

City of Houston, Texas, Ordinance No. 2008-_____

AN ORDINANCE AMENDING CHAPTER 28 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO CONVENIENCE STORES; CONTAINING FINDINGS AND OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, the Mayor's Task Force on Convenience Store Security studied methods for reducing the occurrence of crime, preventing the escalation of crime, and increasing the successful prosecution of crime that occurs in convenience stores; and

WHEREAS, the Task Force determined in a review of numerous studies, practices of other jurisdictions, its own research, and the experience of Task Force members that convenience store owners play a key role in promoting safety in their establishments; and

WHEREAS, training employees in safety procedures, posting notice of crime-prevention strategies in use, increasing visibility, and utilizing safety devices can increase the safety of store employees and customers; and

WHEREAS, the registration of convenience stores with the police official would facilitate the application and enforcement of this ordinance and other laws; and

WHEREAS, because wireless/video technology and Next Generation 911 technology are developing at such a rapid pace, the Mayor's Office or the Mayor's designee should conduct a periodic review of these technologies to ensure technological advancements are communicated to the convenience store community with the goal of further increases in safety and security; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That Chapter 28 of the Code of Ordinances, Houston, Texas, is hereby amended by adding a new Article XIII that reads as follows:

"ARTICLE XIII. CONVENIENCE STORES

Sec. 28-401. 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:

Convenience goods means basic food, household and/or pharmaceutical items.

Convenience store means any business that is primarily engaged in the retail sale of convenience goods, or both convenience goods and gasoline, and has less than 10,000 square feet of retail floor space. *Convenience store* does not include any business where there is no retail floor space accessible to the public.

Drop safe means a cash management device where money can be deposited without the depositor having access to the contents.

Employee means any person who is employed in consideration of direct or indirect monetary wages, commissions, or profits, any contract employee, and any other person engaged in the operation of a convenience store.

Health officer means the director of the department of health and human services or his designee.

Height strip means markings to aid in estimating the height of suspects.

Manager means the person designated by the owner to be responsible for the daily operation of a convenience store.

Owner means the person or persons who hold title to or leases property for the purpose of operating a convenience store.

Police official means the chief of police or person he may designate to act as the official primarily responsible for the administration of this article or the official's designees.

Registered agent means the person identified by the owner of a convenience store in the registration filed pursuant to this article that is authorized to receive on behalf of the owner any legal process and/or notice required or provided for in this article.

Safety training program means the training program promulgated by the police department for convenience stores or a

nationally recognized training program that includes all the training elements of the police department's training program.

Sec. 28-402. Registration of convenience stores.

(a) It shall be unlawful for any person to operate a convenience store in the city that has not been registered as required by this section. No fee shall be charged for the registration required by this section.

(b) The owner of a convenience store shall register by providing to the police official the following information regarding the convenience store:

- (1) The name, telephone number, facsimile number and business or residence address of the owner; and, if the owner is a corporation, whether foreign or domestic, the name of the registered agent of the owner and the telephone number and facsimile number and business or residence address of the registered agent, which address information shall include the street name and number, office or suite number if a business address, and the city, state, and zip code.
- (2) The nature and extent of the owner's interest in the property. If there is only one owner, the extent of the owner's interest is 100%; and
- (3) The name, telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code, of the current manager and, if the manager is other than an individual, the name, title, telephone number, facsimile number and business or residence address, including street name and number, city, state and zip code, of the individual to be contacted for any purpose under this article relating to the convenience store.

The use of a public or private post office box or other similar address shall not be sufficient for the purposes of complying with this subsection.

(c) Any change of ownership of a convenience store, including, but not limited to, the sale of the convenience store or any ownership interest therein, shall require the purchaser or transferee to update the information provided under subsection (b) of this section and to file the updated information with the police official within 30 days of the effective date of the ownership change. The same requirement shall apply to any change relating

to the owner's registered agent and manager. A prior owner shall advise the police official that he no longer holds any ownership interest in the property.

(d) The owner of a newly constructed or established convenience store shall comply with the provisions of this section not later than the thirtieth day following completion of construction or new opening of the convenience store, whichever occurs first.

(e) After a convenience store complies with the provisions of this section, the police official will provide to the convenience store:

- _____ (1) A registration compliance decal which shall be displayed above a public entrance door to the convenience store; and
- _____ (2) A registration statement, a true and correct copy of which shall be posted in the convenience store at all times in a conspicuous place accessible at all times to the public.

(f) Compliance with the requirements of this section shall be deemed to meet the requirements of 250.003 and 250.004 of the Texas Local Government Code.

Sec. 28-403. Employee, manager, supervisor safety training.

(a) All newly-hired employees, managers, and immediate supervisors of managers must complete a safety training program before reporting for duty and at least annually thereafter. Employees, managers and immediate supervisors of managers who are employed by a convenience store on the effective date of this ordinance must complete a safety training program not later than the ninetieth day following the effective date of this ordinance.

(b) All persons who complete the required safety training program shall sign a statement indicating the date, time and place the safety training program was completed. The owner shall keep the statements or copies of the statements on file in the convenience store for at least two years and make them available to the police official or the health officer immediately upon request.

Sec. 28-404. Trespass affidavit.

The owner of a convenience store shall execute a trespass affidavit as promulgated by the police department in order to enforce all applicable trespass laws on the owner's behalf at such property. A true and correct

copy of the trespass affidavit shall be posted at the convenience store at all times in a conspicuous place accessible at all times to the public.

Sec. 28-405. Security signs; height strips.

(a) A convenience store shall have posted at all public exits and entrances 'No Loitering' and 'No Trespassing' signs in lettering two inches or larger, in English and in Spanish. Additionally, a convenience store shall post such signs on the front, sides, and rear of the convenience store.

(b) A convenience store shall have height strips posted at all public exits.

Sec. 28-406. Visibility.

A convenience store shall maintain an unobstructed line of sight allowing a clear view of and from the cash register and sales transaction area through all windows and public access doors. Such windows and doors must be clear of all items that would obstruct a clear view including, but not limited to, tinting, signage, advertisements, shelving, and merchandise. Such unobstructed line of sight must, at a minimum, extend from three feet above the ground to at least six feet above the ground.

Sec. 28-407. Alarm system.

(a) A convenience store shall have a silent panic or holdup alarm system for which a permit has been issued in accordance with Chapter 11 of this Code. This system shall, at a minimum, include a panic button located within reach of the cash register and out of view of the customer. Such panic button will generate an alarm signal indicating a holdup or other life-threatening emergency requiring a police department response.

(b) A convenience store shall have posted at all public exits and entrances signs or decals indicating that a security alarm system is in use.

Sec. 28-408. Drop safe.

(a) A convenience store shall have a drop safe on the premises to keep the amount of cash available to employees to a minimum. A drop safe must be bolted to the floor. A drop safe may have a time-delay mechanism to allow small amounts of change to be removed.

(b) A convenience store shall have a cash accountability policy mandating the maximum amounts of cash that can be kept in cash registers.

(c) A convenience store shall have posted at all public exits and entrances signs or decals indicating that employees cannot open the safe and that employees have minimum cash on hand.

Sec. 28-409. Surveillance camera system.

(a) A convenience store shall have a minimum of two color digital high-resolution surveillance cameras. One camera must have an overall view of the counter/register area and the other camera a view of the main entrance/exit area and both shall display the date and time of the recording.

(b) The entrance/exit area camera shall be placed to provide a clear and identifiable full frame of the filmed individual's face.

(c) The cameras shall be operated at all times, including hours when the store is not open for business.

(d) The owner shall provide the police department with digital color images in connection with crime investigations upon request.

(e) The owner shall maintain a library of the recorded digital images for not less than 30 days.

(f) A convenience store shall have posted at all public exits and entrances signs or decals indicating that surveillance cameras are in use.

Sec. 28-410. Violation.

Any failure to comply with any applicable provision of this article shall be an offense punishable as provided in section 1-6 of this Code."

Section 3. That in this Section all references to Sections of the Code of Ordinances are to those Sections as adopted in **Section 2** of this Ordinance. The definitions established in Section 46-401 of the Code of Ordinances shall be applicable to this Section. This Ordinance shall take effect as follows:

a. **For convenience stores in operation on the date of passage and approval of this Ordinance:**

- (1) All employees, managers and owners shall receive training as required in Section 28-403 of the Code of Ordinances not later than the ninetieth day following the effective date of this Ordinance.
- (2) Sections 28-407 (alarm system), 28-408 (drop safe), and 28-409 (surveillance camera system) of the Code of Ordinances shall become effective January 1, 2010.
- (3) All other Sections of Article VII of the Code of Ordinances shall become effective on the thirtieth day next following the date of passage and approval of his Ordinance.

b. **For convenience stores not yet in operation on the date of passage and approval of this Ordinance:**

- (1) All Sections of Article VII of the Code of Ordinances shall become effective on the thirtieth day next following the date of passage and approval of this Ordinance.

As soon as practicable following the passage and approval of this Ordinance, the Chief of Police or his designee shall commence accepting registrations and taking other actions required to implement this Ordinance upon its effective date.

Section 4. That as the state of the wireless/video technology and Next Generation 911 technology develops, the Mayor's Office or the Mayor's designee shall undertake

periodic assessment of changes in these technologies and may recommend action as appropriate.

Section 5. That, if any provision, section, subsection, sentence, clause, or phrase of this Ordinance, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect as provided in **Section 3**, above.

PASSED AND APPROVED this ___ day of _____, 2008.

Mayor of the City of Houston

Prepared by Legal Dept. _____
TBC:asw 3/25/2008 Senior Assistant City Attorney
Requested by Chief Hurtt, HPD
L.D. File No. 0620701400001