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**Ordinance regulating the
protection of urban spaces within
the municipality of Vera (Almería)**

Preamble

All the citizens are obliged to act correctly when using the goods and premises available for the public and the rest of elements that form and give elegance to the municipality.

Vera is, and wants to follow being, without any doubt, a friendly, calm and nice municipality, and the Town Council of Vera, notwithstanding the civic character and mood of its citizens, wants to focus on certain irresponsible behavior that has led to visual degradation of the urban environment.

For this reason, this Ordinance deals with these aspects that counter the protection of public spaces and urban furniture (such as public benches) and that are increasing in frequency and significance.

These actions have their effect on the urban furniture, the public domain, the municipal premises and other goods and rights, and are detrimental to the citizens' quality of life, in addition to creating expenses that are deducted from the municipal general resources. The Town Council cannot be indifferent to this problem and must combat it with the means that are provided through the legal system. The failure to fulfill the basic rules of coexistence is a source of conflict and the citizens demand of the public authorities, mainly local, more detailed rules and active measures for mediation and, where applicable, for penalties, to solve them.

In conclusion, the Town Council of Vera aims to provide itself with the instrument known as the basic rules for coexistence; which promotes the care and protection of public spaces and urban furniture, with the purpose of contributing to improving the quality of life of Vera's citizens.

The main aim of this Ordinance is to contribute to improving the quality of life of Vera's citizens.

Therefore, this Town Council has decided to express its regulatory power as a Municipal Administration through this Ordinance, in which conducts that are contrary to the required protection of the urban environment and cause deterioration to the image of the municipality and the quality of life are defined and also that describe the infractions and specify the corresponding penalties. This is based on Article 139 of the Act 7/1985 of 2nd April, which regulates the Basis of Local Regime.

These rules respond also to the competence and municipal obligation established in Articles 4 and 25 of the Act 7/1985, of 2nd April, of Basis of Local Regime, on preservation and protection of the public goods, protection of safety in public spaces, of urban policies and protection of the environment which are based on Article 25 of the Preliminary Title, Chapter III of the Act 40/2015 of 1st October of the Legal Regime of Public Sector.



→ Title I. General rules

Chapter I. General Provisions

Article 1.- Purpose

This Ordinance has the purpose of:

- Preserving the heritage and the public domain as places for coexistence and civility, where all the people may develop freely all their activities of free circulation, recreation, meeting and spare time, with full respect to other people's dignity and rights.
- To guarantee the right to use the public services, according to its nature and specific regulating rules.

Article 2.- Scope

1. The scope of this Ordinance includes the municipality of Vera, and affects all the individual or collective, private or public action in the matters regulated by the same.
2. The protection measures regulated in this Ordinance refer to the protection of goods of public service or municipal ownership which are put at the citizen's disposal for the free development of their personality, as well as the goods and premises owned by other Public Administrations and public or private entities which are intended for public service and constitute equipments, premises, infrastructures or elements of a public service, as well as the building facades and any other urban or architectural of private ownership, provided they are placed in public spaces or are visible from them.

Article 3.- Specific rules

1. Without prejudice of the preferential application of this Ordinance, the following activities will be regulated also by their specific rules:

- Sales outside a permanent commercial premises, in any of its modalities.
- The placement of terraces with pergolas
- Advertising activities
- The use of green areas
- Activities that cause noise
- The ownership of pets and/or potentially dangerous animals
- The use of goods assigned to a public service
- The sport centres and pavilions

2. The newsstands and other activities subject to licences in respect of public land shall be regulated also by the provisions stated in the respective technical and/or administrative bid specifications.



Chapter II. Citizen's rights and duties

Artículo 4.- Derechos ciudadanos.

All the citizens are entitled:

- 1.- To use freely the public spaces of the municipality and to be respected in their freedom.
This right is limited by the rules of conduct established in this



Ordinance and the rest of the legal system, in particular, by the general duties of coexistence and civility, and particularly, by the duty of respecting the freedom, the dignity and other people's rights.

2.- To be protected by the Municipal Administration in the exercise of these rights according to the rules in force and within the municipal competences. For such purpose, the citizens are entitled to claim the municipal Administration's intervention, and active monitoring to ensure the fulfillment of the municipal rules and any other rule in force referring to that matter, through the intervention of the local police officers when required, and in any case, processing the complaints that correspond against the actions that mean an infraction of the same.

3.- To the good operation of the municipal public services and to be provided in the same conditions of equality of access.

4.- To be informed by the Town Council about the rights and responsibilities that you have as citizen, and for such purpose, the required municipal services will be at your disposal.

5.- That the Town Council decrees and drives the measures for the promotion of the citizen's coexistence that it considers appropriate for such purpose.

Article 5.- Duties

Within the municipality all the citizens are obliged to:
Fulfill and respect the rules of use and conduct established in the current rules and the Municipal Rules and Ordinances.

To use the goods, services and public and private premises according to its use and purpose, without causing undue damages, with special mention to the respect for the environment.

→ Title II: Rules of conduct in the public spaces

Chapter I. Visual degradation of the urban environment

Article 6.- Foundations of this provision

The provision contained in this chapter is based on the right to enjoy the urban landscape of the municipality as an integral part of people's life quality, which is inseparable from the consecutive duty of keeping it in cleaning, neatness and decoration conditions.

Article 7.- Rules of conduct

It is forbidden to make any type of graffiti, drawing, stain, writing, inscription or graphic design with any material (ink, paint, organic matter or similar ones) and by any means (spray paint, markers and the like) on any public space element, and generally on any goods or equipment protected by this Ordinance according to Article 2.2.

The activities carried out within the scope of the promotion of alternative artistic expressions are excluded from this prohibition, provided that they are authorised expressly by the Town Council, and the Town Council shall establish the conditions and requirements that shall have to be met. When making murals on private properties, to obtain the municipal licence a previous authorisation of the property's owner shall be required.

3.- The Town Council shall promote the intervention in projects of artistic nature in public spaces of municipal ownership appropriate for such intervention, with the purpose of enhancing aesthetically the environment conditions.

Article 8.- Specific interventions

In the case established in the first section of the previous Article, police officers shall remove and confiscate, as a precautionary measure, the materials, instruments, and means used to carry out the prohibited activity.

If the cleaning and immediate recovery to its previous condition is possible - due to the characteristics of the graphic expression, the used material or the confiscated good - the police officer shall order the offender to clean it, without prejudice of the corresponding penalty due to the committed offence. This shall be taken into account as a mitigating circumstance of the penalty to be imposed on the offender.

The Town Council, alternatively, may clean or repair the damages caused by the offending conduct, and shall be paid by the responsible person or persons, without prejudice of imposing the corresponding penalties.

Chapter 2: Public spaces cleaning

Article 9.- Foundations of this provision

The foundations of the provision contained in this chapter are: the protection of public health, the right to enjoy a clean public space, an appropriate environment as well as the respect for the generally accepted coexistence and civility standards, within this scope it is

particularly important the promotion of correct practices of waste recycling.

Article 10.- Rules of conduct

It is forbidden to defecate or urinate in any of the spaces defined and included within the scope of this Ordinance, except on or in the premises or elements provided specially for that purpose.

The sanction shall be considered as serious when, in addition to this bad conduct, other circumstances also take place such as the influx of people, the presence of minors, the implication of particularly protected goods and other similar ones.

Likewise, the following activities are forbidden:

- No person shall throw any type of rubbish or waste on public roads or spaces. The collection of urban waste will be carried out according to the rules in force. Small wastes produced during the normal use of public spaces must be placed in the litter bins provided for that purpose.
- Not to throw the waste in selective waste containers, when it is possible, or to leave the rubbish out of the containers or in their surroundings, instead of introducing it inside for a controlled removal.
- To throw the rubbish out of the permitted schedule in the Ordinance that regulates the collection service, transport and urban solid waste management of the Consorcio Almanzora Levante. (7:00 p.m. from Sunday to Friday in spring, autumn and winter and 8:00 p.m. in summer).





- To throw household goods or furniture outside of the days established monthly (8th and 23th days of each month).



- To use the urban solid waste containers to throw pruning and gardening wastes, which must be thrown in the Green Point Area established. In the case of Vera, it is located in the Transfer Plant of Cuevas del Almanzora.
- To use the urban solid waste containers to throw construction waste, which must be thrown into the corresponding plant to be managed properly, because they are harmful to the environment.

- Pet owners are directly responsible for the immediate removal from any urban public space of their pet defecations. They must be thrown in the litter bins or preferably in the receptacles provided for that purpose, if available. Pet owners must carry bags to collect the defecations and water bottles with vinegar to rinse the urinations.



Chapter III. Other inappropriate uses of public spaces and its premises

Article 11.- Foundations of the rules.

The rules contained in this chapter protect the rational use of public spaces, the respect for persons and goods, safety, health and physical integrity of people and the preservation of municipal heritage.

Article 12.- Rules of conduct.

- Aggressive or inappropriate conducts are forbidden in the use of urban spaces and furniture that can damage public or private goods.



- The actions that can be considered as vandalism, such as causing damages in the public spaces or its premises or elements, whether movable or immovable property, are specially forbidden.
- Likewise, camping in public spaces is also forbidden if they do not have the corresponding permission, and especially those occasions where it is considered that the characteristics of the premises used and their temporary stay can be considered as settlements.



- Bathing in fountains, ponds, lakes and similar ones is not allowed, nor washing or throwing objects into them.
- Non permitted handling of elements located or belonging to green areas of the municipality are forbidden, and shall be classified as serious infractions, because this implies an inexcusable snub towards some spaces especially designed for the enjoyment of the citizens. Consequently, malicious action on trees and plants is forbidden; as well as pruning, pulling out

or splitting trees; peeling or pulling out their barks; intentional damage to grass and ornamental gardens; damage to statues reducing their artistic or decorative value; to light fires except for in the places provided for that purpose and taking the adequate measures; to make inscriptions or to stick posters in on walls, items of street furniture or other element in parks and gardens; manipulation and damage of pipes and other items of the fountains; as well as any action or conduct dirtying or damaging items of furniture there, including playgrounds, leisure and sports areas, arising from use beyond a normal and proper use.

- It is also forbidden that plants belonging to private properties and plots invade the public road, because in addition to littering the pavements, they also obstruct mobility and pedestrians, in some cases, are forced to use the road with the corresponding danger it implies.



→ Title III: Penalty regulations

Chapter I. General provisions

Article 13.- Punishable conducts

1.- The actions and omissions that mean the breach of the rules contained in this Ordinance shall be considered as administrative pursuant to Articles 25 and 27 of the Act 40/2015 of 1st October, of Legal System of Public Sector and Article 139 of the Act 7/85 of 2nd April, which regulates the Basis of Local Regime.

2.- The infringements of this Ordinance shall be considered as serious or minor, pursuant to Article 140 of the Act 7/85 of 2nd April, which regulates the Basis of Local Regime.

Article 14.- Liable persons

Those who infringe this Ordinance shall be liable for their actions.

The parents or guardians will respond jointly and severally for the payment of the penalties derived from the infringements committed by minors, because they have not acted as guarantors to avoid the commission of the fact pursuant to Article 28 of the Act 40/2015, of 1st October, of Legal System of Public Sector.

The joint and several liabilities shall be strictly referred to the pecuniary responsibility derived from the imposed penalty.

Chapter II. Disciplinary Proceedings

Article 15. Proceedings

1. Power to impose disciplinary measures shall be exercised by means of the procedure set out in Law 39/2015, of 1st October, on Common Administrative Procedure of Public Administrations for the exercise of the power to impose disciplinary measures.
2. The Mayor of Vera or the body delegated by him/her, if agreed, shall be competent to decide under the Law regulating the the Basis of Local Regime.
3. At any time in the course of proceedings, the persons concerned have a right to know the status thereof; to access and obtain copies of the documents contained therein; and to enforce the rights they are entitled to under Law 39/2015, of 1st October, on Common Administrative Procedure of Public Administrations, including those in Articles 53 and 77 concerning presumption of innocence.
Access to the documents included in closed disciplinary files is regulated by common administrative procedure and personal data protection rules.
4. The period of limitation of infringements and penalties shall be that provided for in Article 30 of Law 40/2015, of 1st October, on the Legal Framework of Public Sector based on their classification as minor, serious or very serious.

5. Under the provisions of Article 21 of Law 39/2015, of 1st October, on Common Administrative Procedure of Public Administrations, the period of resolution and notification of the disciplinary proceedings shall be six months after which the proceedings shall lapse. For this purpose, the period shall start on the date of the order initiating disciplinary proceedings adopted by the relevant body.

Article 16. Reports by Citizens

1. Any person could report or bring to the attention of the Town Council any act which may constitute an offence under this Ordinance.
2. Reports should include the identity of the person/s making the report, the facts which may constitute an offence, the date of offence and, where possible, the identification of the person(s) allegedly liable for committing the offence.
3. When the report is accompanied by a request for disciplinary proceedings, the reporting person should be notified by the Town Council of the initiation or not of the proceedings and, if applicable, the final ruling, without having the legal status of concerned person.
4. After assessing the risk based on the nature of the alleged infringement, the investigating official may declare the identity of the reporting person as confidential, guaranteeing his/her anonymity during the administrative proceedings. This confidentiality should be declared when requested by the reporting person in any case.

Chapter III. Infringements and Penalties

Article 17. Serious Infringements

The following shall be regarded as a serious infringement of the provisions of this Ordinance:

- Acts of vandalism, including destruction of or damage to public areas, facilities and elements, whether movable or immovable property.
- Making any type of graffiti, drawing, stain, writing, inscription or graphic design using any material (ink, paint, organic matter or similar material) and by any means (spray paint, markers and the like) on any public space element, and generally on any goods or equipment protected by this Ordinance.
- Malicious action on trees and plants; as well as pruning, pulling out or splitting trees; peeling or pulling out their barks; intentional damage to grass and ornamental gardens; damage to statues reducing their artistic or decorative value; inscriptions and bill sticking on walls, items of street furniture or other elements in parks and gardens; manipulation and damage of pipes and other items of fountains; and any action or conduct dirtying or damaging items of furniture there, including playgrounds, leisure and sports areas, arising from use beyond a normal and proper use.



Article 18. Minor Infringements

Any infringement and circumvention of the prohibitions that are not expressly defined as serious in this Ordinance shall be considered as minor.

Article 19. Disciplinary Measures

Disciplinary measures resulting from administrative infringement of this Ordinance shall include fines based on the following scale according to Article 141 of the Spanish Law 7/1985 of 2nd April regulating the Basis of Local Regime.

- Minor infringements are subject to fines ranging from €100 to €300.
- Serious infringements are subject to fines ranging from €301 to €1,500.

Article 20. Graduation

1. Application of disciplinary measures provided for in this Ordinance shall follow the principle of proportionality and the following graduation criteria shall be considered:

- The nature and seriousness of the infringement and the damage caused.
- Social significance of actions.
- Social alarm created.
- The intent of the offender.
- The nature of the damage suffered.
- Recidivism.
- Repeated infringements.

- The offender's economic situation.
- The risk of damage to people's health.
- The economic benefits derived from the infringement.
- Infringement in protected areas (natural spaces).
- Obstruction of investigation, and extent of failure to comply with self-control measures.
- When the infringement involves obstacles, barriers and hindrances to freedom of movement, access and stay of persons who have limited or reduced mobility.

2. Corrective measures being adopted spontaneously before initiation of disciplinary proceedings by the offender shall be construed as constituting a mitigating circumstance.

3. Recidivism is deemed to occur if more than one infringement has been committed within one year and declared by final ruling. Repetition is deemed to occur if offender has already been subject to disciplinary measures under this Ordinance or new disciplinary proceedings are open due to infringement under this Ordinance.

4. When determining the fine, fulfilment of disciplinary measures should not be more beneficial for the offender than compliance with infringed rules.

5. When non-financial penalties, whether alternative or mandatory, are applied under this Ordinance, content and duration of penalties shall be determined based on the principle of proportionality and above-mentioned criteria.

Article 21. Concurrent Administrative Infringements

Where disciplinary proceedings are initiated for two or more infringements among which there is a cause-and-effect relationship, only the highest penalty shall be applied. If there is not a cause-and-effect relationship as stated above, persons who have carried out two or more infringements will be penalized with disciplinary measures corresponding to each infringement they have committed, except for when identity of cause, grounds and parties is found. In this latter case, the penalty regime which imposes more stringent or severe penalties on the infringing conduct shall be applied.

3. Nevertheless, continuous infringement regime shall be applied under the administrative law.



Article 22. Precautionary measures.

According to Article 56 of the Law 39/2015, of 1st October, on Common Administrative Procedure of Public Administrations, seizure of elements, means, instruments and objects established in Article 8 of this Ordinance shall be a provisional measure which is deemed appropriate to prevent effects of infringement from continuing and its application should be adjusted based on intensity and proportionality necessary to ensure the objective pursued.

Nevertheless, regardless of the content of the ruling closing the disciplinary proceedings, the ruling should decide whether the measure is maintained or lifted and how to use the elements seized with a view to a social purpose where possible.

Article 23. Concurrent Criminal Offence.

1. Where, at any point during the disciplinary proceedings, the bodies competent to decide find that the acts constitute also a criminal offence, they shall inform the Public Prosecutor and request their finding about the relevant proceedings. In such cases, and also when the competent bodies become aware that a criminal proceeding is being conducted for the same acts, they shall request the court information about the proceedings.

2. Once the information is received, and if identity of cause, grounds and parties is found between the administrative infringement and the criminal offence, the body competent to decide shall order the stay of proceedings pending the court decision.

3. Once the court decision is rendered, the body shall decide not to impose administrative liability or continue the disciplinary proceedings. The limitation period of the infringement and the lapse period for the proceedings shall not run during the stay of the disciplinary proceedings as the result of the initiation of criminal proceedings.

4. The facts established by a final criminal judgment are binding for the administrative bodies in respect of the disciplinary proceedings.

Article 24. Reduction in fine for immediate payment.

Reported persons for a minor infringement may accept liability by the payment of fines with a reduction of 50% if paid before the proposed ruling is issued on the disciplinary proceedings, or a reduction of 25% if paid before the ruling is rendered.

Chapter IV. Compensation of damage

Article 25. Compensation of damage

Fines imposed under this Ordinance do not relieve the offenders or their legal representatives from their obligation to compensate damage and harm sustained.

Chapter V. Measures fostering coexistence

Article 26. Promoting citizen coexistence and a sense of civility

1. The Town Council shall implement policies promoting citizen coexistence and a sense of civility required to ensure conduct and attitudes of persons who live and visit the town meet minimum coexistence standards with a view to ensuring a sense of citizenship and improving the quality of life in public areas.

2. In particular, and without prejudice to actions agreed, the Town Council shall:

- Implement necessary communication campaigns with the adequate intensity and duration, by using the necessary means to reach specific communities or groups, about the need to ensure and promote coexistence and to respect the rights of others and own public space.
- Develop active policies necessary to ensure coexistence, promote agreements and prevent the exercise of irresponsible

citizenship. For this purpose, the Town Council shall conduct mediation in conflicts which could arise over different uses of the same public space.

- Encourage solidarity of citizens in public spaces so that they help persons to circulate or find their way, or persons who have had an accident or find themselves in similar circumstances.
- Encourage other attitudes of solidarity which contribute to make the city more welcoming and friendly, especially for people in need.
- Implement specific measures promoting coexistence and a sense of civility targeted at children, adolescent and youth in the city, through the development of specific programs in public and private schools of the general education system at all levels in coordination with the municipal education body.
- Promote respect of cultural and religious diversity in order to avoid conduct against the personal dignity and discriminatory behaviours, including xenophobic, racist, sexist or homophobic behaviours.
- Support collaboration agreements with citizens, social, business, tourism, sports and other entities and associations to promote active collaboration of their members with the campaigns and initiatives promoting coexistence and a sense of civility and to increase awareness and promote basic standards.



Article 27. Promoting habits of coexistence and resources

In line with the foregoing and based on the conviction that the Town Council must get involved in the objectives pursued in this Ordinance, the Town Council is committed to adopting any measures and having the resources necessary to ensure that citizens can comply with the obligations under this Ordinance.

Single Transitional Provision.

The proceedings initiated due to infringements committed before the entry into force of this Ordinance shall be ruled by the disciplinary proceedings that were applicable when it was committed.

Single Repealing Provision.

All provisions in Municipal Ordinances of Vera which contradict or oppose those provided herein are hereby repealed.

Single Final Provision.

This Ordinance shall enter into force on the fifteenth day after its publication in the Official Gazette of the Province of Almería.

AYUNTAMIENTO DE VERA (ALMERÍA)



EXCMO. AYUNTAMIENTO
DE VERA

