

ORDINANCE NO. 1109

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BREA AMENDING REGULATIONS APPLICABLE TO USE OF CITY PARKS, TRAILS AND RECREATIONAL FACILITIES, AND AMENDING TITLE 12 OF THE BREA CITY CODE

The City Council ordains as follows:

SECTION 1. Chapter 12.00 of Title 12 of the Brea City is hereby repealed provided, however, that such repeal shall not affect or excuse any violation of said Chapter occurring prior to the effective date of this Ordinance.

SECTION 2. A new Chapter 12.00 is hereby added to Title 12 of the Brea City Code to read as follows:

“ CHAPTER 12.00: PARKS, TRAILS AND RECREATIONAL FACILITIES

“SECTIONS:

- 12.00.010 Parental Responsibility.
- 12.00.020 Compliance With Official Rules and Policies.
- 12.00.030 Compliance With Signs and Notices.
- 12.00.040 Temporary Closure of Parks, Trails, or Recreational Facilities.
- 12.00.050 Prohibited Conduct Generally.
- 12.00.060 Use of Sound Systems.
- 12.00.070 Entry During Closed Hours Prohibited.
- 12.00.080 Use of Restrooms and Washrooms.
- 12.00.090 Dogs Within Parks, Trails, or Recreational Facilities.
- 12.00.100 Animals Within Parks, Trails, or Recreational Facilities.
- 12.00.110 Tennis Courts – Prohibited Activities.
- 12.00.120 Scheduled Use Sports Fields, Parks, Trails, and Recreational Facilities.
- 12.00.130 Skate Parks.
- 12.00.140 Posting of Printed Materials.
- 12.00.150 Use of Vehicles, Bicycles, Skateboards, Roller Skates, and In-line Skates.
- 12.00.160 Possession and Consumption of Alcohol.
- 12.00.170 Exceptions to Enforcement.

12.00.010 PARENTAL RESPONSIBILITY.

No parent, guardian or custodian of a minor shall knowingly permit or knowingly allow such minor to do any act or thing in any park, trail, or recreational facility or any part or portion thereof, prohibited by any provision of this Chapter. No parent, guardian or custodian shall allow or permit any person under the age of six (6) to remain in or upon a City park, trail, or recreational facility unless accompanied by a capable person at least twelve (12) years of age.

12.00.020 COMPLIANCE WITH OFFICIAL RULES AND REGULATIONS.

A. It shall be unlawful for any person to disobey or violate any provision of the *City of Brea Facility Use and Allocation Policy* governing use by the public of any City park, trail or recreational facility, or any structure, equipment, apparatus or appliance within any City park or recreational facility, or upon any trail, as adopted and/or amended from time to time by resolution of the City Council, provided such person has first been provided written notice that his or her conduct is in violation of the *City of Brea Facility Use and Allocation Policy*.

B. For purposes of this Chapter, the terms 'park', 'trail' and 'recreational facility' shall mean, respectively, any City owned or controlled park, trail, and/or facility designed for recreational purposes, including, as the context permits or requires, any City owned structure, building, sports field, equipment, apparatus and/or appliance located within any City owned or controlled park or recreational facility, or upon any City owned or controlled trail. The Brea Community Center is a 'recreational facility' for purposes of this Chapter.

12.00.030 COMPLIANCE WITH SIGNS AND NOTICES.

A. No person shall disobey any City posted instruction, sign or notice, in or upon, and pertaining to use of, any park, trail, or recreational facility.

B. No person shall fail or refuse to follow or comply with any lawful order or direction of any Community Services, Maintenance Services or Police Department employee concerning the use of any park, trail or recreational facility.

12.00.040 TEMPORARY CLOSURE OF PARKS, TRAILS, OR RECREATIONAL FACILITIES.

The City Manager or designee ('City Manager' hereinafter in this Chapter) may close any park, trail, or recreational facility or any portion thereof, to the public when deemed necessary to protect the public health and safety, or for the purpose of repair or maintenance, restoration of plant life, or protection of animal habitat, or when usage would otherwise be damaging to the park, trail or recreational facility. When it is deemed necessary to temporarily close a park, trail, or recreational facility, the City Manager shall cause signs or notices to be placed giving notice that such park, trail, or recreational facility is closed and entry is unlawful. Whenever any such sign has been so posted, it shall be

unlawful for any person or persons to enter or be within or upon such park, trail, or recreational facility, or closed portion thereof.

12.00.050 PROHIBITED CONDUCT GENERALLY.

A. Within any park or recreational facility, or upon any trail, it shall be unlawful for any person to do any of the following:

1. Throw or cause to be launched rocks, stones or any other object or projectile with intent to cause serious injury to any person or animal, or damage to property.

2. Make any fire or utilize a lit barbecue except at places designated by a sign, or by the provision of a fire ring or barbecue equipment, for such purpose. No person starting or maintaining a fire or barbecue shall leave the area where the fire/barbecue is located without first completely extinguishing such fire or barbecue such that no embers exist and no other combustion is occurring.

3. Conduct or cause to be conducted any business. For purposes of this subsection, the term 'business' shall mean the sale or purchase, or solicitation or offer to sell or purchase, for any form of consideration, any goods, product, thing of value, or service, or the delivery of any goods, product or thing of value, or provision of any service, following the sale thereof, whether such sale occurred on or off City property. Prohibited 'business' includes providing lessons or instruction for any form of compensation, regardless of where payment is made. This subsection shall not apply to any City operated or permitted (by written permit) activity.

4. Climb upon any wall, fence, shelter, seat, building, structure, tree, shrub, device or other equipment, excepting play equipment posted or otherwise designated by the City for such use.

5. Bring, land or cause to descend or alight any aircraft, balloon, toy plane, parachute or other instrumentality, machine, or apparatus for human aviation or flight, without written permission of the Community Services or Maintenance Services Department, or City Manager, excluding any emergency personnel, i.e., helicopter, from this provision.

6. Damage, deface, alter, injure, destroy, paint, graffiti, tamper with, or remove any equipment, pathway, building, facility, tree, wood, bush, turf, flower, plant, grass soil, rock or any tangible thing or part of any park, trail or recreational facility.

7. Frighten, molest, chase, tease, injure, kill or remove any animal. This subsection shall not apply to any City, County, State or Federal

government employee whose official duty includes control of animals, while such employee is engaged in such duty.

8. Place, pile, deposit, leave or cause to be deposited any building material, soil, solid waste, refuse, hazardous material, or any other thing or material, except as permitted by the Maintenance Services Department or the Community Services Department, or in an area or receptacle posted or designated by the Maintenance Services Department for such purpose.

9. Swim, bathe, wade in or pollute the waters of any water feature not posted for such use, including but not limited to, any flood control channel, fountain, stream, lake, marsh or fishpond.

10. Operate any remote-controlled vehicle, including model cars, or motorized and self-propelled flying vehicles including model airplanes, except in areas posted for such use.

11. Operate inflatable "bounce houses" and/or generators of any kind. This subsection shall not apply to official City functions.

12. Feed or cause to be fed any wild animals, including, but not limited to, opossums, skunks, raccoons, and squirrels, ducks, geese, pigeons, or other wild animals or fowl, except where specifically allowed as part of a City sponsored or permitted event.

13. Play or engage in the game of golf, or to hit any golf ball with a golf club in any area not posted or otherwise specifically designated for such activity.

14. To camp or stay overnight without possessing written consent of the Community Services Department.

15. Leave garbage, cans, bottles, papers or other refuse other than in trash receptacles.

16. Bring garbage or refuse from outside the limits of the park, trail or recreational facility and deposit the same in garbage cans or receptacles at a City park, trail, or recreational facility.

17. Change into bathing clothes from street clothes or from street clothes to bathing clothes, except in a locker room, bath house or other structure posted or otherwise designated for such use.

18. Assemble, collect, gather together in or upon, or occupy, any walk, passageway or pathway, or any other place designated or posted for travel of persons, in any manner to as to prevent or obstruct any person's free passage thereon or use thereof.

19. Fire, discharge or carry any dangerous weapon. As used in this subsection, the term 'dangerous weapon' includes, but is not limited to, any paintball gun, bow and arrow, slingshot, or any other type of device, other than a firearm, capable of propelling a projectile and causing injury, and not otherwise prohibited from being possessed in a park, recreational facility or on any trail, by any other chapter of this Code, or any State or federal law. Violations of any other chapter of this Code, or State or federal law, pertaining to the possession or discharge of any firearm or other dangerous weapon shall be prosecuted under such chapter, or State or federal law.

20. Urinate or defecate except in urinals and/or toilets within a restroom open to the public.

21. Smoke any cigarette or cigar within twenty-five (25) feet of any playground or tot lot area, or leave or deposit any cigarette or cigar butt outside of a trash receptacle.

B. Any person who commits any of the acts set forth in this Section shall be subject to punishment as provided in this Chapter and/or ejection by a Brea Police Officer.

C. Nothing in this subsection or Chapter shall be deemed to authorize any conduct otherwise prohibited by any other provision of this Code.

12.00.060 USE OF SOUND SYSTEMS.

No person shall play or utilize any sound amplifying system within or upon a park, trail or recreational facility that is not posted or designated for such purposes. For purposes of this subsection, 'sound amplifying system' means and includes any system of electrical hook-up or connection, equipment, sound amplifying system, loudspeaker, public address system, and any apparatus, equipment, device, instrument or machine capable of, designed for or intended to be used for the purpose of amplifying the sound or increasing the volume of the human voice, musical tone, vibration or sound wave. This subsection shall not apply to (a) official City functions; (b) any person possessing a written City permit or consent that specifically authorizes use of a sound amplifying system when and where it is being used; or (c) the regular and customary use of portable radios, music players, televisions, or tape recorders played or operated so as not to unreasonably disturb or interfere with another person's permitted use of the park, trail or recreational facility.

12.00.070 ENTRY DURING CLOSED HOURS PROHIBITED.

It is unlawful for any person to enter or remain, or to leave any motor vehicle or personal property, in any park or recreational facility, or upon any trail, at any time during posted hours of closure, without possessing written permission from the Community Services Department. If hours of closure are not posted, then

such hours are from 10:00 p.m. to 7:00 a.m., daily. This subsection shall not apply during scheduled events and/or rentals that take place at the Brea Museum and Heritage Center or the Brea Lions Scout Center located within City Hall Park.

12.00.080 USE OF RESTROOMS AND WASHROOMS.

It is unlawful for any person over the age of eight (8) years to enter or use any public restroom or washroom facilities posted or designated for use of persons of the opposite sex. It is unlawful for any person to use any public restroom for the purpose of bathing oneself or any other individual, or any animal, or to change clothes.

12.00.090 DOGS WITHIN PARKS, TRAILS, OR RECREATIONAL FACILITIES.

A. All dogs within or upon public parks, trails, or recreational facilities must be licensed as required by law, and be restrained by a chain or leash not more than six (6) feet in length, unless such dog is within a City established and posted 'dog park' or 'leash-optional' area.

B. It is unlawful for any person having charge of a dog to fail to promptly remove any feces deposited by such dog within any park or recreational facility, or upon any trail.

C. It is unlawful for any person having charge of a dog to allow such dog to enter or remain within any area of any park, trail, or recreational facility designated or posted for use by children, or to enter any sand box or play apparatus area.

D. It is unlawful to tether any dog to any tree or other fixed object within any park or recreational facility, or upon any trail.

12.00.100 ANIMALS WITHIN PARKS, TRAILS, OR RECREATIONAL FACILITIES.

It is unlawful to allow any animal to run loose, swim or be at large in any public park or recreational facility, or upon any trail, within the City, not posted or designated for such purpose. No person shall bring into any public park or recreational facility, or onto any trail, any animal that constitutes a safety hazard or otherwise presents a risk to the public health and safety, without possessing written consent of the Community Services Department. Animals may be brought into a park or recreational facility for the purpose of providing an animal show, exhibit, fair or similar kind of activity, provided the person responsible possesses written consent of the Community Services Department. Horses are prohibited in any park or recreational facility, or on any trail, provided, however, that horses may be ridden or walked in areas posted for equestrian use.

12.00.110 TENNIS COURTS – PROHIBITED ACTIVITIES.

A. It is unlawful for any person in or upon any City-owned or controlled tennis court to engage in any activity other than playing or practicing tennis. Prohibited activities include, but are not limited to, wiffle ball, skating or riding upon a skateboard, scooter, unicycle, bicycle, or other wheeled device, without possessing written permission from the Community Services Department.

B. The Community Services Department may authorize, by posting a sign or by issuing a written permit, the use of tennis courts owned or controlled by the City for an activity other than playing or practicing tennis.

12.00.120 SCHEDULED USE SPORTS FIELDS, PARKS, TRAILS, AND RECREATIONAL FACILITIES.

Certain sports fields, parks, trails and/or recreational facilities, and/or areas therein, may be designated for scheduled use by individuals and/or organized sports league teams, in accordance with a written scheduled use program created and administered by the Community Services Department. Such areas shall be posted as being subject to scheduled use.

It shall be unlawful for any person or sports team to refuse or fail to surrender the use of any scheduled use sports field, park, trail, or recreational facility, or area therein, to any person and/or organized sports league team possessing a written permit or field assignment from the Community Services Department authorizing the use thereof, for the period specified in such permit or field assignment. Permitted use of scheduled use areas shall be subject to the *City of Brea Facility Use and Allocation Policy*.

12.00.130 SKATE PARKS.

A. Skateboarding, in-line skating and/or roller skating is deemed to be a hazardous activity and the City shall not be liable for injuries incurred by persons who participate in any such hazardous activity.

B. City skate parks are designed and maintained, and are hereby designated as skateboard parks in which skateboarding, in-line skating and/or roller skating is permitted pursuant to the provisions of this Section. Use of any City skate park for any purpose not expressly permitted by this Section, is prohibited unless such user is in possession of written permission from the Community Services Department. Any person utilizing any City skate park for skateboarding, in-line skating and/or roller skating, is deemed to be knowledgeable of the inherent dangers. Having such knowledge, each such person is further deemed to have expressly assumed all risks of injury of injury, to the fullest extent permitted by law.

C. Every person riding a skateboard, or utilizing in-line skates or roller skates in any City skate park must:

1. Wear a fully-functional helmet, elbow pads, and knee pads;
2. Be supervised by an adult if under the age of fourteen (14); and
3. Comply with all posted rules and regulations.

D. The Community Services Department is authorized to establish, post and/or revise rules and regulations deemed appropriate for any City skate park. It shall be unlawful and a citable offense for any person to violate any provision of this Section, or any such posted rule or regulation.

12.00.140 POSTING OF PRINTED MATERIALS.

Notwithstanding any other provision of this Code, no person shall display, post, attach or affix, or cause to be posted, attached or otherwise affixed, to any tree, shrub, plant, grass, fence, building, structure, ornament, wall, apparatus, post, bridge, bench, gate, property or other physical object, any handbill, banner, circular, booklet, card, sign, pamphlet, sheet or other written or printed material, within any park or recreational facility, or upon any trail. The provisions of this Section shall not apply to any area designated or posted to permit the posting of written materials, or to posting of printed materials expressly permitted by this Code, or State or federal law. The provisions of this Section shall not apply to any area of any park or recreational facility that is rented by the City, or is subject to a City reservation program, provided the terms of the rental agreement or reservation program rules permit the posting of written materials and any such posting is in compliance with such agreement or program rules. In such case, however, the person or entity renting or reserving must remove all printed materials upon completion of authorized use.

12.00.150 USE OF VEHICLES, BICYCLES, SKATEBOARDS, ROLLER SKATES, AND IN-LINE SKATES.

A. Only motor vehicles that are currently licensed and registered are permitted to be operated within any park or recreational facility. Currently licensed and registered motor vehicles may only be operated upon roads, driveways, pathways and/or parking lots, posted or otherwise designated for public vehicular use provided, however, motorized carts may be utilized for sports field preparation in accordance with the *City of Brea Facility Use and Allocation Policy*, by persons possessing a valid drivers license, pursuant to a scheduled use permit or field assignment (see Section 12.00.120.)

B. No person shall park any vehicle on any lawn, planted area, or pedestrian walkway, within any marked fire lane, or any other area not posted or designated by distinctive markings for public parking, within any park or recreational facility, or on or adjacent to any trail. No person shall wash, polish, grease or repair any vehicle within any public park or recreational facility.

C. It shall be unlawful for any person to sleep in any vehicle within or upon any park, trail or recreational facility at any time between dusk and dawn the next day, or at any time during closed hours.

D. In accordance with the provisions of California Vehicle Code Section 21113, the provisions of the California Vehicle Code are applicable to all streets and roadways within City parks, recreational facilities and adjoining City owned or operated parking areas. Violations of said Vehicle Code may be enforced and prosecuted in accordance with the provisions thereof.

E. No person shall recklessly utilize a bicycle or skateboard or recklessly roller skate or in-line skate on any trail or in any park or recreational facility. For purposes of this subsection, 'recklessly' shall mean in willful or wanton disregard for the safety of persons or property. In all cases pedestrians shall be afforded the right-of-way. Nothing in this subsection shall be deemed to permit skateboarding, roller skating or in-line skating in or upon any area where such activity is otherwise prohibited by other provisions of this Code. It is unlawful to ride any bicycle outside of any roadway or other paved area, except in areas or on trails posted or designated for such use.

12.00.160 POSSESSION AND CONSUMPTION OF ALCOHOL.

A. Except as provided herein, it is unlawful for any person to possess any open container of, or to consume, beer, wine or other alcoholic beverage, as defined in California Business and Professions Code §23004, in any City owned park or recreational facility, or in or upon any City-owned public place within the City.

B. The provisions of subsection A above, shall not apply to persons conducting or attending social events in or upon any City owned park, recreational facility, or other City owned public place where alcoholic beverages are being served, that are sponsored by the City, or that are conducted by established community service or similar non-profit organizations or other persons, organizations or entities that have rented a City-owned facility, having prior written consent of the City Manager after taking into account the nature of the event and potential risk to the public health and safety. During events to which this exception applies, the lawful consumption of alcohol and/or possession of open containers of alcoholic beverages is strictly limited to the immediate area where such event is being conducted and only for the duration of the event. A true copy of any required license or permit issued by the State of California Department of Alcoholic Beverage Control, and the City Manager's written consent, authorizing the provision of the alcoholic beverage being served, must be in the possession of an authorized representative of the organization sponsoring the event, and that representative shall be present at all times at the event. The representative shall present the license or permit, and/or City Manager's written consent, to any peace officer upon demand.

C. In accordance with the provisions of California Business and Professions Code § 25620, possession of an open container of alcohol in violation of this Section is punishable as an infraction.

12.00.170 EXCEPTIONS TO ENFORCEMENT.

The provisions of this Chapter shall not apply to any City, State or federal employee lawfully performing his or her official duties.”

SECTION 3. Penalty. Except where specified to be an infraction, violation of any provision of this Ordinance shall constitute a misdemeanor and shall be punishable by a fine not to exceed one thousand dollars (\$1,000) or by imprisonment for a period not to exceed six (6) months, or by both such fine and imprisonment. Each and every day such a violation exists shall constitute a separate and distinct violation of this Ordinance.

SECTION 4. Civil Remedies. The violation of any of the provisions of this Ordinance hereby adopted shall constitute a nuisance and may be abated by the City through civil process by means of restraining order, preliminary or permanent injunction or in any other manner provided by law for the abatement of such nuisances.

SECTION 5. Severability. The City Council declares that, should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences and words of this Ordinance shall remain in full force and effect.

SECTION 6. The City Clerk shall certify to the adoption of this Ordinance.

APPROVED AND ADOPTED this 4th day of December, 2007.



Mayor

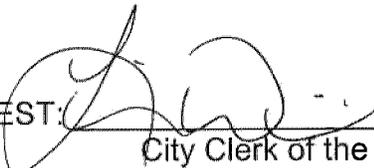
I, Lucinda Williams, City Clerk of the City of Brea, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Brea held on the 20th day of November, 2007 and was finally passed at a regular meeting of the City Council of the City of Brea on the 4th day of December, 2007 by the following vote:

AYES: COUNCIL MEMBERS: Garcia, Moore, Simonoff, Beauman, Schweitzer

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ATTEST:  _____
City Clerk of the City of Brea

DATE: 12-10-07