

CITY OF HAWAIIAN GARDENS

ORDINANCE NO. 291

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS AMENDING THE MUNICIPAL CODE BY REPEALING SECTIONS 9.52.010 THROUGH 9.52.050 AND ADDING SECTIONS 9.52.010 THROUGH 9.52.090 TO CHAPTER 9.52 RELATING TO FORTUNE TELLING REGULATIONS AND DECLARING THIS TO BE AN URGENCY ORDINANCE TO TAKE EFFECT IMMEDIATELY.

THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES ORDAIN AS FOLLOWS:

SECTION 1. Sections 9.52.020, 9.52.020, 9.52.030, 9.52.040, and 9.52.050 are hereby repealed.

SECTION 2. Chapter 9.52 of the Hawaiian Gardens Municipal Code is hereby amend to read in its entirety as follows:

"Section 9.52.020 Fortune Telling-Definitions

- (a) "Council" shall mean the City Council.
- (b) "For Pay" shall mean for a fee, reward, donation, loan or receipt if anything of value.
- (c) "Fortune-telling" shall mean telling of fortunes, forecasting of futures, or furnishing of any information not otherwise obtainable by the ordinary process of knowledge, by means of any occult, physic power, faculty, force, clairvoyance, clairaudience, cartomancy, psychology, psychometry, phrenology, spirits, tea leaves or other such reading, mediumship, seership, prophecy, augury, astrology, palmistry, necromancy, mind-reading, telephathy, or other craft art, science, cards, talisman, charm, potion, magnetism, magnetized article or substance, gypsy cunning or foresight, crystal gazing, oriental mysteries or magic, of any kind or nature.

Section 9.52.020 PERMIT AND COMPLIANCE WITH CONDITIONS REQUIRED.

(a) No person shall conduct, engage in, carry on, participate in, or practice fortune-telling or cause the same to be done for pay without having first obtained a permit from the Council and without having posted and maintained in full force and effect a surety bond as required in Section 9.52.060.

(b) No person shall violate any of the terms and conditions of a permit issued pursuant to this Chapter nor any of the regulations and provisions within this Chapter. Each day such a violation or violations occur shall constitute a separate offense.

SECTION 9.52.030 - PERMIT APPLICATION

Every natural person who, for pay, actively conducts, engages in, carries on, or practices fortune-telling shall file a separate verified application for a permit with the City Clerk. The application shall contain:

- (a) The name, home and business address, and home and business phone number of the applicant.
- (b) The record of conviction for violations of the law, excluding minor traffic violations.
- (c) The fingerprints of the applicant on a form provided by the Sheriff's Department.
- (d) The address, city and state, and the approximate dates where and when the applicant practiced a similar business, either alone or in conjunction with others.

SECTION 9.52.040 - INVESTIGATION

Upon the filing of the application, it shall be referred by the City Clerk to the Sheriff's Department for investigation, report and recommendation. The investigation shall be conducted to verify the facts contained in the application and any supporting data. The investigation shall be completed and a report and recommendation made in writing to the Council within fourteen (14) days after the filing of the application, unless the application requests or consents to an extension of the time period. If the report recommends denial of the permit to the applicant, the grounds for the recommended denial shall be set forth. At the time of the filing of the report and recommendation with the Council, a copy thereof shall be served personally or by certified mail by the City Clerk on the applicant, accompanied by a notice to the applicant, who may request to be heard when the Council considers the application and report.

SECTION 9.52.050 - HEARING AND DECISION BY THE COUNCIL.

- (a) The Council shall consider the application and the report and recommendation at a hearing held at a regularly scheduled meeting on or before the fourteenth (14th) day after the filing of the report and recommendation referred to in Section 9.52.060.
- (b) Notice of the time and place of the hearing shall be given to all parties by the City Clerk at least three (3) days prior to the hearing.
- (c) Any interested party shall be heard upon a reasonable request.
- (d) City shall have the burden of proof to show the permit shall be denied.

SECTION 9.52.050 - HEARING AND DECISION BY THE COUNCIL (CONTINUED)

(e) The decision of the Council to grant or deny the permit shall be in writing, and if adverse to the applicant, shall contain findings of fact and a determination of the issues presented.

(f) Unless the applicant agrees in writing to an extension of time, the Council shall make its order denying or granting the application within twenty-four (24) hours after completion of the hearing on the application for a permit and shall notify the applicant of its action by personal service or certified mail.

(g) Any member of the Council who is absent from the hearing or has not read or heard the record of the proceedings shall not vote on the decision.

SECTION 9.52.060 - ISSUANCE OF PERMIT.

(a) The Council shall approve the issuance of the permit if they find:

(1) All the information contained in the application and supporting data is true.

(2) The applicant has not, within the previous six (6) months, been convicted of any violation of this Chapter or any law relating to fraud or moral turpitude.

(3) The applicant appeared in person at the hearing.

(4) The applicant agrees to abide by and comply with all conditions of the permit and this Chapter.

(b) The Council shall deny the permit only if it cannot make each of the findings set forth above.

(c) If the Council approves the permit, the City Finance Officer shall thereafter issue the permit when:

(1) The fee required by Section 9.52.090 has been paid.

(2) The applicant has posted with the City Clerk, surety bond in the principal sum amount of \$10,000.00 executed as surety by a good and sufficient corporate surety authorized to do a surety business in the State of California and as a principal by the applicant. The form of the bond shall have been approved by the City Attorney and shall have been given to insure good-faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealing suffered by any patron of the applicant within the City during the term of the permit.

(d) The term of the permit shall be for no more than the term of a regular business tax certificate. A renewal application shall be filed no later than thirty (30) days prior to the expiration of the permit and shall be processed in the same manner as a new application.

SECTION 9.52.070 - PERMIT REVOCATION

Upon the discovery of any false or misleading statement in the application or any misrepresentation by the applicant in procuring the permit or upon the termination of the bond required hereunder or upon the termination of the bond required hereunder or upon the applicant's violation of any provision of this Chapter, the Council may conduct a hearing upon five (5) days written notice to the applicant to determine whether the permit should be revoked.

SECTION 9.52.080 - EXCEPTIONS

(a) The provisions of this Section shall not apply to any person solely by reason of the fact that he or she is engaged in the business of entertaining the public by demonstrations of mindreading, mental telepathy, thought conveyance, or the giving of horoscopic readings, at public places and in the presence of and within the hearing of other persons and at which no questions are answered, as part of such entertainment, except in a manner to permit all persons present at such place to hear such answers.

(b) No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as minister, from any bona fide church or religious association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith; provided that:

(1) Except as provided in (3) hereof, the fees, gratuities, emoluments, and profits thereof shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association, as defined in this subsection (b).

(2) The minister holding a certificate of ordination from such bona fide church or religious association, as defined in this subsection (b), shall file with the City Clerk a certified copy of the minister's certificate of ordination with the minister's name, age, street address, and phone number in this City where the activity set forth in this subsection (b) is to be conducted.

(3) Such bona fide church or religious association, as defined in this subsection (b), may pay to its ministers a salary or compensation based upon a percentage basis, pursuant to an agreement between the church and the minister which is embodied in a resolution and transcribed in the minutes of such church or religious association.

SECTION 9.52.090 - PERMIT FEE

The permit fee for Fortune Telling permit shall be Five Hundred Dollars (\$500.00) per year for each Fortune Teller.

SECTION 9.52.100 - ZONING

Fortune-telling shall be permitted in a Commercial Zone only.

SECTION 9.52.110 - SEVERABILITY

If any section, subsection, subdivision, sentence, clause, or phrase of this Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subdivision, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

SECTION 3. URGENCY ORDINANCE. This ordinance is hereby adopted and passed as an urgency ordinance pursuant to the provisions of Section 36934 and 36937 (b) of the Government Code of California upon the following findings and determinations of the City Council:

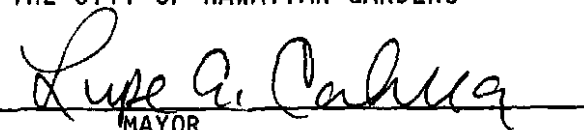
1. The existing ordinance regulating fortune telling is uncertain as to its enforceability and the Supreme Court of California has a similar ordinance pending determination as to its validity.

2. A determination by the Supreme Court that ordinances prohibiting fortune telling is invalid would result in the City of Hawaiian Gardens without regulation, review or control over the time, place and circumstances of the practice of fortune telling, in lieu of prohibiting such practice, is necessary to preserve the health, safety and general welfare of the citizens of Hawaiian Gardens. This ordinance is necessary to provide for the processing and issuance of permits in an orderly and regulated manner, it is urgent that applications for said permits be properly reviewed and investigated prior to the issuance thereof and the failure to provide such process constitutes a threat to the public health, safety and welfare of the citizens of Hawaiian Garddens. Therefore, this ordinance shall take effect immediately.

SECTION 4. The City Clerk shall certify to the adoption of this ordinance and cause it to be published as required by law.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS
ON THE 13TH DAY OF AUGUST, 1985.

ATTEST:


MAYOR


CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Carol J. Dorfmeier, City Clerk of the City of Hawaiian Gardens do hereby certify that Ordinance No. 291 was duly and regularly passed and adopted by the City Council of the City of Hawaiian Gardens on the 13th day of August, 1985, by the following roll call vote, and as the same appears on file and of record in the office of the City Clerk.

AYES: Vineyard, Myers, Furgeson, Sher, Cabrera

NOES: None

ABSENT: None

ABSTAIN: None


CITY CLERK

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA,
County of Los Angeles,

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the Long Beach Press-Telegram, a newspaper of general circulation, printed and published 5 times each week in the City of Long Beach, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of March 21, 1934.

Case Number 370512; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

August 21,

all in the year 19__85

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Long Beach, California, this _____
21st

_____ day of
August, 19__85


Signature

PRESS-TELEGRAM
Legal Advertising Department
604 Pine Avenue, Long Beach, CA 90844
435-1161 Extension 208

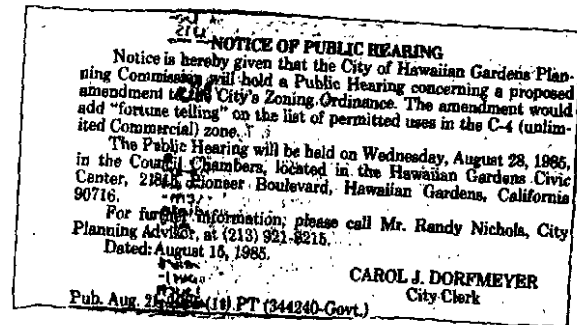
Ad. 344240 \$32.98

This space is for the County Clerk's Filing Stamp

Proof of Publication of

NOTICE OF PUBLIC HEARING

CITY OF HAWAIIAN GARDENS



SECTION 9.52.060 - HEARING AND DECISION BY THE COUNCIL

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(c) Notice of the time and place of the hearing shall be given to all parties by the City Clerk at least three (3) days prior to the hearing.

(d) Any interested party shall be heard upon a reasonable request.

(e) City shall have the burden of proof to show the permit shall be denied.

(f) The decision of the Council to grant or deny the permit shall be in writing, and if adverse to the applicant, shall contain findings of fact and a determination of the issues presented.

(g) Unless the applicant agrees in writing to an extension of time, the Council shall make its order denying or granting the application within twenty-four (24) hours after completion of the hearing on the application for a permit and shall notify the applicant of its action by personal service or certified mail.

(h) Any member of the Council who is absent from the hearing or has not read or heard the record of the proceedings shall not vote on the decision.

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(1) All the information contained in the application and supporting data is true.

(2) The applicant has not, within the previous six (6) months, been convicted of any violation of this Chapter or any law relating to fraud or moral turpitude.

(3) The applicant appeared in person at the hearing.

(4) The applicant agrees to abide by and comply with all conditions of the permit and this Chapter.

(b) The Council shall deny the permit only if it cannot make each of the findings set forth above.

(c) If the Council approves the permit, the City Finance Officer shall thereafter issue the permit when:

(1) The fee required by Section 9.52.090 has been paid.

(2) The applicant has posted with the City Clerk, surety bond in the principal sum amount of \$10,000.00 executed as surety by a good and sufficient corporate surety authorized to do a surety business in the State of California and as a principal by the applicant. The form of the bond shall have been approved by the City Attorney and shall have been given to insure good-faith and fair dealing on the part of the applicant and as a guarantee of indemnity for any and all loss, damage, theft, or other unfair dealing suffered by any patron of the applicant within the City during the term of the permit.

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(b) No person shall be required to pay any fee or take out any permit for conducting or participating in any religious ceremony or service when such person holds a certificate of ordination as a minister, missionary, medium, healer, or clairvoyant, hereinafter collectively referred to as minister, from any bona fide church or religious association maintaining a church and holding regular services and having a creed or set of religious principles that is recognized by all churches of like faith; provided that:

(1) Except as provided in (3) hereof, the fees, gratuities, emoluments, and profits thereof shall be regularly accounted for and paid solely to or for the benefit of the bona fide church or religious association, as defined in this subsection (b).

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SECTION 3. URGENCY ORDINANCE. This ordinance is hereby adopted and passed as an urgency ordinance pursuant to the provisions of Section 36934 and 36937 (b) of the Government Code of California upon the following findings and determinations of the City Council:

1. The existing ordinance regulating fortune telling is uncertain as to its enforceability and the Supreme Court of California has a similar ordinance pending determination as to its validity.

2. A determination by the Supreme Court that ordinances prohibiting fortune telling is invalid would result in the City of Hawaiian Gardens without regulation, review or control over the time, place and circumstances of the practice of fortune telling. In lieu of prohibiting such practice, it is necessary to preserve the health, safety and general welfare of the citizens of Hawaiian Gardens. This ordinance is necessary to provide for the processing and issuing of permits in an orderly and regulated manner. It is urgent that applications for said permits be properly reviewed and investigated prior to the issuance thereof and the failure to provide such process constitutes a threat to the public health, safety and welfare of the citizens of Hawaiian Gardens. Therefore, this ordinance shall take effect immediately.

SECTION 4. The City Clerk shall certify to the adoption of this ordinance and cause it to be published as required by law.

PASSED, APPROVED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS ON THE 13TH DAY OF AUGUST, 1985.

LUPE A. CABRERA
Mayor

ATTEST:
CAROL J. DORFMEYER
City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Carol J. Dorfmeier, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 291 was duly and regularly passed and adopted by the City Council of the City of Hawaiian Gardens on the 13th day of August, 1985, by the following roll call vote, and as the same appears on file and of record in the office of the City Clerk.

AYES : VINEYARD, MYERS FURGESON, SHER,
CABRERA
NOES : NONE
ABSENT : NONE
ABSTAIN : NONE

CAROL J. DORFMEYER
City Clerk

Pub. Aug. 21, 1985 (11) PT (344239-Govt.)

PROOF OF PUBLICATION

(2015.5 C.C.P.)

STATE OF CALIFORNIA,
County of Los Angeles,

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the Long Beach Press-Telegram, a newspaper of general circulation, printed and published 5 times each week in the City of Long Beach, County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of March 21, 1934.

Case Number 370512; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

August 21,

all in the year 19 85.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Long Beach, California, this _____

_____ day of

21st August, 19 85

D. Martinez
Signature

PRESS-TELEGRAM

Legal Advertising Department

604 Pine Avenue, Long Beach, CA 90844

435-1161 Extension 208

This space is for the County Clerk's Filing Stamp

Proof of Publication of

ORDINANCE NO. 291

CITY OF HAWAIIAN GARDENS

**CITY OF HAWAIIAN GARDENS
ORDINANCE NO. 291**

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"Section 9.52.010 Fortune Telling -- Definitions

- (a) "Council" shall mean the City Council.
- (b) "For Pay" shall mean for a fee, reward, donation, loan or receipt of anything of value.
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