City of Corona

Agenda Report

File #: 18-2270

AGENDA REPORT REQUEST FOR CITY COUNCIL ACTION

DATE:

11/20/2018

TO:

Honorable Mayor and City Council Members

FROM:

Police Department and Legal & Risk Management Department

SUBJECT:

City Council consideration of Ordinance No. 3289, first reading of an Ordinance amending Section 9.31.140 of the Corona Municipal Code to clarify parental responsibilities and administrative penalties related to graffiti and City Council consideration of Resolution No. 2018-119 amending the Administrative Penalties Schedule for violations of the Corona Municipal Code.

RECOMMENDED ACTION:

That the City Council:

- 1. Introduce by title only and waive full reading of Ordinance No. 3289, first reading of an Ordinance amending Section 9.31.140 of the Corona Municipal Code to clarify parental responsibilities and administrative penalties related to graffiti.
- 2. Adopt Resolution No. 2018-119 amending the administrative penalties schedule for violations of the Corona Municipal Code.

ANALYSIS:

Chapter 9.31 (Graffiti Prevention) of the Corona Municipal Code ("CMC") governs the process by which the City can hold minors and adults responsible, both civilly and criminally, for damage caused by graffiti. While Chapter 9.31 provides that parents can be held civilly responsible for damages to public or private property incurred as a result of their minor child's violation of the graffiti prohibitions, and while such civil proceedings include the City's administrative penalties ordinance found in Chapter 1.08 of the CMC, staff would like to clarify the wording to make them both abundantly clear. Thus, we are recommending those changes to CMC Section 9.31.140 (Violation - Penalties) noted in the redline copy of the ordinance attached hereto. These are simply clarifying changes and do not

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change existing parental responsibility.

In addition, California Government Code Section 53069.4 authorizes cities to impose and collect administrative fines and penalties for violations of any of its codes and ordinances. The City has adopted an ordinance to implement such an administrative penalties program and it is codified in Sections 1.08.110 through 1.08.190 of the CMC. Section 1.08.140 of the CMC provides that the amount of administrative penalties imposed for violations of the CMC shall be established by resolution of the City Council.

On July 5, 2001, the City Council adopted Resolution No. 2001-86, establishing an Administrative Penalties Schedule for violations of the CMC. Resolution No. 2001-86 was drafted to identify section -by-section the administrative penalty amount for different violations of the CMC. The reason for this was that, while violations which can be enforced only as infractions are limited to statutorily minimum penalties (\$100 for the first violation; \$200 for the second violation; and \$500 for each additional violation within a twelve (12) month period), violations which can be enforced as misdemeanors are not so limited. In 2001, staff believed that the section-by-section detail may be more helpful and transparent and that the City may identify many more sections that may necessitate penalties in excess of the statutory minimum. However, that has not proved to be true and staff now believes that a more simple and streamlined Administrative Penalties Schedule would be more transparent and administratively easier to maintain.

Accordingly, staff now recommends amending the Administrative Penalties Schedule to impose more uniform fine amounts, with the vast majority of violations having fines equivalent to the state established criminal infraction minimums. As noted in the attached Resolution and Redline Administrative Penalties Schedule, only a few CMC violations are recommended to have either lower or higher fine amounts than the criminal infraction minimums and even fewer are recommended to be lower or higher than the penalty amounts provided for in Resolution 2001-086.

COMMITTEE ACTION:

Not applicable.

STRATEGIC PLAN:

Not applicable.

FISCAL IMPACT:

There is no direct fiscal impact associated with the recommended action.

FNVIRONMENTAL ANALYSIS:

This action is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This action makes minor, clarifying changes to the City's graffiti prevention ordinance and administrative penalties schedule, and will not have a significant effect on the environment. Therefore, no environmental analysis is required.

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PREPARED BY: MARIA CONZELMAN, SR. PARALEGAL/CLAIMS MANAGER

REVIEWED BY: DEAN DERLTH, CITY ATTORNEY/LRM DIRECTOR

REVIEWED BY: GEORGE JOHNSTONE, CHIEF OF POLICE

REVIEWED BY: MICHELE NISSEN, ASSISTANT CITY MANAGER

REVIEWED BY: KERRY D. EDEN, ASSISTANT CITY MANAGER/ADMINISTRATIVE SERVICES

DIRECTOR

SUBMITTED BY: DARRELL TALBERT, CITY MANAGER

Redline Ordinance No. 3289
Final Ordinance No. 3289
Redline Administrative Penalties Schedule
Final Resolution No. 2018-119

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF CORONA, CALIFORNIA AMENDING SECTION 9.31.140 OF THE CORONA MUNICIPAL CODE TO CLARIFY PARENTAL RESPONSIBILITIES AND ADMINISTRATIVE PENALTIES RELATED TO GRAFFITI

WHEREAS, graffiti is a continuous problem and the City of Corona ("City") spends significant sums of money each year on graffiti removal; and

WHEREAS, Section 9.31.140 (Violation – Penalties) of Chapter 9.31 (Graffiti Prevention) of the Corona Municipal Code ("CMC"") currently dictates several penalties for graffiti vandalism, including civil and criminal prosecution and restitution, and

WHEREAS, the City Council of the City wishes to amend Section 9.31.140 of the CMC to more expressly outline the City's authority to assess administrative fines for graffiti vandalism and to clarify the joint and several liability of parents or legal guardians of offending minors for said administrative fines;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS FOLLOWS:

SECTION 1. Section 9.31.140 (Violation – Penalties) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

"9.31.140 Violation - Penalties.

- (A) Parental civil liability. A parent or legal guardian having custody or control of a childminor under the age of 18 shall be jointly and severally liable with such minor, and shall be considered a "responsible person" for any administrative penalties assessed pursuant to Chapter 1.08 of this code, and may be held liable in a civil proceeding for damages to public or private property, including attorney's fees and court costs, incurred as a result of the childminor willfully violating any provision of this chapter. Damages assessed against a parent or legal guardian having custody and control of a minor shall not exceed any expressly applicable statutory limits, including Civil Code Section 1714.1.
- (B) General civil liability—Administrative penalties. Any person may be held liable in a civil proceeding for damages to public or private property, including attorney's fees and court costs, incurred as a result of the person violating any provision of this chapter. Any person responsible for a violation

of any provision of this chapter may be assessed administrative penalties pursuant to Chapter 1.08 of this code.

- (C) Criminal penalties. Any violation of a provision of this chapter shall be a misdemeanor punishable by either six months in jail, a \$1,000 fine, or both.
- (D) Community service requirement. Upon the conviction of any person for the application of graffiti, the city may request the court to order the person to complete community service not to exceed 100 hours for the first conviction. Upon the second and subsequent conviction of any person for the same offense, the city may request the court to order the person to complete community service not to exceed 200 hours.
- (E) Graffiti removal. Upon the conviction of any person for the application of graffiti, the city may request the court to order the person to perform the necessary labor to clean up, repair or replace the property damaged by that person.

(F) Driving privilege suspension.

- (1) In accordance with Cal. Vehicle Code § 13202.6, upon the conviction of any person for the application of graffiti committed while the person was 13 years of age or older in violation of Cal. Penal Code § 594, the city may request the court to suspend the person's driving privilege for one year.
- (2) If the person convicted does not yet have the privilege to drive, the city may request that the court order the California Department of Motor Vehicles to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. For each successive offense, state law requires that the court suspend the person's driving privilege for those possessing a driver's license or delay the eligibility for those not in possession of a driver's license at the time of their conviction for one additional year."

SECTION 2. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance merely amends the Corona Municipal Code to clarify that parents and legal guardians are



jointly and severally liable for administrative fines and damages for graffiti caused by minors. Thus, there is no possibility that adopting this Ordinance will have a significant effect on the environment and no further environmental analysis is required.

SECTION 3. Invalidity: Severability. If any sentence, cause 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 provisions of this Ordinance.

SECTION 4. Effective Date of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a newspaper of general circulation in the City of Corona. This Ordinance shall take effect and be in force on the 30th day after its adoption.

ADOPTED this day of	, 2018.
	Mayor of the City of Corona, California
ATTEST:	Mayor of the City of Corona, Cantorna
City Clerk of the City of Corona, California	rnia



CERTIFICATION

I, Sylvia Edwards, City Cle the foregoing Ordinance was regularly into		i, California, do nereby certify that ting of the City
of Corona, California, duly held the	day of	, 2018, and thereafter at
an regular meeting held on the	day of	. 2018, it was duly passed
and adopted by the following vote of the	Council:	
AYES:		
NOES:		
ABSENT:		
ABSTAINED:		
IN WITNESS WHEREO	F, I have hereunto set m	y hand and affixed the official seal
of the City of Corona, California, this	day of	, 2018.
	City Clerk of the Ci	ty of Corona, California



SUMMARY

On [INSERT], 2018 the Corona City Council will consider amending the graffiti ordinance to clarify that parents or legal guardians are jointly and severally responsible for costs of damages and administrative penalties related to graffiti caused by minors. A certified copy of the full text of this proposed Ordinance is posted in the City Clerk's office.

The City Council meets at 6:30 p.m. in the Council Chambers in the Corona City Hall, located at 400 South Vicentia Avenue. The City Clerk's office is located in City Hall near the Council Chambers.

ORDINANCE NO. 3289

AN ORDINANCE OF THE CITY OF CORONA, CALIFORNIA AMENDING SECTION 9.31.140 OF THE CORONA MUNICIPAL CODE TO CLARIFY PARENTAL RESPONSIBILITIES AND ADMINISTRATIVE PENALTIES RELATED TO GRAFFITI

WHEREAS, graffiti is a continuous problem and the City of Corona ("City") spends significant sums of money each year on graffiti removal; and

WHEREAS, Section 9.31.140 (Violation – Penalties) of Chapter 9.31 (Graffiti Prevention) of the Corona Municipal Code ("CMC") currently dictates several penalties for graffiti vandalism, including civil and criminal prosecution and restitution, and

WHEREAS, the City Council of the City wishes to amend Section 9.31.140 of the CMC to more expressly outline the City's authority to assess administrative fines for graffiti vandalism and to clarify the joint and several liability of parents or legal guardians of offending minors for said administrative fines;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES ORDAIN AS FOLLOWS:

<u>SECTION 1</u>. Section 9.31.140 (Violation – Penalties) of the Corona Municipal Code is hereby amended in its entirety to read as follows:

"9.31.140 Violation – Penalties.

- (A) Parental civil liability. A parent or legal guardian having custody or control of a minor under the age of 18 shall be jointly and severally liable with such minor, and shall be considered a "responsible person" for any administrative penalties assessed pursuant to Chapter 1.08 of this code, and may be held liable in a civil proceeding for damages to public or private property, including attorney's fees and court costs, incurred as a result of the minor willfully violating any provision of this chapter. Damages assessed against a parent or legal guardian having custody and control of a minor shall not exceed any expressly applicable statutory limits, including Civil Code Section 1714.1.
- (B) General civil liability Administrative penalties. Any person may be held liable in a civil proceeding for damages to public or private property, including attorney's fees and court costs, incurred as a result of the person violating any provision of this chapter. Any person responsible for a violation

of any provision of this chapter may be assessed administrative penalties pursuant to Chapter 1.08 of this code.

- (C) Criminal penalties. Any violation of a provision of this chapter shall be a misdemeanor punishable by either six months in jail, a \$1,000 fine, or both.
- (D) Community service requirement. Upon the conviction of any person for the application of graffiti, the city may request the court to order the person to complete community service not to exceed 100 hours for the first conviction. Upon the second and subsequent conviction of any person for the same offense, the city may request the court to order the person to complete community service not to exceed 200 hours.
- (E) Graffiti removal. Upon the conviction of any person for the application of graffiti, the city may request the court to order the person to perform the necessary labor to clean up, repair or replace the property damaged by that person.

(F) Driving privilege suspension.

- (1) In accordance with Cal. Vehicle Code § 13202.6, upon the conviction of any person for the application of graffiti committed while the person was 13 years of age or older in violation of Cal. Penal Code § 594, the city may request the court to suspend the person's driving privilege for one year.
- (2) If the person convicted does not yet have the privilege to drive, the city may request that the court order the California Department of Motor Vehicles to delay issuing the privilege to drive for one year subsequent to the time the person becomes legally eligible to drive. For each successive offense, state law requires that the court suspend the person's driving privilege for those possessing a driver's license or delay the eligibility for those not in possession of a driver's license at the time of their conviction for one additional year."

SECTION 2. CEQA Findings. The City Council finds that this Ordinance is exempt pursuant to Section 15061(b)(3) of the Guidelines for the California Environmental Quality Act (CEQA), which states that a project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. This Ordinance merely amends the Corona Municipal Code to clarify that parents and legal guardians are jointly and severally liable for administrative fines and damages for graffiti caused by minors. Thus,

there is no possibility that adopting this Ordinance will have a significant effect on the environment and no further environmental analysis is required.

SECTION 3. Invalidity: Severability. If any sentence, cause 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 provisions of this Ordinance.

SECTION 4. Effective Date of Ordinance. The Mayor shall sign this Ordinance and the City Clerk shall attest thereto and shall within fifteen (15) days of its adoption cause it, or a summary of it, to be published in a newspaper of general circulation in the City of Corona. This Ordinance shall take effect and be in force on the 30th day after its adoption.

ADOPTED this 5th day of December, 2018.

	Mayor of the City of Corona, California						
ATTEST:							
City Clerk of the City of Corona, California							

CERTIFICATION

I, Sylvia Edwards, City Clert the foregoing Ordinance was regularly intro of Corona, California, duly held the 20 th day held on the 5th day of December, 2018, it w Council:	oduced at a regular meeti y of November, 2018, an	d thereafter at an regular meeting
AYES: NOES: ABSENT: ABSTAINED:		
IN WITNESS WHEREOF of the City of Corona, California, this	•	hand and affixed the official seal, 2018.
	City Clerk of the City	y of Corona, California

SUMMARY

On [INSERT], 2018 the Corona City Council will consider amending the graffiti ordinance to clarify that parents or legal guardians are jointly and severally responsible for costs of damages and administrative penalties related to graffiti caused by minors. A certified copy of the full text of this proposed Ordinance is posted in the City Clerk's office.

The City Council meets at 6:30 p.m. in the Council Chambers in the Corona City Hall, located at 400 South Vicentia Avenue. The City Clerk's office is located in City Hall near the Council Chambers.

ADMINISTRATIVE PENALTIES SCHEDULE (RESO 2001-86) (11-20-18) REDLINE CHANGES TO

FOR 2001-86				THIRD		\$500	\$500	\$500	\$500	\$500	\$500	\$500	\$500	\$100	\$1,000500	\$200500	\$200500	\$3 00 500	\$1,000500	\$ 1,000 500	\$500
COLOR CODING FOR CHANGES TO RESO 2001-86	No Change	Increase	Decrease	SECOND		\$350200	\$350200	\$350200	\$350200	\$350200	\$450200	\$250200	\$350200	\$50	\$\$0000	\$100200	\$100200	\$200	\$750200	\$500	\$350200
COLC				FIRST OFFENSE	RESO 2001-86	\$250100	\$250100	\$250100	\$250100	\$250100	\$400100	\$150100	\$ 250 100	\$25	\$100	\$50100	\$\$0100	\$100	\$500100	\$100	\$250100
				DESCRIPTION OF VIOLATION	CURRENT CHAPTERS/SECTIONS WITH UNIQUE PENALTY AMOUNTS IN RESO 2001-86	Business License Regulations	Amusements/Permit Required	Permit Conditions	Violations – Penalty	Massage Establishments	Outdoor Festival/license requirement	Outdoor Festival/license conditions	Sale of concealable firearms	Garage Sale permit required/regulations	Noisy Animals	Dog Licensing and Regulations	Dogs running at large - Leashing	Dogs in parks	Violations & responsibility	Potentially dangerous and vicious dogs	Potentially dangerous or vicious dog – keeping & controlling
				MUNICIPAL CODE CHAPTER/SECTION	CURRENT CHAPT	Chapter 5.02	Section 5.06.020	Section 5.06.070	Section 5.06.120	Chapter 5.28	Chapter 5.30.020	Section 5.30.080	Chapter 5.40	Chapter 5.44	Chapter 6.11	Sections 6.12.010 - 6.12.100	Section 6.12.120	Section 6.12.130	Section 6.12.180(F)	Chapter 6.14	Sections 6.14.060, 6.14.100, 6.14.110

PD

DEPT

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ADMINISTRATIVE PENALTIES SCHEDULE (RESO 2001-86) (11-20-18)

FIRST SECOND THIRD OFFENSE OFFENSE	\$200100 \$300200 \$500	\$50100 \$100200 \$200500	\$35100 \$100200 \$200500	\$50 3123	\$25100 \$50200 \$100500	\$50100 \$100200 \$200500	\$50100 \$1000 \$200500	s \$35 \$100 \$200	\$500100 \$750200 \$1,000500	THE CMC	\$250 \$500 \$1000	\$100 \$250 \$500	\$500 \$500 \$500	\$1,000 \$1,000 \$1,000		\$1,000 \$1,000 \$1,000	61000 61000
DESCRIPTION OF VIOLATION	Wild or Vicious Animals	Smoking regulations/City facilities & vehicles	Refuse/recycling container regulations	Maintenance of refuse receptacles in a sanitary condition	Collection - Customer change in address	Property maintenance regulations/boat, trailer, RV parking	Property maintenance regulations/Clotheslines in front yard	Property maintenance regulations/Trash & recycling containers	Violations/Failure to comply with Order of Abatement	SPECIFIC MONETARY FINE/PENALTY AMOUNT REQUIRED BY THE CMC	Host Obligations	Penalties for subsequent police responses	Fireworks prohibited - "safe & sane"	Fireworks prohibited - not "safe & sane"	NEW SECTIONS	Marijuana Businesses	Graffiti Prevention
MUNICIPAL CODE CHAPTER/SECTION	Chapter 6.16	Chapter 8.02	Section 8.20.050	Section 8.20.060	Section 8.20.110	Section 8.32.030(C)	Section 8.32.030(G)	Section 8.32.030(H)	Section 8.32.180(A) to (D)	SPECIFIC	Chapter 9.17	Section 9.29.040	Section 9.33.010	Section 9.33.010		Chapter 9.19 (and others)	Chanter 9.31
DEPT	PD	PD	8	CD	CD	8	8	9	9		PD	PD	FD	FD		CD	PD

RESOLUTION NO. 2018-119

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORONA, CALIFORNIA, AMENDING THE ADMINISTRATIVE PENALTIES SCHEDULE FOR VIOLATIONS OF THE CORONA MUNICIPAL CODE

WHEREAS, California Government Code Section 53069.4 authorizes cities to impose and collect administrative fines and penalties for violations of any of its codes and ordinances; and

WHEREAS, the City Council of the City of Corona ("City Council") has adopted an ordinance for the imposition, enforcement, review and collection of administrative penalties for violations of the Corona Municipal Code ("CMC"), which is codified in Sections 1.08.110 through 1.08.190 of the CMC; and

WHEREAS, Section 1.08.140 of the CMC provides that the amount of administrative penalties imposed for violations of the CMC shall be established by resolution of the City Council; and

WHEREAS, on July 5, 2001, City Council adopted Resolution No. 2001-86, establishing an Administrative Penalties Schedule for violations of the CMC;

WHEREAS, while Resolution No. 2001-86 includes various fine amounts for different violations of the CMC, the City Council now desires to amend the Administrative Penalties Schedule to impose more uniform fine amounts, with the vast majority of violations having fines equivalent to the state established criminal infraction amounts and only a few CMC violations having either lower or higher fine amounts as provided in this Resolution; and

WHEREAS, except as otherwise provided in the Administrative Penalties Schedule, the amount of an administrative penalty to be imposed for any violation of the CMC and assessed by means of an administrative citation pursuant to Chapter 1.08 of the CMC shall be: (1) \$100 for the first occurrence of a violation; (2) \$200 for the second occurrence of the same violation within a twelve (12) month period; and (3) \$500 for each additional occurrence of the same violation within a twelve (12) month period.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CORONA DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The above recitals are true and correct, and incorporated herein by reference.

SECTION 2. The City Council hereby adopts the Administrative Penalties Schedule set forth in Exhibit "A" attached hereto and incorporated herein. The amount of an administrative penalty to be imposed for any violation of the CMC and assessed by means of an

administrative citation pursuant to Chapter 1.08 of the CMC shall be as provided for in the Administrative Penalties Schedule. Nothing in this Resolution shall be interpreted to limit or otherwise restrict the amount of a fine or penalty that the City is entitled to impose or collect under applicable federal, state or local laws, rules or regulations outside of its administrative penalties enforcement process codified in Sections 1.08.110 through 1.08.190 of the CMC.

SECTION 3. By adoption of this Resolution, all prior resolutions related to the establishment of administrative penalties for violations of the CMC shall be deemed repealed, including, without limitation, Resolution 2001-86 approved on July 5, 2001.

SECTION 4. The Mayor shall sign this Resolution and the City Clerk shall attest thereto, and this Resolution shall take effect and be in force on the date of its adoption.

PASSED, APPROVED, AND ADC	OPTED this day of, 2018.
	Mayor of the City of Corona, California
ATTEST:	
City Clerk of the City of Corona, California	

$\underline{\text{CERTIFICATION}}$

I, Sylvia Edwards, City Clerk of the City of Corona, California, do hereby foregoing Resolution was regularly introduced and adopted by the City Council Corona, California, at a regular meeting thereof held on the day of the following vote of the Council:	of the City of
AYES:	
NOES:	
ABSENT:	
ABSTAINED:	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the the City of Corona, California, this day of, 2018.	official seal of
Sylvia Edwards, City Clerk	
(SEAL)	

EXHIBIT "A"

CITY OF CORONA ADMINISTRATIVE PENALTIES SCHEDULE

Municipal Code Provision	Description	Infraction Violation	Misdemeanor Violation	First Offense	Second Offense	Each Additional Offense (12 Month Period)
Chapter 5.44	Garage Sale permit required/regulations	х		\$25	\$50	\$100
Section 8.32.030(H)	Property maintenance regulations/Trash & recycling containers	х		\$35	\$100	\$200
Chapter 9.17	Host Obligations	x	x	\$250	\$500	\$1000
Chapter 9.19 (and other CMC provisions)	Marijuana Businesses		x	\$1,000	\$1,000	\$1,000
Chapter 9.31	Graffiti Prevention		x	\$1,000	\$1,000	\$1,000
Section 9.33.010	Fireworks prohibited – "safe & sane"		х	\$500	\$500	\$500
Section 9.33.010	Fireworks prohibited – not "safe & sane"		х	\$1,000	\$1,000	\$1,000
All Others		х	x	\$100	\$200	\$500