

ORDINANCE NO. 4132

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA AMENDING CHAPTERS 38 AND 46 OF THE POMONA CITY CODE TO REQUIRE A PERMIT FOR USE OF INFLATABLE STRUCTURES AND OTHER ATTRACTIONS IN CITY PARKS

WHEREAS, the City of Pomona (the “City”) has seen an increased number of inflatable structures and other attractions appearing in City parks;

WHEREAS, in particular, such structures and attractions – which can include inflatable “bounce houses,” obstacle courses, slides, pony rides, rock climbing walls, and petting zoos – often appear in small City parks which do not provide sufficient space for the use of such structures and amusements;

WHEREAS, City staff members have concerns that repeated, unregulated use of such inflatable structures may permanently damage the turf or vegetation at City parks;

WHEREAS, City staff members also have concerns regarding the use of large tanks of water, commonly referred to as “dunk tanks” or “dunking booths,” including concerns relating to the sanitation and the disposal of the water;

WHEREAS, Article III of Chapter 38 of the Pomona City Code (the “PCC”) outlines the conduct required in City parks, and requires a permit be obtained from the Community Services Director for large gatherings and assemblies, such as picnics and celebrations;

WHEREAS, despite such provisions, the PCC currently does not specifically address the use of the above-mentioned inflatable structures and other attractions on City property; and

WHEREAS, the City Council desires to amend the PCC to require permits for the placement and use of such inflatable structures and attractions on City property, establish and adopt a policy setting forth criteria for the issuance of permits, and prohibit the use of dunk tanks on City property.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Pomona as follows:

SECTION 1. Chapter 38, Article III, Section 38-73 of the Pomona City Code is hereby amended to read as follows:

Sec. 38-73. Specific acts prohibited.

Every person who willfully within any public park commits any of the following acts shall be guilty of either a misdemeanor or an infraction at the discretion of the City:

(1) Leading, letting loose, or staking out any domestic animal or fowl of any kind whatsoever; provided, however, that this shall not apply to dogs when on a leash that complies with section 6-47.

- (2) Cutting or removing any wood, tree, turf, grass, soil, rock, sand or gravel.
- (3) Swimming, bathing or polluting or placing any boat or any floating object whatsoever in the water of any fountain, pond, lake, stream or flood control channel.
- (4) Making or kindling a fire for any purpose whatsoever, except at such places as are provided by the director.
- (5) Camping or lodging therein.
- (6) Riding any domestic animal or riding or driving any bicycle or any other vehicle whatsoever elsewhere than on the roads or drives provided for such purpose.
- (7) Selling or offering for sale any goods, wares or merchandise within any public park or upon any street, area or path within such park or upon any street adjacent to any public park; provided, however, that this shall not be construed as applying to any lawfully established concession or concessionaire holding a valid permit signed by the director.
- (8) Playing or engaging in any hazardous or dangerous game or contest, including the hitting of golf balls, except at such place as shall be especially set apart for that purpose.
- (9) Parking, leaving or standing or causing to be parked or causing to be left standing any vehicle whatsoever in any place in the public park designated and marked by the director.
- (10) Driving or parking any vehicle on turfed or planted areas adjacent to roadways.
- (11) Operating or allowing to be operated any model airplane, model car, go-cart or other self-propelled devices and vehicles not covered under the Vehicle Code upon the driveways, paths or grounds of any public school, park, playground or other property under the control of the board of education or the city, exempted in part or in whole from taxation, except within those areas or upon those grounds specifically designated and posted for such operation, and then only under those conditions and regulations as approved by the council.
- (12) Playing of amplified music from any vehicle or from any handheld or freestanding radio, tape, or disc unit in any public park in such a manner which disturbs other park patrons or events held in the same park area. This subsection does not apply to events permitted pursuant to section 38-74.
- (13) Vehicle repair, including but not limited to changing of tires, changing of motor oil, or washing and/or waxing of any vehicle. This subsection does not apply to emergency repairs.
- (14) Failure to pick up and properly dispose of animal droppings from any domestic animal under the care and/or responsibility of any park patron.
- (15) Placing, using or operating an Inflatable Structure or Other Attraction, as defined, within any public park without a permit pursuant to Chapter 46, Article XIII of this Code. This subsection shall not apply to Inflatable Structures or Other Attractions placed, used or operated by the City in conjunction with a City-sponsored event.**
- (16) Placing, using or operating any large tank of water over which a seat is suspended, commonly referred to as a dunk tank, dunking booth or dunking machine. This subsection shall not apply to dunk tanks placed, used or operated by the City in conjunction with a City-sponsored event.**

SECTION 2. Chapter 46 of the Pomona City Code is hereby amended by adding Article XIII as follows:

Article XIII. Inflatable Structures and Other Attractions on City Property

DIVISION 1. GENERALLY

Sec. 46-650. Definitions.

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

City property means property owned, operated or controlled by the City of Pomona, including, but not limited to, public parks and civic plazas.

Climbing wall means a temporary, portable wall specifically designed for climbing and often built to simulate a rocky surface.

Dunk tank means a large tank of water over which a seat is suspended, also referred to as a dunking booth or dunking machine.

Inflatable structure means inflatable structures or equipment, commonly used for jumping, bouncing, sliding, riding, or as an apparatus for sports and recreational activities. The term includes, but is not limited to, inflatable buildings, castles, roofs, covers, slides, swimming pools, boxing rings, and obstacle courses.

Other attractions means temporary attractions that are not permanent fixtures on City property, that include large structures or live animals, and are commonly used and operated at fairs, fundraisers and private parties. *Other attractions* includes, but is not limited to, pony rides, climbing walls, slides, and petting zoos, but shall not include dunk tanks.

Petting zoo means a collection of one or more farm animals or exotic animals for children to pet and feed.

Pony ride means a collection of one or more ponies for children to ride.

Slide means a portable, smooth surface or track for sliding, which may or may not include either standing water on its surface, or water pumped to its top and allowed to flow down its surface.

DIVISION 2. PERMIT

Sec. 46-651. Required

(a) Any person desiring to place, operate, stage and/or use an Inflatable Structure or Other Attraction on City Property shall first apply for and receive a permit in writing from the City Manager or his/her designee.

(b) Every person who places, operates, stages, or uses an Inflatable Structure or Other Attraction on City Property, or causes, permits or allows to be placed, conducted, staged, or used an Inflatable Structure or Other Attraction on City Property, without having filed an application with the City Manager or his/her designee in the manner prescribed in this article and issued a permit therefor is guilty of a misdemeanor.

(c) This article shall not apply to those persons who will use an Inflatable Structure or Other Attraction in connection with a special event, and have applied for and been issued a permit for said event and the use of the Inflatable Structure or Other Attraction pursuant to Chapter 46, Article XI of this Code.

Sec. 46-652. Application contents.

Any person or authorized representative desiring a permit to place, operate, stage and/or use an Inflatable Structure or Other Attraction on City Property (hereinafter, the "applicant") shall file, at least two (2) weeks prior to the anticipated event, an application for such a permit. The application shall be on a form provided by the City, shall be signed by the applicant under penalty of perjury, and shall include the following information:

- (1) The name and contact information of the applicant.
- (2) The name and contact information of the vendor providing the Inflatable Structure or Other Attraction, if any.
- (3) A statement describing the kind, type or nature of the Inflatable Structure and/or Other Attraction.
- (4) The name of the insurance carrier; the amount of personal and property liability, naming the City as an additional insured, carried together with the name of the nearest representative and his or her business address.
- (5) The number of people expected to use the Inflatable Structure or Other Attraction.
- (6) The location where the Inflatable Structure and/or Other Attraction will be placed, operated, staged and/or used.
- (7) The date when the Inflatable Structure and/or Other Attraction will be placed, operated, staged and/or used.
- (8) A description of how the Inflatable Structure and/or Other Attraction will be self contained, as required by the policy described in Section 46-654.

Sec. 46-653. Review procedures.

(a) An application for a permit to place, operate, stage and/or use an Inflatable Structure or Other Attraction on City Property shall be accompanied by payment in an amount equal to the non-refundable fixed permit fee. The application and fee shall be filed with the City Manager or his/her designee. The application shall be evaluated based on the policy described in Section 46-654. If the application conforms to the criteria set forth in such policy, the City Manager or his/her designee may then issue a permit. The permit may include conditions as may be appropriate and reasonably be imposed to ensure the safety of the users of the Inflatable Structure or Other Attraction.

(b) One copy of the application shall be kept on file with the City Manager or his/her designee.

Sec. 46-654. Criteria for evaluation and issuance.

(a) The City Council shall establish and adopt by resolution a policy setting forth criteria for the issuance of permits for the placement, operation, staging and/or use of Inflatable Structures or Other Attractions on City Property.

(b) In each permit, the City Manager or his/her designee, shall specify, as conditions to the issuance of the permit and in conformance with the policy described in subdivision (a), the following:

(1) The designated area for the placement and use of the Inflatable Structure or Other Attraction.

(2) The date, and starting and ending times, for the placement and use of the Inflatable Structure or Other Attraction.

(3) Any damage to City property directly attributable to the placement or use of the Inflatable Structure or Other Attraction shall be the sole responsibility of the applicant.

(4) The applicant who is issued the permit must have in his or her possession a copy of the permit at all times during the placement and use of the Inflatable Structure or Other Attraction.

(5) The Inflatable Structure or Other Attraction must be operated at all times pursuant to the terms and conditions included in the permit.

(6) The Inflatable Structure or Other Attraction shall not be operated or used for commercial purposes.

(7) Such other requirements as are found by the City Manager or his/her designee to be reasonably necessary for the protection of the public or City property.

Sec. 46-655. Fallacious statements.

Any applicant who files an application with the City Manager or his/her designee pursuant to this article, who knowingly makes any statement in the application that is fallacious, is guilty of an infraction.

Sec. 46-656. Establishment of fee.

The City Council shall establish a non-refundable application fee, and a fee for cancellations and/or re-scheduling of the use of the Inflatable Structure or Other Attraction. All fees shall be established by resolution of the City Council, in accordance with the City master fee schedule.

Sec. 46-657. Violations and penalties.

(a) Any Inflatable Structure or Other Attraction placed, operated, staged and/or used in violation of this article or in violation of the permit's terms and conditions

shall be and is declared to be a public nuisance and may be summarily abated by the City.

(b) In addition to other penalties provided, the City Manager or his/her designee may revoke or suspend any permit issued pursuant to this article, if:

(1) The Inflatable Structure or Other Attraction is operated in violation of the policy described in Section 46-654 of this article or the permit's terms and conditions;

(2) The person issued the permit violates, causes, permits, or allows to be violated any provision of this Code, City ordinance, or any state or federal law;
or

(3) In the discretion of the City Manager or his/her designee, the operation of the inflatable structure is contrary to the public welfare.

(c) No relief from a revocation may be obtained until a new application shall have been filed with the City Manager or his/her designee in the manner set forth in this article.

SECTION 3. If any part of this Ordinance, or its application to any individual, entity, or circumstance, is held to be invalid, the remainder of the Ordinance, including the application or provision to other persons or circumstances, shall not be affected and shall continue in full force and effect. To this end, the provisions of this Ordinance are severable.

SECTION 4. The City Clerk shall attest to the passage and adoption of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its final adoption.

PASSED, APPROVED AND ADOPTED THIS 2nd DAY OF AUGUST, 2010.

ATTEST:

CITY OF POMONA:

Marie Michel Macias, City Clerk

Elliott Rothman, Mayor

APPROVED AS TO FORM

Arnold M. Alvarez-Glasman, City Attorney

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STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
CITY OF POMONA

I, MARIE MICHEL MACIAS, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading on May 17, 2010 and adopted at second reading at a regular meeting of the City Council of the City of Pomona held on the 2nd day of August, 2010, by the following vote:

AYES: COUNCILMEMBERS: Soto, Rodriguez, Carrizosa, Lantz, Saunders, Atchley
NOES: COUNCILMEMBERS: None
ABSENT: COUNCILMEMBERS: Rothman
ABSTAIN: COUNCILMEMBERS: None

Marie Michel Macias, City Clerk