Section 1. Code Amendment. Section 3.12.020 entitled “Definitions” of Chapter 3.12 entitled “Hotel Visitors Tax” of Title 3 of the Garden Grove Municipal Code is hereby amended to add or amend the following definitions to read in their entirety as follows:

“Block Reservation” means an arrangement whereby a person reserves, whether on an exclusive or non-exclusive basis, a room or block/group of rooms for a defined period of time under a written or oral agreement with an operator, intending for such room(s) to be occupied by that person’s employees or agents on an intermittent, periodic or “as needed” basis during that defined period of time. A Block Reservation arrangement shall not constitute a Qualifying Rental Agreement.

“Hotel” means any structure, or any portion of any structure, that is occupied or intended or designed for occupancy by transients for dwelling, lodging, or sleeping purposes, and includes any hotel, inn, touristor home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, hostel, bed and breakfast, apartment house, dormitory, time-share project, public or private club, mobile home, or house trailer at a fixed location, or other similar structure or portion thereof.

“Operator” means the person who is proprietor of the hotel, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, time-share project owner’s association, licensee, or any other capacity. Where the Operator performs his functions through a managing agent of any type or character other than an employee, the managing agent shall also be deemed an Operator for the purposes of this Chapter and shall have the same duties and liabilities as his principal. Compliance with the provisions of this Chapter by either the principal or the managing agent shall, however, be considered to be compliance by both.

“Recreational vehicle space” means any space set aside in a recreational vehicle park that is intended or designed for the occupancy of a recreational vehicle, including, but not limited to, a camper, van, trailer, motor home, or similar vehicle, that is used for dwelling, lodging or sleeping purposes by transients.

“Rent” means the total consideration charged, whether or not received, for the occupancy of space in a hotel or of a recreational vehicle space, valued in money, whether to be received in money, goods, labor, or otherwise, including all receipts, cash, credits, and property and services of any kind or nature, without any deduction therefrom whatsoever. Rent shall include the total consideration charged by the Operator for accommodations, including, but not limited to, any separate charges levied for non-optional items or services that are incidental to occupancy, including, but not limited to, furniture, fixtures, appliances, linens, towels, non-coin-operated safes, utilities (such as energy surcharges), maid service, Internet connection charges, and parking fees.

“Transient” means any person who exercises occupancy or is entitled to occupancy by reason of concession, permit, right of access, license, or other agreement for a period of thirty (30) consecutive calendar days or less, counting portions of calendar days as full days. Any such person so occupying or entitled to occupy space in a hotel shall be deemed to be a transient until the period of thirty (30) consecutive and uninterrupted days of occupancy has expired, unless there is a Qualifying Rental Agreement in writing between the operator and the occupant providing for a longer period of occupancy. Any break or interruption in occupancy shall start a new thirty (30) day period subject to the tax. In determining whether a person is a transient, uninterrupted periods of time extending both prior and subsequent to the effective date of the Ordinance codified herein may be considered.

In the case of a block reservation, a person’s employee or agent shall be deemed a transient if that employee or agent exercises or is entitled to occupancy of a room for a period of thirty (30) consecutive calendar days or less, regardless of the duration of any block reservation agreement. By way of example, if a corporation enters into a one-year block reservation agreement with an operator and one of the corporation’s employees occupies a room for thirty (30) calendar days, the employee shall be deemed a transient whose occupancy is subject to the tax, notwithstanding the fact that the block reservation agreement has a duration longer than thirty (30) calendar days. ""

“Time-Share Project” means a structure or real property (including airspace) in which a time-share estate or a time-share use (as those terms are defined in Section 11212 of the Business and Professions Code) and any similar form of ownership involving a right in perpetuity, for life, or for a term of years, to occupy an area, which area shall have been sold. ""
2. If the Special Package Application is deemed incomplete, the Tax Administrator will advise the operator of any required changes within fourteen (14) business days. The operator must either make the required changes and resubmit the Special Package Application or comply with Subsection A.

3. The Tax Administrator shall approve, conditionally approve, or disapprove the Special Package within fourteen (14) days of receipt of a complete Special Package Application. In the event of disapproval, the Tax Administrator shall give the operator written notice of the reasons for disapproval. The effective date of the Special Package Rate shall be the date on which the Tax Administrator receives a complete Special Package Application that is approved. A new Special Package Application shall be submitted whenever the operator changes the rent or Benefits of any previously approved Special Package.

D. The tax shall apply only to the amount of rent identified in the Special Package that has been approved by the Tax Administrator.

E. If the operator fails to either separately state the amount of the tax and the rent in accordance with Subsection A or to obtain approval of a Special Package Rate pursuant to Subsection C, the rent to which the tax is deemed to apply (the “Imputed Rate”) shall be the lesser of (1) the amount collected for the total Special Package, or (2) an amount equal to the median average double occupancy room rate for the accommodations as posted in the room pursuant to the requirements of Section 1863 of the Civil Code or any successor statute.

F. Notwithstanding Subsections C and D, above, if any audit reveals that the gross income to the operator attributable to the rent portion of a Special Package, (the “Audited Rate”) is more than ten percent (10%) greater than the rent specified in the Special Package, then the rent for purposes of calculating the tax shall be the Audited Rate. In the event Subsection 3.12.050(E) applies and the Audited Rate is greater than the Imputed Rate, the rent for tax purposes shall be the Audited Rate. The Audited Rate shall be determined by an audit of a sample of the Special Packages sold by the operator within each Special Package category. The Audited Rate shall be the amount of the Special Package Rate remaining after deducting the fair market value of each of the Benefits included in the Special Package Rate other than room accommodations and tax. Where more than one type of Special Package is offered within the audit period, each Special Package shall be audited separately for purposes of determining the applicable Audited Rate, credit, or offset. Notwithstanding any other provision of this Ordinance, no credit, offset or allowance shall be allowed between Special Packages.

Section 4. Repeal, Alteration, Modification. Notwithstanding Section 9217 of the California Elections Code, without a vote of the People, the City Council may amend any of the provisions adopted pursuant to this Ordinance in a manner that does not impose, extend, or increase the rate of the Hotel Visitors Tax.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The People of the City of Garden Grove hereby declare that they would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

Section 6. Effect of Ordinance. If adopted, this Ordinance will increase the rate of the City’s existing Hotel Visitors Tax, which is a general tax of the City, by one and one-half percent (1.5%). This Ordinance was proposed by the City Council of the City of Garden Grove through approval and introduction of the Ordinance and the adoption of Resolution No. 9124-12 with the affirmative vote of at least four Members of the City Council as required by Government Code Section 53724(b). Except as expressly amended by this Ordinance, all provisions of Chapter 3.12 of Title 3 of the Garden Grove Municipal Code shall remain in full force and effect.

Section 7. Effective Date. The City Clerk shall certify as to the passage and adoption of this Ordinance. This Ordinance shall take effect ten (10) days following the date on which the City Council of the City of Garden Grove declares that this Ordinance was adopted by a majority of the voters voting on the measure at the municipal election on Tuesday, November 6, 2012.

The foregoing ordinance was PASSED, APPROVED and ADOPTED by the People of the City of Garden Grove voting on the 6th day of November, 2012, which vote was certified by the City Council on the ___ day of __________, 2012.