 1013, March 20, 2012)
- 9.38.030 Prohibited Visit to Parks. No Sex Offender shall visit or use any park within the City. (Ord. 1013, March 20, 2012)
- <u>9.38.040</u> <u>Prohibited Residency Single Family Lots.</u> No Sex Offender shall be a permanent or temporary resident in a single family lot already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.050</u> <u>Prohibited Residency Duplex Lots.</u> No Sex Offender shall be a permanent or temporary resident in a duplex lot already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.060</u> <u>Prohibited Residency Multi-Family Lots.</u> No Sex Offender shall be a permanent or temporary resident in a multi-family lot already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.070</u> <u>Prohibited Residency Hotel/ Motel/ Inn Rooms.</u> No Sex Offender shall be a permanent or temporary resident in a guest room of a hotel, motel, or inn already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.080</u> <u>Prohibited Residency Hotel/Motel/Inn Permanent Resident.</u> No Sex Offender shall be a permanent resident in any guest room of a hotel, motel, or inn wherein a separate and distinct guest room is already occupied by a Sex Offender as a permanent resident. (Ord. 1013, March 20, 2012)
- <u>9.38.090</u> <u>Prohibited Residency Mobile Home.</u> No Sex Offender shall be a temporary or permanent resident in any mobile home sited in and upon a rented space located within a mobile home park wherein the mobile home is already occupied by a Sex Offender, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- 9.38.100 Responsible Party Mobile Home Park Permanent Resident. No Sex Offender shall be a permanent resident in any mobile home cited in and upon a rented space located within a mobile home park wherein any other mobile home sited in and upon a rented space located within the same mobile home park is already occupied by a Sex Offender as a permanent resident, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.110</u> Responsible Party Violation Single Family Lots. No Responsible Party shall knowingly rent a dwelling unit in a single family lot to, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)

- <u>9.38.120</u> Responsible Party Violation Duplex Lots. No Responsible Party shall knowingly rent a dwelling unit in a duplex lot to, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.130</u> Responsible Party Violation Multi-Family Lots. No Responsible Party shall knowingly rent a dwelling unit in a multi-family lot to, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.140</u> Responsible Party Violation Hotel/ Motel/Inn. No Responsible Party shall knowingly rent a guest room in a hotel, motel, or inn, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender, unless those persons are legally related by blood, marriage, or adoption. (Ord. 1013, March 20, 2012)
- 9.38.150 Responsible Party Violation Hotel/Motel/Inn Permanent Resident. No Responsible Party shall knowingly rent more than one guest room in a hotel, motel, or inn to, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender as a permanent resident. (Ord. 1013, March 20, 2012)
- 9.38.160 Responsible Party Violation Mobile Home. No Responsible Party shall knowingly rent a space for the location and placement of a mobile home, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender during any given period of tenancy, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>**9.38.170**</u> Responsible Party Violation Mobile Home Park Permanent Resident. No Responsible Party shall knowingly rent more than one mobile home in a mobile home park to, or allow occupancy as a permanent or temporary resident by, more than one Sex Offender in the mobile home park as a permanent resident, unless those persons are legally related by blood, marriage or adoption. (Ord. 1013, March 20, 2012)
- <u>9.38.180</u> <u>Offenses Constituting Nuisances.</u> Any single family lot, duplex lot, multi-family lot, mobile home, mobile home park, hotel lot, motel lot or inn lot operated or maintained in a manner inconsistent with the occupancy requirements of this chapter, or the restrictions of penal code section 3003.5, is declared to be unlawful and is defined as and declared to be public nuisances per as injurious to the public health, safety, and welfare. (Ord. 1013, March 20, 2012)
- <u>9.38.190</u> <u>Prohibition Against Loitering.</u> It is unlawful for any Sex Offender to loiter within two thousand (2000) feet of any child care center, park, playground or school within the City. (Ord. 1013, March 20, 2012)
- <u>9.38.200</u> <u>Nuisances; Recovery Of Abatement Expenses.</u> In any action or proceeding to enforce the provisions of this chapter, the prevailing party will be entitled to recovery of all costs, attorney's fees and expenses, to the extent provided for in Chapter 8.32 of this Code. (Ord. 1013, March 20, 2012)

<u>9.38.210</u> <u>Violation—Penalty.</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ord. 1013, March 20, 2012)

9.38.220 Application of Chapter to Sex Offenders: Effective Date.

Notwithstanding anything to the contrary contained herein, this chapter shall apply to all Sex Offenders who locate within the City of Beaumont after the effective date of the ordinance creating this chapter, and to all Responsible Parties who allow occupancy by a Sex Offender within the City of Beaumont after the effective date of the ordinance creating this Chapter. Nothing in this Chapter is intended to limit the obligations of a Sex Offender to comply with the requirements of state law including, but not limited to, California Penal Code Section 3003.5. (Ord. 1013, March 20, 2012)

(Continued on next page)

PSYCHOACTIVE BATH SALTS, PSYCHOACTIVE HERBAL INCENSE AND OTHER SYNTHETIC DRUGS

SECTIONS:	
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9.40.020	Definitions
9.40.030	Provision, Sale and/or Distribution of Synthetic Drugs Prohibited
9.40.040	Provision, Sale and/or Distribution of Substances Claimed or Represented to be Synthetic Drugs Prohibited
9.40.050	Possession of Synthetic Drugs Prohibited
9.40.060	Public Nuisance
9.40.070	Summary Abatement
9.40.080	Revocation of Business License
9.40.090	Penalties
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9.40.110	Exclusions
40 120	Severability

<u>9.40.010</u> <u>Purpose and Intent.</u> Recreational use of Psychoactive Bath Salts, Psychoactive Herbal Incense and similar products commonly known as "Synthetic Drugs" has been documented to cause hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism and death. While State and Federal laws and regulations prohibit some Synthetic Drugs, the makers of these drugs continually alter the composition of the compounds in their products so as to escape the purview of these laws and regulations. The purpose and intent of this Chapter is to provide the City with reasonable measures to address the dangers to the community posed by Synthetic Drugs that are not regulated by State or Federal Law. (Ordinance No. 1031, 2.19.13)

9.40.020 Definitions.

- A. "Business" such term, used alone, shall be held and construed to mean and include "business," "profession," "trade," "calling," "occupation," "show," "exhibition," or "game," and all kinds of calling carried on for profit or livelihood.
- B. "Consume," "consuming" or "consumption" shall mean to ingest, inhale, inject, smoke or snort (insufflate).
- C. "Distribute", "distributing" or "distribution" shall mean to furnish, give away, exchange, transfer, deliver or supply, whether for monetary gain or not.
- D. "Person" shall include any natural person, business, firm, company, corporation, public corporation, club, trust, partnership, association and/or similar organization.
- E. "Possess," "possessing" or "possession" shall mean to have for consumption, distribution or sale in one's actual or constructive custody or control, or under one's authority or power, whether such custody, control, authority and/or power be exercised solely or jointly with others.
- F. "Provide," "providing" or "provision" shall mean offering to distribute, to distribute, offering to sell or sell a product or substance to any person.

- G. "Psychoactive Bath Salts" shall mean any crystalline or powder product that contains a synthetic chemical compound that, when consumed, elicits psychoactive or psychotropic stimulant effects. The term "Psychoactive Bath Salts" includes without limitation:
- (1) products that elicit psychoactive or psychotropic stimulant effects and contain any of the following intoxicating chemical compounds:
 - (a) cathinone (2-amino-1-phenyl-1-propanone), 4-methylmethcathinone (2methylamino-1-(4-methylphenyl)propan-1-one),4methoxymethcathinone(1-4methoxyphenyl)-2-(methylamino)propan-1one),MDPV methylenedioxypyrovalerone), MDMA (3,4-methylenedioxy-Nmethylamphetamine), methylone (3,4-methylenedioxy-Nmethylcathinone), methcathinone (2 (methylamino)-1-phenyl-propan-1one), flephedrone (4fluoromethcathinone), 3-FMC (3 fluoromethcathinone), ethcathinone (2ethylamino- 1-phenyl-propan-1-one), butylone (J3-keto-Nmethylbenzodioxolylbutanamine), o-PPP (o pyrrolidinopropiophenone), **MPPP** (4'-methyl-a-pyrrolidinopropiophenone), MDPPP (3',4'methylenedioxy-apyrrolidinopropiophenone),\ o-PVP (1-phenyl-2-(1pyrrolidinyl)-1-pentanone) or naphyrone (1-naphthalen-2-yl-2-pyrrolidin-1ylpentan-1-one);
 - (b) any derivative of the above listed intoxicating chemical compounds;
 - (c) any synthetic substance and its isomers with a chemical structure similar to the above listed compounds;
 - (d) any chemical alteration of the above listed intoxicating chemical compounds; or
 - (e) any other substantially similar chemical structure or compound; and
- (2) products that elicit psychoactive or psychotropic stimulant effects and are marketed under any of the following trade names, including but not limited to: Bliss, Blizzard, Blue Silk, Bonzai Grow, Charge Plus, Charlie, Cloud Nine, Euphoria, Hurricane, Ivory Snow, Ivory Wave, Lunar Wave, Ocean, Ocean Burst, Pixie Dust, Posh, Pure Ivory, Purple Wave, Red Dove, Scarface, Snow Leopard, Stardust, Vanilla Sky, White Dove, White Night and White Lightning.

The term "Psychoactive Bath Salts" shall not include any product, substance, material, compound, mixture or preparation that is specifically excepted by the California Uniform Controlled Substances Act ("UCSA") (Health & Safety Code §§ 11000 et seq.), listed in one of the UCSA's schedules of controlled substances (Health & Safety Code §§ 11053-11058), regulated by one of the UCSA's Synthetic Drug Laws (Health & Safety Code §§ 11357.5, 11375.5 and 11401), regulated by the Federal Controlled Substances Act (the "CSA") (21 USC §§ 81 et seq.) or approved by the Food and Drug Administration ("FDA").

H. "Psychoactive Herbal Incense" shall mean any organic product consisting of plant material that contains a synthetic stimulant compound that, when consumed, elicits psychoactive or psychotropic euphoric effects. The term "Psychoactive Herbal Incense" includes without limitation:

- (1) products that elicit psychoactive or psychotropic euphoric effects and contain any of the following intoxicating chemical compounds:
 - (a) cannabicyclohexanol (2-[(1 R,3S)-3-hydroxycyclohexyl]-5-(2methylnonan-2-yl)phenol), JWH-018 (naphthalen-1-yl-(1-pentylindol-(naphthalen-1-yl-(1-butylindol-3-3yl)methanone), JWH-073 yl)methanone), JWH200((1-(2-morpholin-4-ylethyl)indol-3-yl)-naphthalen-1-ylmethanone), HU-210 ((6aR,10aR)- 9-(Hydroxymethyl)- 6,6-dimethyl-3-(2-methyloctan-2-yl)-((6a,7, 10,10a-tetrahydrobenzo [c]chromen- 1-01), (2-[(1R,3S)-3hydroxycyclohexyl]-5-(2-methyloctan-2vI)phenol) CP 47.497 (2-[(1 R.3S)-3hydroxycyclohexyl]- 5-(2-methyloctan-2-yl}phenol) or AM-2201 (1-[(5fluoropentyl}-1 H-indol-3-yl]-(naphthalen-1yl)methanone);
 - (b) any derivative of the above listed intoxicating chemical compounds;
 - (c) any synthetic substance and its isomers with a chemical structure similar to the above listed intoxicating chemical compounds;
 - (d) any chemical alteration of the above listed intoxicating chemical compounds; or
 - (e) any other substantially similar chemical structure or compound; and
- (2) products that elicit psychoactive or psychotropic euphoric effects and are marketed under any of the following trade names: K2, K3, Spice, Genie, Smoke, PotPourri, Buzz, Spice 99, Voodoo, Pulse, Hush, Mystery, Earthquake, Black Mamba, Stinger, Ocean Blue, Stinger, Serenity, Fake Weed and Black Mamba.

The term "Psychoactive Herbal Incense" shall not include any product, substance, material, compound, mixture, or preparation that is specifically excepted by the UCSA (Health & Safety Code §§ 11000 et seq.), listed in one of the UCSA's schedules of controlled substances (Health & Safety Code §§ 11053-11058), regulated by one of the USCA's Synthetic Drug Laws (Health & Safety Code §§ 11357.5, 11375.5 and 11401), regulated by the CSA (21 USC §§ 81 et seq.) or approved by the FDA.

- I. "Psychoactive or psychotropic stimulant effects" shall mean affecting the central nervous system or brain function to change perception, mood, consciousness, cognition and/or behavior in ways that are similar to the effects of cocaine, methylphenidate or amphetamines.
- J. "Psychoactive or psychotropic euphoric effects" shall mean affecting the central nervous system or brain function to change perception, mood, consciousness, cognition and/or behavior in ways that are similar to the effects of cannabis.
- K. "Sell," "selling" or "sale" shall mean to furnish, exchange, transfer, deliver or supply for monetary gain.
- L. "Synthetic Drug" shall include Psychoactive Bath Salts and Psychoactive Herbal Incense, as those terms are defined hereinabove.

(Ordinance No. 1031, 2.19.13)

9.40.030 Provision, Sale and/or Distribution of Synthetic Drugs Prohibited.

- (a) It is unlawful for any person to provide, distribute or sell any Synthetic Drug within the City of Beaumont.
- (b) Merely disclaiming a Synthetic Drug as "not safe for human consumption" will not avoid the application of this Section.

(Ordinance No. 1031, 2.19.13)

9.40.040 <u>Provision, Sale and/or Distribution of Substances Claimed or</u> Represented to be Synthetic Drugs Prohibited.

- (a) It is unlawful for any person to claim or represent that a product that person is providing, distributing or selling is a Synthetic Drug within the City of Beaumont.
- (b) To determine if a person is claiming or representing that a product is a Synthetic Drug, the enforcing officer may consider any of the following evidentiary factors:
- (1) The product is not suitable for its marketed use (such as a crystalline or powder product being marketed as "glass cleaner");
- (2) The business providing, distributing or selling the product does not typically provide, distribute or sell products that are used for that product's marketed use (such as a liquor store selling "plant food");
- (3) The product contains a warning label that is not typically present on products that are used for that product's marketed use (such as "not for human consumption," "not for purchase by minors," or "does not contain chemicals banned by section 11357.5");
- (4) The product is significantly more expensive than products that are used for that product's marketed use (such as a half of a gram of a substance marketed as "glass cleaner" costing \$50.00);
- (5) The product resembles an illicit street drug (such as cocaine, methamphetamine or marijuana); or
- (6) The products name or packaging uses images or slang referencing an illicit street drug (such as "Eight Ballz" or "Green Buddha").
- (c) Merely disclaiming a substance claimed or represented to be a Synthetic Drug as "not safe for human consumption" will not avoid the application of this Section.

(Ordinance No. 1031, 2.19.13)

<u>9.40.050</u> <u>Possession of Synthetic Drugs Prohibited</u>. It is unlawful for any person to possess any Synthetic Drug within the City of Beaumont. (Ordinance No. 1031, 2.19.13)

9.40.060 Public Nuisance.

- (a) It is a public nuisance for any person to provide, distribute or sell any Synthetic Drug within the City of Beaumont.
- (b) It is a public nuisance for any person to allow the provision, distribution or sale of any Synthetic Drug on property owned, controlled or managed by such person within the City of Beaumont.
- (c) It is a public nuisance for any person to provide, distribute or sell any substance claimed or represented to be a Synthetic Drug within the City of Beaumont.
- (d) It is a public nuisance for any person to allow the provision, distribution or sale of any substance claimed or represented to be a Synthetic Drug on property owned, controlled or managed by such person within the City of Beaumont.
- (e) To determine if a person is claiming or representing that a substance or product is a Synthetic Drug, the enforcing officer may consider any of the evidentiary factors set forth in Section 9.1 00.040(b) of this Chapter.

(Ordinance No. 1031, 2.19.13)

- <u>9.40.070</u> <u>Summary Abatement.</u> Because the use of Synthetic Drugs has been documented to cause hallucinations, agitation, psychosis, aggression, suicidal and homicidal ideations, cannibalism and death, any violation of this Chapter presents a grave and imminent danger not only to the person consuming the Synthetic Drug, but also to the public at large. If the Code Enforcement Officer, based on the facts then known. determines that a violation of this Chapter presents an imminent danger or hazard or is imminently injurious to the public health or safety, then that violation is punishable by the summary abatement procedures set forth in Chapter 8.32 of this Code. (Ordinance No. 1031, 2.19.13)
- <u>9.40.080</u> Revocation of Business License. No person holding a validly issued City business license and owning or operating a business in the City may use that business to provide, distribute or sell any Synthetic Drug or any substance claimed or represented to be a Synthetic Drug. A violation of this Section by the holder of a validly issued City business license, shall constitute grounds for modification, suspension and/or revocation of said license in accordance with the procedures set forth in Chapter 5.04 of this Municipal Code. (Ordinance No. 1031, 2.19.13)
- <u>9.40.090</u> <u>Penalties.</u> In the discretion of the Enforcement Officer, any person violating the provisions of this Chapter shall be issued an Administrative Citation pursuant to Beaumont Municipal Code Chapter 1.17 or shall be guilty of an infraction pursuant to Beaumont Municipal Code Chapter 1.16. In either case, the amount of the fine shall be the appropriate amount set forth in Section 1.16.030 of this Code. Each such violation shall be deemed a separate offense as specified in Section 1.16.040.

Notwithstanding the above, a first offense may be charged and prosecuted as a misdemeanor, punishable by a fine of \$1,000.00, or six (6) months in jail, or both. (Ordinance No. 1031, 2.19.13)

(a) Separate Offense. Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued or permitted by any such person and he shall be punishable accordingly.

- (b) Civil Remedies Available; Remedies Cumulative. In addition to the penalties provided in this Section, any condition caused or permitted to exist in violation of any of the provisions of this Chapter shall constitute a public nuisance and may be abated by the City by civil process by means of a restraining order, preliminary or permanent injunction or in any manner provided by law for the abatement of such nuisance. All remedies herein are cumulative and non-exclusive.
- (c) Administrative Citation. In lieu of issuing a criminal citation, the City may issue an administrative citation pursuant to Chapter 1.17 of this Municipal Code, to any person responsible for committing, causing or maintaining a violation of this Chapter. Nothing in this Section shall preclude the City from also issuing a citation upon the occurrence of the same offense on a separate day.
- (d) Additional Penalties; Costs of Abatement. Nothing in this Chapter shall preclude the City from pursuing the remedies made applicable hereto elsewhere in this Municipal Code or under State law, including but not limited to, as applicable, denial or revocation of certificates of occupancy and injunctive relief. In any administrative or criminal proceeding involving the abatement of a public nuisance, the City shall also be entitled to recover its full reasonable costs of abatement, including, but not limited to, investigation, analysis and prosecuting the enforcement against the guilty party, upon submission of proof of such cost by the City.
- (e) Public Nuisance Remedies. The prevailing party in any proceeding associated with the abatement of a public nuisance as provided herein, shall be entitled to recovery of attorneys' fees incurred in any such proceeding, where the City has elected, 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 a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.
- <u>9.40.100</u> <u>Seizure of Evidence</u>. Any product(s) or substance(s) possessed, provided, distributed or sold in violation of any provision of this Chapter shall be seized by the enforcing officers and removed and stored in accordance with law. (Ordinance No. 1031, 2.19.13)

9. 40.110 **Exclusions**.

- (a) This Chapter shall not apply to drugs or substances lawfully prescribed or to intoxicating chemical compounds which have been approved by the Federal Food and Drug Administration or which are specifically permitted by California law, including without limitation, intoxicating chemical compounds that are specifically excepted by the California Uniform Controlled Substances Act (Health & Safety Code § 11000 et seq.). chemical compounds that are specifically excepted by the California Uniform Controlled Substances Act (Health & Safety Code § 11000 et seq.).
- (b) This Chapter shall not apply to drugs or substances which are prohibited by State or Federal law, including without limitation, California Health and Safety Code Sections 11357.5, 11375.5, 11401 and the Federal Controlled Substances Act.
- (c) This Chapter shall not be deemed to prescribe any act which is positively permitted, prohibited or preempted by any State or Federal law or regulation. (Ordinance No. 1031, 2.19.13)

9.40.120 Severability. If any subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction or preempted by State or Federal legislation, such decision or legislation shall not affect the validity of the remaining portions of this Chapter. The City Council declares that it would have passed this Chapter and each and every subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to any such decision or preemptive legislation.