

INITIATIVE ORDINANCE NO. 08-16
(Approved by the Voters on November 4, 2008)

AN ORDINANCE OF THE CITY OF IRVINE RELATING TO
THE PRIVACY OF INDIVIDUALS' PERSONAL INFORMATION

The people of the City of Irvine do ordain as follows:

Section 1. Title. This Ordinance shall be known and referred to as the City of Irvine Personal Information Privacy Act.

Section 2. Purpose. This Ordinance is adopted to guide the City in its determinations on a case-by-case basis whether to disclose or to withhold individuals' personal information upon a public request for such information when the information is requested by the City for a limited specific purpose and with the representation that the information will be maintained in confidence.

Section 3. Recitals. It is found and declared that:

A. The California Constitution provides that all people in the state enjoy the right of privacy, which is a fundamental and compelling interest. All people also enjoy a right of privacy under the United States Constitution.

B The California Public Records Act recognizes the rights of individuals to information concerning the conduct of the people's business.

C. At the same time, the California Public Records Act acknowledges the rights of individuals to privacy.

D. Under the California Public Records Act, a public agency is permitted to withhold documents and information from disclosure that are exempted or prohibited pursuant to federal or state law.

E. Under the California Public Records Act, a public agency is also permitted to withhold documents and information from disclosure where, on a case-by-case basis, the public agency determines that the public interest in disclosure is outweighed by the public interest in nondisclosure.

F. Constitutional rights of privacy encompass the ability to control the circulation of individuals' personal information, including but not limited to names, home addresses, telephone numbers and e-mail addresses.

G. A principal factor in ascertaining protected rights of privacy with regard to personal information provided by an individual is whether the individual has a reasonable expectation of privacy for such information. In turn, objectively reasonable expectations of privacy are informed by broadly based and widely accepted community

norms.

H. The voters of the City of Irvine have had, have and will continue to have an expectation of privacy with regard to the personal information that individuals provide to the City of Irvine at the specific request of the City where the request expressly states that the information will be used by the City only for a specific, limited purpose and that the information will be maintained in confidence and will not be shared with others, and where the information is unrelated to the conduct of the City's official business and does not shed light on the City's actions or the performance of its duties and responsibilities.

I. The voters of the City of Irvine have had, have and will continue to have an interest in preventing unsolicited and unwanted mail, telephone calls and e-mail messages.

J. There would be a chilling effect on individuals' willingness to avail themselves of or participate in City programs and services if personal information that they are requested by the City to provide in connection with such activities with a representation of confidentiality is ultimately not limited to the specific purpose for which it is requested and instead is made available to others for uncontrolled purposes.

Section 4. Guidelines for Responses to California Public Record Act Requests for Personal Information.

A. Consistent with the requirements of the United States and the California Constitutions and the California Public Records Act, and as determined on a case-by-case basis, the City of Irvine shall undertake to preserve the privacy of individuals' personal information to the fullest extent possible and permissible.

B. When evaluating the public interests in disclosure and in nondisclosure of individuals' personal information pursuant to a request under the California Public Records Act, the constitutional rights of privacy should be abridged only when there is a compelling public need to do so.

C. In assessing an individual's reasonable expectation of privacy, the City shall consider and place significant weight on the following factors, among others as relevant: whether the personal information was provided by the individual at the specific request of the City and, if so, whether the City specifically represented that the information was requested for a limited, specified purpose; whether the City specifically represented that the information would be maintained in confidence and would not be made available to other persons; and whether the information is related to the conduct of the City's official business or sheds light on the City's actions or the performance of its duties and responsibilities. On the other hand, where an individual voluntarily injects himself or herself into the public arena and prepares and transmits a written or electronic communication to a City official or employee on a topic of official City business, a pending decision or determination, or a subject otherwise within the City's jurisdiction, and the communication contains personal information, there may be no

reasonable expectation of privacy in the absence of other important considerations.

Section 5. Effective date. This Ordinance shall go into effect ten (10) days after the date on which the election results are declared by the City Council.

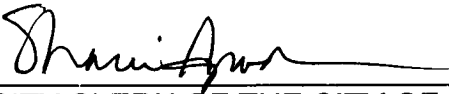
Section 6. Construction. To the maximum extent authorized by law, this Ordinance shall be interpreted in a manner consistent with the right of initiative reserved to the people by the California Constitution. Without limiting the foregoing, nothing in this Ordinance is intended and shall not be construed to supersede, diminish or otherwise conflict with applicable requirements of state and federal law, including without limitation the California Public Records Act.

Section 7. Future amendments. Pursuant to article II, section 10(c) of the California Constitution, the provisions contained in this Ordinance may be amended by a four-fifths vote of the City Council only to the extent such amendments further or expand the intent and objectives set forth in this Ordinance. All other amendments or any proposed repeal of the provisions contained in this Ordinance shall become effective only when approved by the voters.

Section 8. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that determination of invalidity shall not affect other provisions or application of the Ordinance that can be given effect without the invalid provision, and to this end the provisions of this Ordinance are severable. The voters of the City hereby declare that they would have adopted this Ordinance and each portion thereof regardless of the fact that an invalid portion or portions may have been present in the Ordinance.

ADOPTED by the vote of the people of the City of Irvine on November 4, 2008 at a General Municipal Election as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and becomes effective 10 days thereafter on December 19, 2008.

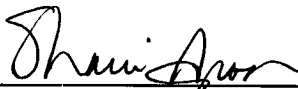
ATTEST:



CITY CLERK OF THE CITY OF IRVINE

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS
CITY OF IRVINE)

I, SHARIE APODACA, City Clerk of the City of Irvine, HEREBY DO CERTIFY that the foregoing Ordinance was adopted by the voters of the City of Irvine as an initiative measure at an election held on November 4, 2008, as certified by the City Council of the City of Irvine on the 9th day of December, 2008, and that the ordinance becomes effective 10 days thereafter on December 19, 2008.



CITY CLERK OF THE CITY OF IRVINE