

**CITY OF HAWAIIAN GARDENS
CASE NUMBER 96-43MCA
ORDINANCE 435**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS, STATE OF CALIFORNIA, ADDING CHAPTER 6.13, RELATING TO THE PROHIBITION OF SCAVENGING, INTO THE HAWAIIAN GARDENS MUNICIPAL CODE.

WHEREAS, the California Integrated Waste Management Act (AB 939) requires that jurisdictions, such as the City of Hawaiian Gardens, reduce their waste stream by 50% by the year 2000; and

WHEREAS, the City of Hawaiian Gardens will shortly enter into an agreement for the pick up, sorting, and distribution of recyclable materials; and

WHEREAS, this agreement would require mandatory recycling of materials (i.e., glass, plastics, metals, green waste [grass, leaves, etc.], etc.) by residents and business of the City; and

WHEREAS, the City of Hawaiian Gardens wishes to discourage the stealing, or scavenging, of recyclable materials and their containers; and

WHEREAS, a notice to file a negative declaration has been filed with the County Clerk's Office and prepared in accordance with the California Environmental Quality Act; and

WHEREAS, significant environmental impacts will not occur as a result of Municipal Code Amendment (MCA) 96-43; and

WHEREAS, on June 28, 1996, an advertisement was published in the Long Beach Press-Telegram and public notices were placed at the Hawaiian Gardens City Hall and the Hawaiian Gardens Branch of the Los Angeles County Public Library System, specifying the date, time, and location of the public hearing; and

WHEREAS, on July 9, 1996 the City Council of the City of Hawaiian Gardens held a duly noticed and advertised public hearing to receive oral and written testimony relative to Municipal Code Amendment 96-43; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hawaiian Gardens as follows:

SECTION 1. The City Council HEREBY FINDS AND DETERMINES that Case No. 96-43MCA would not cause potentially significant environmental impacts, and therefore adopts a negative declaration in accordance with the California Environmental Quality Act.

SECTION 2. Title 6, Chapter 6.13 of the Hawaiian Gardens Municipal Code is hereby created by adding thereto new Sections 6.13.010 to 6.13.080 to read as follows:

CHAPTER 6.13
PROHIBITION OF SCAVENGING

Sections:

6.13.010	PURPOSE AND INTENT
6.13.020	DEFINITIONS
6.13.030	OWNERSHIP OF RECYCLABLE MATERIALS
6.13.040	TAMPERING WITH REFUSE AND RUBBISH
6.13.050	DISTURBANCE OF RECYCLABLE MATERIALS
6.13.060	OWNERSHIP OF RECYCLING CONTAINERS
6.13.070	CIVIL ACTION BY PERMITTEE
6.13.080	VIOLATIONS AND PENALTIES

SECTION 6.13.010 PURPOSE AND INTENT. To reduce the waste stream generated by residents and business within the City of Hawaiian Gardens, the City has or intends to adopt certain residential and commercial/industrial recycling programs. Scavenging of recyclables from these programs undermines their economic viability and thereby undermines their success. This chapter is intended to eliminate scavenging of recyclables

SECTION 6.13.020 DEFINITIONS. Whenever the following words and phrases are used in this article, they shall have the definition or meaning established by this section, unless it is clearly apparent from the context in which the word or phrase appears, that a different definition or meaning is intended.

(A) "City Agent" shall mean any person designated by the City Council or City Administrator as being responsible for administering, directing, supervising, collecting, or providing for the disposal of recyclable materials.

(B) "Permittee" shall mean a recycling operator performing services pursuant to a permit issued by or a contract awarded by the City.

(C) "Recyclable Materials" shall mean paper, glass, cardboard, plastic, ferrous metals, aluminum, compostable yard matter, or other materials which may be recycled for use in an altered form that has been segregated from other solid waste and placed at a designated collection location for the purpose of collection and recycling.

(D) "Recycling Operator" shall mean a person or persons, firm, partnership, joint venture, association, or corporation engaged in the collection and recycling of waste and other discarded materials.

SECTION 6.13.030 OWNERSHIP OF RECYCLABLE MATERIALS. Recyclable materials placed at the curbside of residential, commercial, or industrial or public or quasi-public facilities or properties or placed for collection on residential, commercial, or industrial or public or quasi-public facilities or properties for pick up by the City's permittee shall become the property of the permittee at the time of placement in either the City's or permittees recycling containers which are labeled "City of Hawaiian Gardens Recycles," or some similar text, or otherwise set out for collection under the City's recycling program. Such materials shall be deemed discarded by a property owner or occupant at the time the material is placed in the container or otherwise set out for collection.

SECTION 6.13.040 TAMPERING WITH REFUSE AND RUBBISH

(A) No person shall collect or transport recyclable materials within the City unless such person is a permittee of the City or is exempt in accordance with subsections (1) and (2) of this section. No person shall permit, allow, or enter into any agreement whatsoever for the collection of recyclable materials from any residential unit, commercial or industrial premises, or public or quasi-public facility with any person who is not a permittee as herein defined, except as permitted in subsections (1) and (2) of this section.

(1) The collection and removal of grass clippings and shrubbery by individual residents, business owners, and by individuals doing business as professional landscapers/gardeners, when the collection is directly related to their work and having a valid business license issued by the City of Hawaiian Gardens, shall be exempt from the permit section.

(2) The removal of recyclable materials from a residential, commercial, industrial, or public or quasi-public facility by the owner or occupant shall be exempt from the permit section.

SECTION 6.13.050 DISTURBANCE OF RECYCLABLE MATERIALS. It shall be unlawful for any person to burn, break, destroy, scatter, scavenge, collect, or take any recyclable materials without the consent of the resident or occupant of a premises or permittee.

SECTION 6.13.060 OWNERSHIP OF RECYCLING CONTAINERS. It shall be unlawful for any person other than the 1) resident or occupant of a premise or their designee; or 2) the City; or 3) the City permittee, to remove any approved recycling container from curbside or on the property of said resident or occupant.

SECTION 6.13.070 CIVIL ACTION BY PERMITTEE. Nothing in this chapter shall be deemed to limit the right of an authorized permittee to bring civil action against any person who violates the above described sections of this chapter, nor shall a conviction for such violation exempt any person from civil action brought by a City permittee.

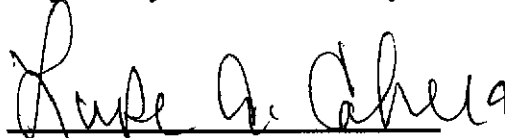
SECTION 6.13.080 VIOLATIONS AND PENALTIES. Violation of any part of this section shall be a misdemeanor pursuant to the Hawaiian Gardens Municipal Code.

Section 3. If any section, subsection, sentence, clause, phrase, 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 the Ordinance. The City Council of the City of Hawaiian Gardens hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

Section 4. This Ordinance shall take effect thirty days (30) after its adoption. The City Clerk or his duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

Section 5. The Mayor or presiding officer, of the City of Hawaiian Gardens City Council is **HEREBY AUTHORIZED** to affix his signature to this Ordinance signifying its adoption by the City Council of the City of Hawaiian Gardens, and the City Clerk, or his duly appointed Deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens on the 13th day of August 1996.


Lupe A. Cabrera, MAYOR

ATTEST:


Domenic Ruggeri, CITY CLERK

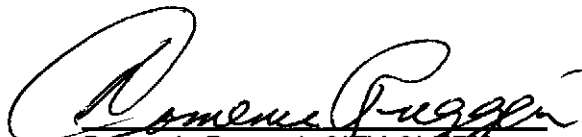
I Domenic Ruggeri, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 435, was duly and regularly passed and adopted on the 13th day of August 1996, by the following roll call vote as the same appears on file and record in the Office of the City Clerk.

AYES: Flores, Prida, Canada, Cabrera

NOES: None

ABSENT: None

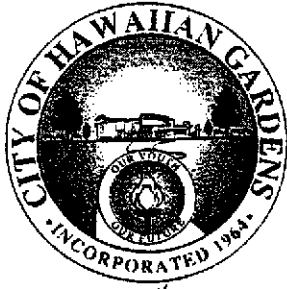
ABSTAIN: Navejas


Domenic Ruggeri, CITY CLERK

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Case Number 96-43MCA
Ordinance Number 435

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**CITY OF HAWAIIAN GARDENS
CITY COUNCIL
STAFF REPORT**

Agenda Item No.: A - 2

Meeting Date: 7/9/96

City Administrator: [Signature]

TO: Honorable Mayor and City Council Members
THRU: Leonard Chaidez, City Administrator
FROM: Joseph Colombo, Director of Community Development
James R. Tebbetts, Associate Planner
DATE: July 2, 1996

SUBJECT: Ordinance Number 435, Case Number 96-43 MCA, An Ordinance of the City of Hawaiian Gardens Adding Chapter 6.13, Relating to the Prohibition of Scavenging, into the Hawaiian Gardens Municipal Code.

I. SUMMARY

The City of Hawaiian Gardens Department of Planning and Community Development is requesting approval of an Ordinance relating to the prohibition of scavenging of recyclable materials. The proposed Ordinance will add Section 6.13, "Prohibition of Scavenging," into the Hawaiian Gardens Municipal Code.

Staff has prepared an initial study to assess potential environmental impacts. No significant negative impacts have been noted in the study. Two positive impacts have been identified, land use planning and energy and mineral resources.

The Department of Planning and Community Development recommends that the City Council adopt Ordinance 435 (Case Number 96-43MCA).

II. DISCUSSION

In 1989 the California Legislature passed the California Integrated Waste Management Act of 1989 (AB 939). This legislation was passed to set standards as it relates to the reduction, recycling, and reuse of solid waste generated in the State to the maximum extent feasible. As part of this legislation, the State required that each city and county in the State divert 50 percent of all of its solid wastes by January 1, 2000, through source reduction, recycling, and composting activities. Failure to meet this standard by this date could subject a city or county to fines for noncompliance. These fines would then be passed through to those that are generating waste within the city or county.

Previously adopted by the City was a Source Reduction and Recycling Element. This element contained components related to waste characterization, source reduction, recycling, composting, solid waste facility capacity, education and public information, funding, and special waste components. This ordinance will help implement this element.

Currently being negotiated is an agreement between the City and its solid waste disposal franchisee (Consolidated Disposal Service, Inc.) for the recycling and composting of residential and commercial wastes. These wastes include metals, glasses, paper, plastics, and green wastes (lawn, bush, and tree clippings). The intent of this agreement is to meet the legislative requirements of AB 939.

Part of this agreement deals with methodology of solid waste recycling. Residential generators would participate in a curbside recycling program and a green waste recycling program. Commercial generators would participate in a materials recycling facility program. In each program, residences and businesses in the City would be provided with a container(s) in which they would place solid wastes for recycling. These containers would then be placed in front of the residence or business for pick up by the City's recycling permittee. Recyclable materials would be collected on the same day, but not necessarily at the same time, as normal trash pick up days. The wastes from commercial/industrial generators would be taken to recycling facilities for separation and distribution to end users.

In order to make this recycling program economically feasible, the maximum amount of materials available for recycling must be made available to the recycling permittee. Any reduction of these recyclable wastes could increase the cost, on a per person/business basis, associated with the operation of the recycling program. Any increase in costs of the recycling program would result in an increase in fees charged to homeowners and businessmen as it relates to solid waste disposal. In order to maximize the amount of materials available for recycling, this ordinance is being proposed to prohibit the scavenging of these recyclable materials. This would permit the maximum amount of materials to be recycled.

III. ENVIRONMENTAL ANALYSIS

An initial study has been prepared to assess potential environmental impacts for the proposed ordinance amendment. No negative impacts were identified. Two positive impacts have been identified, land use planning and energy and mineral resources. The ordinance will help implement the City's Source Reduction and Recycling Element and aid in lessening the need to mine raw materials needed to manufacture everyday products (i.e., glass, metals, paper, etc.). Staff recommends adoption of a negative declaration in accordance with the California Environmental Quality Act.

IV. RECOMMENDATION

The Department of Planning and Community Development recommends that the City Council introduce Ordinance Number 435.

V. FISCAL IMPACTS

Cost to the City for the implementation of this Ordinance is not known. The cost would be dependent on the number of persons investigated/contacted by the Police Department to determine if they have violated the Ordinance. This is generally considered part of the Police Department's daily activities and would be included in the Police Department's Operating Budget. Any person found guilty of violating this ordinance could be fined, sent to jail, or both. The level of the fine or jail time is dependent on the Judge hearing the case.

PROOF OF PUBLICATION
(2015.5 C.C.P.)

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES,

I am a citizen of the United States States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the Long Beach Press-Telegram, a newspaper of general circulation, printed and published 7 times each week in the City of Long Beach, County of Los Angeles, and which newspaper has been adjudged a legal newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of March 21, 1934.

Case Number 370512; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

Aug 28,
all in the year 1996.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Long Beach, California, this 28th day of August, 1996.

Barbara Callison
Signature

Press-Telegram Legal
Advertising Department

604 Pine Ave., Long Beach, Ca., 90844
(310) 499-1236

This space is for the City Clerk's Filing Stamp

Received

SEP 03 1996

City of Hawaiian Gardens
City Clerks Office

PROOF OF PUBLICATION OF

City of Hawaiian Gardens
ORDINANCE 435

CITY OF HAWAIIAN GARDENS
CASE NUMBER 96-43MCA
ORDINANCE 435

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WHEREAS, a notice to file a negative declaration has been filed with the County Clerk's Office and prepared in accordance with the California Environmental Quality Act; and

WHEREAS, significant environmental impacts will not occur as a result of Municipal Code Amendment (MCA) 96-43; and

WHEREAS, on June 28, 1996, an advertisement was published in the Long Beach Press-Telegram and public notices were placed at the Hawaiian Gardens City Hall and the Hawaiian Gardens Branch of the Los Angeles County Public Library System, specifying the date, time, and location of the public hearing; and

WHEREAS, on July 9, 1996 the City Council of the City of Hawaiian Gardens held a duly noticed and advertised public hearing to receive oral and written testimony relative to Municipal Code Amendment 96-43; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hawaiian Gardens as follows:

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SECTION 2. Title 6, Chapter 6.13 of the Hawaiian Gardens Municipal Code is hereby created by adding thereto new Sections 6.13.010 to 6.13.080 to read as follows:

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PROHIBITION OF SCAVENGING

Sections:

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6.13.020 DEFINITIONS

6.13.030 OWNERSHIP OF RECYCLABLE MATERIALS

6.13.040 TAMPERING WITH REFUSE AND RUBBISH

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SECTION 6.13.040 TAMERING WITH REFUSE AND RUBBISH

(A) No person shall collect or transport recyclable materials within the City unless such person is a permittee of the City or is exempt in accordance with subsections (1) and (2) of this section. No person shall permit, allow, or enter into any agreement whatsoever for the collection of recyclable materials from any residential unit, commercial or industrial premises, or public or quasi-public facility with any person who is not a permittee as herein defined, except as permitted in subsections (1) and (2) of this section.

(1) The collection and removal of grass clippings and shrubbery by individual residents, business owners, and by individuals doing business as professional landscapers/gardeners, when the collection is directly related to their work and having a valid business license issued by the City of Hawaiian Gardens, shall be exempt from the permit section.

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SECTION 6.13.070 CIVIL ACTION BY PERMITTEE. Nothing in this chapter shall be deemed to limit the right of an authorized permittee to bring civil action against any person who violates the above described sections of this chapter, nor shall a conviction for such violation exempt any person from civil actions brought by a City permittee.

SECTION 6.13.080 VIOLATIONS AND PENALTIES. Violation of any part of this section shall be a misdemeanor pursuant to the Hawaiian Gardens Municipal Code.

SECTION 3. If any section, subsection, sentence, clause, phrase, 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 the Ordinance. The City Council of the City of Hawaiian Gardens hereby declares that it would have adopted this Ordinance and each section, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

SECTION 4. This Ordinance shall take effect thirty days (30) after its adoption. The city Clerk or his duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

SECTION 5. The Mayor or presiding officer, of the City of Hawaiian Gardens City Council is HEREBY AUTHORIZED to affix his signature to this Ordinance signifying its adoption by the City Council of the City of Hawaiian Gardens, and the City Clerk, or his duly appointed Deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens on the 13th day of August 1996.

Lupe A. Cabrera, MAYOR

ATTEST:
Domenic Ruggeri, CITY CLERK

I, Domenic Ruggeri, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 435, was duly and regularly passed and adopted on the 13th day of August 1996, by the following roll call vote as the same appears on file and record in the Office of the City Clerk.

AYES: Flores, Prida, Canada, Cabrera

NOES: None

ABSENT: None

ABSTAIN: Navejas

Domenic Ruggeri, CITY CLERK

Pub. Aug 28 1996(16)PT(31857/318947)

PROOF OF PUBLICATION
(2015.5 C.C.P.)

**STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES,**

I am a citizen of the United States States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the Long Beach Press-Telegram, a newspaper of general circulation, printed and published 7 times each week in the City of Long Beach, County of Los Angeles, and which newspaper has been adjudged a legal newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of March 21, 1934.

Case Number 370512; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to-wit:

Aug 28,
all in the year 1996.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Dated at Long Beach, California, this 28th day of August, 1996.

Barbara Callison

Signature

**Press-Telegram Legal
Advertising Department**

604 Pine Ave., Long Beach, Ca., 90844
(310) 499-1236

This space is for the City Clerk's Filing Stamp

Received

SEP 03 1996

City of Hawaiian Gardens
City Clerks Office

PROOF OF PUBLICATION OF

City of Hawaiian Gardens
ORDINANCE 434

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS AMENDING CHAPTER 9, SECTION 9.29.020, RELATING TO UNNECESSARY NOISE AND ADDING CHAPTER 9, SECTION 9.29, RELATING TO NOISE CONTROL, INTO THE HAWAIIAN GARDENS MUNICIPAL CODE

WHEREAS, the City Council held numerous public hearings related to the Hawaiian Gardens General Plan, which included a Noise Element which was adopted on September 13, 1994; and

WHEREAS, the Hawaiian Gardens General Plan Noise Element contains goals and policies relating to the reduction of environmental noise levels within the City; and

WHEREAS, the Hawaiian Gardens General Plan Noise Element contains noise mitigation measures to minimize the adverse effects of noise on sensitive noise receivers, to include regulatory mechanisms, such as a noise ordinance; and

WHEREAS, the Hawaiian Gardens General Plan Noise Element contains noise mitigation measures to minimize the adverse effects of noise on sensitive noise receivers, to include land use policies and recommendations; and

WHEREAS, the Hawaiian Gardens General Plan Noise Element contains policies calling for the allocation of noise impact mitigation costs to the agency or party responsible for the noise incompatibility; and

WHEREAS, the City of Hawaiian Gardens has numerous noise sensitive receptors, to include churches, hospitals, libraries, parks, schools, and senior centers; and

WHEREAS, the California Department of Public Health has identified a variety of harmful effects of noise, to include prevention or interruption of sleep, speech interference, extra auditory physiological effects, and hearing loss; and

WHEREAS, The United States Environmental Protection Agency has found that the higher the noise levels, the increase in percentage of complaints that are registered with local agencies; and

WHEREAS, the City of Hawaiian Gardens Planning Commission and Public Safety Commission held a public hearing on June 12, 1996, and

WHEREAS, the City of Hawaiian Gardens Planning Commission and Public Safety Commission both voted to recommend adoption of the proposed ordinance;

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

SECTION 1. Section 9.29.020 of the Hawaiian Gardens Municipal Code is hereby amended to read as follows:

"Section 9.29.020 Unnecessary Noises. It shall be unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured on any residential, public and quasi-public institutional, commercial or industrial property, either within or without the City, to exceed the applicable noise standards found in Section 9.29.060 or Section 9.29.080 or the prohibited noises found in Section 9.29.120."

SECTION 2. Title 9, Chapter 9.29 of the Hawaiian Gardens Municipal Code is hereby created by adding thereto new Sections 9.29.010 to 9.29.330 to read as follows:

**CHAPTER 9.29
NOISE CONTROL**

Sections:

- 9.29.010 Declaration of Policy
- 9.29.020 Enforcement
- 9.29.030 Definitions
- 9.29.040 Noise Level Measurement Criteria
- 9.29.050 Designated Noise Zones
- 9.29.060 Exterior Noise Standards
- 9.29.070 Exterior Noise Levels Prohibited
- 9.29.080 Interior Noise Standards
- 9.29.090 Interior Noise Levels Prohibited
- 9.29.100 Special Provisions
- 9.29.110 Air Conditioning, Refrigeration - Special Provisions
- 9.29.120 Prohibited Noises
- 9.29.130 Liability Cost for City Enforcement Response
- 9.29.140 City Compliance with this Chapter
- 9.29.150 Violation - Presumed
- 9.29.160 Violation - Notice
- 9.29.170 Penalty for Violation - Closure of Noise Generation Activities
- 9.29.180 Penalty for Violation - Fines and Confinement
- 9.29.190 Penalty for Violation - Additional Remedies
- 9.29.200 Penalty for Violation - Public Nuisances
- 9.29.210 Declaration of Nuisances
- 9.29.220 Form of Notice of Hearing
- 9.29.230 Posting and Serving of Notice
- 9.29.240 Form of Proper Service of Notice
- 9.29.250 Hearing by City Council
- 9.29.260 Decision of City Council
- 9.29.270 Limitation of Filing/Judicial Action
- 9.29.280 Service of Resolution to Abate
- 9.29.290 Record of Cost of Abatement
- 9.29.300 Report: Hearing and Proceedings
- 9.29.310 Assessment of Costs Against Property
- 9.29.320 Violation of Abatement
- 9.29.330 Nonconforming Noise Sources - Amortization

9.29.010 Declaration of policy

(A) In order to control unnecessary, excessive and annoying sounds emanating from any source within the City, it is hereby declared to be the policy of the City to prohibit such sounds generated from all sources as specified in this chapter.

(B) It is determined that certain noise levels are detrimental to the public health, welfare, and safety and contrary to public interest; therefore, the City Council does ordain and declare that creating, maintaining, causing or allowing to create, maintain or cause any noise in a manner prohibited by, or not in conformity with the provisions of this chapter, is a public nuisance and shall be punishable as such.

(C) It is the policy of the City to identify the sensitivity of the various land uses to noise, and to establish acceptable noise standards and criteria consistent with health and quality of life goals;

(D) It is the policy of the City to pursue vigorous enforcement of existing laws relative to noise, and to establish quantitative laws that will be more clearly understood and enforceable.

(E) In adopting this chapter, the City is aware of the areas of noise control which are preempted by other jurisdictions. Enforcement of these areas is understood by the City to be restricted, in addition to other limitations, by the following:

(1) Local noise control of motor vehicles operating on public rights-of-way is preempted by State and Federal laws and regulations. However City enforcement of these laws will continue under existing laws and regulations, in order to curtail the use of vehicles equipped with illegal or faulty exhaust systems and "hot rods" exhibiting tire squeals or excessive exhaust noise (Sections 23130, 23130.5, 27150 et seq. 27200 et seq. and 36275 of the California Vehicle Code).

(2) Noise in occupational environments is controlled by the California Department of Industrial Relations, whose Division of Industrial Safety enforces the 1973 California Occupational Safety and Health Act (CalOSHA).

9.29.020 Enforcement. The provisions of this chapter shall be enforced jointly by the Chief of Police and the Director of Planning and Community Development or their designees.

9.29.030 Definitions. The following words, phrases and terms as used in the chapter shall have the meanings as indicated below:

(A) "Ambient noise level" shall mean the all-encompassing noise level associated with a given environment, being a composite of sounds from all sources, excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

(B) "Commercial property" shall mean a parcel of real property which is developed and used either in part or in whole for commercial purposes including, but not limited to, retail and wholesale businesses, professional offices, and transient uses such as hotels and motels.

(C) "Cumulative period" shall mean an additive period or time composed of individual time segments which may be continuous or interrupted.

(D) "Decibel" (db) shall mean a unit which denotes the ratio between two (2) quantities which are proportional to power; the number of decibels corresponding to the ratio of two (2) amounts of power are ten (10) times the logarithm to the base ten (10) of this ratio.

(E) "Emergency machinery, vehicle, warning device, or work" shall mean any machinery, vehicle, device, or work used, employed or performed in an effort to protect, provide or restore safe conditions in the community or for the citizenry, or work by private or public utilities when restoring utility service.

(F) "Fixed noise sources" shall mean a stationary device which creates sounds while fixed or motionless, including but not limited to, industrial and commercial machinery and equipment, pumps, fans, compressors, generators, air conditioners and refrigeration equipment.

material, or any combination thereof, conducted to prepare said site for construction or the placement of the improvements thereon.

(H) "Impact noise" shall mean the noise produced by the collision of one mass in motion with a second mass which may be either in motion or at rest.

(I) "Industrial property" shall mean a parcel of real property which is developed and used in part or in whole for manufacturing purposes including research and development uses.

(J) "Mobile noise sources" shall mean any noise source other than a fixed noise source.

(K) "Noise level" shall mean the "A" weighted sound pressure level in decibels obtained by using a sound level meter at slow response with a reference pressure of twenty (20) micro pascals (micronewtons per square meter). The unit of measurement shall be designated as db(A).

(L) "Nuisance" shall mean an activity which affects at the same time a community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(M) "Person" shall mean a person, firm, association, co-partnership, joint venture, corporation or any entity, public or private in nature.

(N) "Public and quasi-public institutions" shall mean a parcel of real property which is developed and used either in part or in whole for governmental, educational, recreational, religious, or social purposes.

(O) "Residential property" shall mean a parcel of real property which is developed and used either in part or in whole for residential purposes, other than transient uses such as hotels or motels.

(P) "Simple tone noise" shall mean a noise characterized by a frequency or frequencies so that other frequencies cannot be readily distinguished.

(Q) "Sound pressure level" of a sound, in decibels, shall mean twenty (20) times the logarithm to the base of ten (10) of the ratio of the pressure of the sound to a reference pressure, which reference pressure shall be explicitly stated.

9.29.040 Noise level measurement criteria. Any noise level measurements made pursuant to the provisions of this chapter shall be performed using a sound level meter which meets or exceeds the requirements pertinent for type S2A meters in American National Standards Institute Specifications for sound level meters, S14-1977 or the most recent revision thereof. The location selected for measuring exterior noise levels shall be at any point on the property line of the offender or anywhere on the affected property. Interior noise measurements shall be made within the affected unit. The measurement shall be made at a point in the affected unit at least four (4) feet from the wall, ceiling or floor nearest the noise source.

9.29.050 Designated noise zones.

(A) The properties hereinafter described, whether within or without the City, are hereby assigned to the following noise zones:

- Noise Zone 1: All residential properties;
- Noise Zone 2: All public and quasi-public institutional properties
- Noise Zone 3: All commercial properties;
- Noise Zone 4: All industrial properties.

(B) Where more than one use is located on a property, the noise zone assigned to the property shall be the noise zone with the most restrictive noise levels.

(C) Where a property is vacant, the property shall be located in the noise zone which reflects its underlying zoning district, as shown on the most recent City of Hawaiian Gardens Zoning Map. The following table shall apply to all vacant land in the City of Hawaiian Gardens, as it relates to noise zones:

NOISE ZONES FOR VACANT LAND	
ZONING DISTRICT	NOISE ZONE
A-1, R-1, R-2, R-3, R-4, & MHP	Noise Zone 1
POL	Noise Zone 2
C-4	Noise Zone 3
M-1	Noise Zone 4

9.29.060 Exterior noise standards.

(A) The following noise standards, unless otherwise specifically indicated, shall apply to all real property within a designated noise zone:

EXTERIOR NOISE LEVEL STANDARDS		
NOISE ZONE	NOISE LEVEL	TIME PERIOD
1	60 db (A)	7:00 A.M. - 10:00 P.M.
1	55 db (A)	10:00 P.M. - 7:00 A.M.
2	60 db (A)	Anytime
3	75 db (A)	Anytime
4	75 db (A)	Anytime

(H) In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) db(A).

9.29.070 Exterior noise levels prohibited.

(A) It shall be unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured on any residential, public or quasi-public institutional, commercial or industrial property, either within or without the City, to exceed the applicable noise standards:

- (1) For a cumulative period of more than thirty (30) minutes in any hour;
- (2) Plus five (5) db(A) for a cumulative period of more than fifteen (15) minutes in any hour;
- (3) Plus ten (10) db(A) for a cumulative period of more than five (5) minutes in any hour;
- (4) Plus fifteen (15) db(A) for a cumulative period of more than one (1) minute in any hour; or
- (5) Plus twenty (20) db(A) for any period of time.

(B) In the event the ambient noise level exceeds any of the first four noise limit categories above, the cumulative period applicable to said categories shall be increased to reflect said ambient noise level. In the event that ambient noise level exceeds the fifth noise limit category, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

9.29.080 Interior noise standards.

(A) The following noise standards, unless otherwise specifically indicated, shall apply to all real property within a designated noise zone:

INTERIOR NOISE LEVEL STANDARDS		
NOISE ZONE	NOISE LEVEL	TIME PERIOD
1	55 db(A)	7:00 A.M. - 10:00 P.M.
1	45 db(A)	10:00 P.M. - 7:00 A.M.
2, 3, 4	45 db(A)	Anytime

(B) In the event the alleged offensive noise consists entirely of impact noise, simple tone noise, speech, music, or any combination thereof, each of the above noise levels shall be reduced by five (5) db(A).

9.29.090 Interior levels of noise prohibited.

(A) It shall be unlawful for any person at any location within the City to create any noise, or to allow the creation of any noise on property owned, leased, occupied, or otherwise controlled by such person, which causes the noise level when measured within any other structure on any residential, public institutional, commercial, industrial property to exceed:

- (1) The noise standard for a cumulative period of more than fifteen (15) minutes in any hour;
 - (2) The noise standard plus five (5) db(A) for a cumulative period of more than one (1) minute in any hour; or
 - (3) The noise standard plus ten (10) db(A) for any period of time.
- (B) In the event the ambient noise level exceeds either of the first two noise limit categories above, the cumulative period applicable to said categories shall be increased to reflect said ambient noise level. In the event the ambient noise level exceeds the third noise level, the maximum allowable noise level under said category shall be increased to reflect the maximum ambient noise level.

(C) In the event that the noise source and the affected property are within different noise zones, the noise standards of the affected property shall apply.

9.29.100 Special provisions. The following activities shall be exempt from the provisions of this chapter:

(A) School bands, school athletics and school entertainment events, provided such events are conducted on school property authorized by special permit from the City.

(B) Activities otherwise lawfully conducted in public parks, playgrounds and public or private school grounds.

(C) Any mechanical device, apparatus or equipment used, related to or connected with emergency machinery, emergency vehicle emergency warning devices, or emergency work.

(D) Noise sources associated with construction, repair, remodeling, or grading of any real property; provided a permit has been obtained from the City; and provided said activities shall take place between the hours of 7:00 A.M. and 7:00 P.M. Monday through Saturday, with no construction shall be permitted on Sunday. Single-family residences undergoing improvements by the owner, the contractor, are exempt from this section of this chapter.

(E) Noise sources associated with public safety operations including, but not limited to the police and fire departments.

(F) Noise sources associated with the maintenance of a property provided said activities take place between the hours of 7 a.m. and 7:00 p.m. on any day except Sunday or between the hours 9:00 a.m. and 6:00 p.m. on Sunday or a Federal holiday.

(G) Any activity or equipment to the extent that the regulation thereof has been preempted by State or Federal laws.

or license has been issued by the City. This would include, but not be limited to activities such as Advertising Vehicles, Carnivals, Incense, and Rodeos, Sound Trucks, Sound Amplifying Equipment, Parades, and Block Parties. This would not preclude enforcement of its chapter or other permit standards as a condition of approval of its permit or license, as determined by the approving body.

(I) Collection of refuse with a refuse collection vehicle between the hours of 6:00 A.M. and 4:00 P.M. in residential and public and semi-public areas and between the hours of 4:00 A.M. and 2:00 P.M. in commercial and industrial areas.

(J) Operation of street sweepers between the hours of 4:00 A.M. and 7:00 P.M.

(K) Warning devices attached to traffic signals used as methods of notification for the hearing impaired.

9.29.110 Air conditioning, refrigeration - Special provisions.

During a one (1) year period following the effective date of this chapter, the noise level standards specified in this chapter shall be increased by five (5) db(A) where the alleged noise source is an air-conditioning apparatus or refrigeration system, which was installed prior to the effective date of this chapter.

9.29.120 Prohibited noises.

(A) Notwithstanding any other provision of this chapter and in addition thereto, it shall be unlawful for any person to make, continue, cause or allow to be made or continued, any loud, unnecessary or unreasonable noise or any noise which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the limits of the City, and the following acts and things, among others, are declared to be loud, disturbing, injurious, unnecessary and unreasonable noises in violation of this chapter, but said enumerations shall not be deemed to be exclusive:

(1) Radios and Televisions The using, operating or permitting to be played, used or operated any radio, receiver set, television set, musical instrument, phonograph, juke box or other machine or device or producing or reproducing sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is located and operated, and who are voluntary listeners thereto. The operation of any such set, instrument, stereo, machine, or device between the hours of 10:00 P.M. and 7:00 a.m. in such manner as to be plainly audible at a distance of fifty (50) feet from the building, structure, vehicle or place where where or in which it is located shall be prima facie evidence of a violation of this section.

(2) Yelling and shouting Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 7:00 P.M. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling, hotel or other type of residence or any persons in the vicinity, is hereby declared a nuisance.

(3) Business and Residential Land Use Relationship

(a) It is unlawful for a business to be loading, unloading, opening or other handling of boxes, crates, containers, building materials, garbage cans, other similar objects and trash compactor operations between the hours of 10:00 P.M. and 7:00 A.M. in an area between a business and a residential area in such a manner to cause a noise disturbance across a residential property line or at any time to violate the general sound level limits.

(b) Delivery vehicles shall have their engines turned off when stationary during regular business hours.

(c) Motorized refrigeration systems shall not be left running between the hours of 10:00 P.M. and 7:00 A.M. within seventy-five (75) feet of a residential zone, residential use, or sleeping quarters.

(4) Animals Owning, possessing, or harboring any animal or bird which frequently or for continued duration howls, barks, meows, quawks, or makes other sounds which create a noise disturbance across a residential or commercial real property line or within a noise sensitive zone.

(B) It shall be unlawful for any person who owns, maintains, controls, operates, has care or custody of, or otherwise provides any public or private premises, who, being present, allows noise to continue after first being informed by the City of any of the violations set forth in this chapter.

9.29.130 Liability Cost for City Enforcement Response

(A) In the event that a commercial/industrial operation or party, place, meeting or other assemblage, or other activity occurs in such a manner that the participants thereof are generating noise or engaging in other behavior which is, in the opinion of the responding City Enforcement Officer, offensive to reasonable persons of normal sensitivities situated similarly to persons inhabiting adjacent or surrounding properties, or the noise that is generated is in violation of this chapter, the responding City Enforcement Officer shall provide the owner of the property and/or the person in charge of the property where the commercial or industrial business operation or assemblage occurs, and/or the participants engaged in the noise or offensive behavior, with a written notice as follows:

WARNING YOU WILL BE LIABLE FOR ALL COSTS ASSOCIATED WITH CITY ENFORCEMENT OFFICER RESPONSE

The undersigned, a City Enforcement Officer for the City of Hawaiian Gardens, California, does hereby notify you that it has been determined that:

A Commercial or industrial business operation:
A Party, dance, meeting, or other assemblage;
A Other:
is occurring at which persons are generating noise, engaging in other offensive behavior, or violating the Hawaiian Gardens Noise Control Ordinance (Ordinance 434).

You are hereby notified that if said noise or offensive behavior continues, you, and all other persons to whom this notice is given, and in the event of minors, then the parents or guardians of said minors shall be held liable to the City of Hawaiian Gardens for all costs incurred by the City in any subsequent police responses, the curtailment of such offensive behavior, any arrests that are necessitated as a result of such responses or curtailment activities, and all costs incurred in the prosecution of criminal actions resulting from such arrests and all costs including court costs and attorneys' fees incurred in the collection of this debt.

Date _____ Officer Name, Badge No _____ Signature _____

(B) Liability. After a person has been given notice as hereinabove provided and said person continues to permit the offensive behavior to continue, participants in said offensive behavior or continues to violate the noise ordinance then such persons or in the case that all or any of the foregoing persons are minors the parents and/or guardians of such minors shall be jointly and severally liable for the entire cost to the City of Hawaiian Gardens of the following items:

(1) City Enforcement Officer response to the incident on a time and materials basis at a rate set by the City of Hawaiian Gardens (which rate may be determined on the full cost accounting basis and include overhead, imputed rent, and depreciation of equipment) of subsequent City Enforcement Officer responses which are or may be required to curtail the offensive acts or violation of the noise ordinance.

(2) In the event that arrests are made due to the occurrence of illegal behavior at or in the vicinity of and related to the assemblage all City Enforcement Officer time incurred in the arrest, booking, jailing, and report preparation process.

(3) In the event that City Enforcement personnel are required to appear and/or provide evidence at a court proceeding relating to the arrest of persons at the assemblage, all City Enforcement Officer time incurred in the appearance.

(4) In the event it becomes necessary to institute litigation to force the collection of any amounts hereunder due (for any of the costs identified in subparagraphs (1) through (3) inclusive), all costs incurred by the City of Hawaiian Gardens in the prosecution of the amount billed hereunder including all court costs, attorneys' fees and City Enforcement Officer court appearance costs.

(C) Compromise of Debt. The Chief of Police or the Director of Planning and Community Development or their designee shall have the power to reduce such portions of the foregoing debt as he may in his judgment deem appropriate in the best interests of the City.

(D) Finding. The City Council does hereby find that the rights and duties created by the ordinance codified in this section is a due and proper exercise of its police power to protect the public peace, health, and general welfare of the community. This chapter does not create the contractual rights in any person to code enforcement, police protection, or security services above and in addition to the normal entitlement of any inhabitant of the City of Hawaiian Gardens.

9.29.140 City Compliance with this Chapter

(A) All departments engaged in any activities which may result in the emission of noise, shall comply with Federal and State laws and regulations, as well as the provisions of this chapter, respecting the control and abatement of noise to the same extent that any person is subject to such laws and regulations.

(B) Any product which has been certified by the Administrator of the United States Environmental Protection Agency, pursuant to Section 15 of the Noise Control Act of 1972 (and its amendments) as to low emission products and which is to be suitable for use as a substitute shall be used in preference to any other product where economically feasible.

level limits which can be attributed to a specific facility in a designated noise district, as specified in Section 9.29.060 or Section 9.29.080 or the prohibited actions specified in Section 9.29.120 shall be presumed to be a violation of the provisions of this Chapter.

9.29.160 Violation - Notice Except where a person is acting in good faith to comply with an abatement order issued pursuant to Section 9.29.200, et. seq., violation of any provision of this Chapter shall be cause for a notice of violation to be issued by the City. The notice of violation may be either verbal or written, depending on the opinion of the City Enforcement Officer responding to the site of the noise generation. Thereafter, the City may resort to any other appropriate legal action as provided by law.

9.29.170 Violation - Closure of Noise Generation Activities If in the opinion of the City Enforcement Officer responding to the site of the noise being created, the person or persons responsible for the noise are unwilling or unable to reduce the noise levels below the standards found Sections 9.29.060 or 9.29.080 or the end the prohibited actions specified in Section 9.29.120, the City Enforcement Officer is authorized to shut down the source of the noise.

9.29.180 Penalty for Violation - Fines and Confinement

(A) Any person violating any provision of this chapter shall be guilty of a MISDEMEANOR. And upon conviction thereof shall be punishable by a fine of not to exceed one thousand dollars (\$1,000.00) or by imprisonment in a City Jail or in the County Jail as the committing magistrate may direct, for a period of not to exceed ninety days (90) or by both such fine and imprisonment in the discretion of the court.

(B) Each day that a violation is permitted to continue shall constitute a separate offense and shall be punished as such.

9.29.190 Penalty for Violation - Additional Remedies As an additional remedy, the operation or maintenance of any device, instrument, vehicle, or machinery in violation of the provisions of this Chapter, which operation or maintenance causes or creates sound levels exceeding the allowable limits as specified in this Chapter, shall be deemed and declared to be a public nuisance and may be subject to abatement summarily by a restraining order or injunction issued by a court of competent jurisdiction. Additionally no provision of this Chapter shall be construed to impair any common law or statutory cause of action, or legal remedy therefrom, of any person for injury or damage arising from any violation of this Chapter or from other provisions of this Chapter.

9.29.200 Penalty for Violation - Public Nuisances

(A) As an additional remedy, the operation or maintenance of any device, instrument, vehicle, machinery, or other item in violation of any provision of this Chapter shall be deemed and is declared to be a public nuisance and may be subject to summary judicial abatement in order to preserve or protect the public health, safety, or welfare by abatement and assessment in accordance with the procedures and processes set forth in this article.

(B) Any person owning, leasing, occupying, or having charge of any premises in this City who maintain, uses, or allows to be used, in such a manner so as to make, create, or allow noise which is a public nuisance is subject to having the nuisance abated pursuant to the procedures and processes set forth in Sections 9.29.200 through 9.29.320.

9.29.210 Declaration of Nuisances Whenever a City Enforcement Officer determines that any premises within the City is maintained, used, or allowed to be used so as to be a public nuisance within the meaning of the definition set forth in Section 9.29.030 then that person shall cause notice to be given in the manner provided in this article for the holding of a public hearing to ascertain whether the same does in fact constitute such public nuisance, the abatement of which is appropriate under the police power of the City.

9.29.220 Form of notice of hearing Notice of the time and place of hearing before the City Council shall be entitled, "NOTICE OF HEARING," in letters not less than one inch in height and shall be substantially in the following form:

NOTICE OF HEARING TO DETERMINE EXISTENCE OF A PUBLIC NUISANCE AND TO ABATE IN WHOLE OR PART

Notice is hereby given that on the _____ day of _____, 19____, at the hour _____ of said day, the City Council of the City of Hawaiian Gardens will hold a public hearing in the Council Chambers of Hawaiian Gardens City Hall, located 21815 Pioneer Boulevard at Hawaiian Gardens, California, to ascertain whether certain premises situated in the City of Hawaiian Gardens, State of California, know and designated as _____ in said City, and more particularly described as _____ constitute a public nuisance subject to noise abatement by means necessary and appropriate to reduce, modify, or eliminate such noise. If said premises, in whole or part, are found to constitute a public nuisance as defined by the Hawaiian Gardens Municipal Code and if the same are not promptly abated by the owner, such nuisances may be abated by municipal authorities and upon such abatement cost will constitute a lien upon such land until paid. Said alleged violations consist of the following:

Said methods of abatement available are:

All persons having any objection to, or interest in said matters are hereby notified to attend a meeting of the City Council of the City of Hawaiian Gardens to be held on the _____ day of _____, 19____, the hour of _____, when their testimony and evidence will be heard and given due consideration.

Date _____ City Enforcement Officer _____

9.29.230 Posting and Serving Notice

(A) A City Enforcement Officer shall cause to be served upon the owner of each of the affected premises a copy of said notice and shall cause a copy thereof to be conspicuously posted on each of the affected premises.

(B) Said notice shall be posted and served at least fifteen (15) days before the time fixed for such hearing. Proof of posting and service of such notices shall be made by declaration under penalty of perjury filed with the City Council.

9.29.240 Form of Proper Service of Notice. Service of said notice shall by personal service upon the owner of the affected premises or by depositing a copy of said notice in the U.S. Mail enclosed in a sealed envelope and with postage thereon fully prepaid. Said mail shall be registered or certified and addressed to the said owner, and if there is no known address, then in care of the property address. The service is complete at the time of such deposit. "Owner," as used herein, shall mean any person in possession and also any person having or claiming to have any legal or equitable interest in said premises, as disclosed by a current title search from any accredited title company. The failure of any person to receive such notice shall not affect the validity of the proceedings hereunder.

9.29.250 Hearing by City Council At the time stated in the notices, the City Council shall hear and consider all relevant evidence, objections, or protests, and shall receive testimony from owners, witnesses, City personnel, and interested persons relative to such alleged public nuisance and the means necessary and appropriate to reduce, modify, or eliminate such nuisance from such premises. Said hearing may be continued from time to time.

9.29.260 Decision of City Council Upon or after the conclusion of said hearing, the City Council shall, based upon such hearing, determine whether the premises, or any part thereof, as maintained, used, or allowed to be used in a manner constitute a public nuisance. If the City Council finds that such public nuisance does exist and that there is sufficient cause to order abatement of the nuisance, the City Council shall adopt a resolution setting forth its findings and ordering the owner or other person having charge or control of such premises to abate such nuisance by having such premises, buildings, structures, or activities thereon altered or eliminated in the manner and by the means specifically set forth in its resolution. Such resolution shall set forth times within which such work shall be commenced and completed by the owner. The decision and order of the City Council shall be final.

9.29.270 Limitation of Filing Judicial Action Any owner or other interested person having any objections or feeling aggrieved at any proceeding taken by the City Council in ordering the abatement of any public nuisance under the provisions of this article must bring an action to contest such decision within thirty (30) days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived.

9.29.280 Service of Resolution to Abate

(A) A copy of the resolution of the City Council, ordering the abatement of a said nuisance shall be served upon the owners of said property in accordance with the provision of Section 9.29.240 and shall contain a detailed list of needed corrections, alteration, and/or other noise abatement methods. Any property owner shall have the right to have any such premises or activities thereon altered or eliminated in accordance with said resolution and at his own expense provided the same is done prior to the expiration of abatement period set forth in the resolution. Upon such abatement in full by the owner, then proceedings hereunder shall terminate.

(B) If such nuisance is not completely abated by the owner as directed within the designated abatement period, then the City Administrator, or such other City official as may be designated by him, is authorized and directed to cause the same to be abated by the

designated agents) "is expressly authorized to enter upon said premises for such purposes. Upon request of the designated official, other City departments shall cooperate fully and shall render all reasonable assistance in abating any such nuisance."

9.29.290 Record of Cost for Abatement

(A) The City Administrator, or such other City official as may be designated, shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot or parcel of land where the work is done, and shall render an itemized report in writing to the said City Council, a copy of the same shall be posted for at least five (5) days upon such premises together with a notice of the time when the report shall be heard by the City Council for confirmation.

(B) The City Council shall set the matter for hearing to determine the correctness or reasonableness, or both, of such costs.

(C) A copy of said report and notice shall be served upon the owners of said property in accordance with the provisions of Section 9.29.240, at least five (5) days prior to the date of the City Council hearing.

(D) Proof of said posting and service shall be made by declaration under penalty of perjury filed with the City Clerk.

(E) The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the City in preparation of costs of printing and mailing required hereunder.

9.29.300 Report: Hearing and Proceedings At the time and place fixed for receiving and considering said report, the City Council shall hear and pass upon the report of such costs of abatement together with any objections or protests. Thereupon the City Council may make such revision, correction, or modification in the report as it may deem just, after which by resolution the report, as submitted or as revised, corrected, or modified, shall be confirmed. The decision of the City Council on all protests and objections which may be made shall be final and conclusive.

9.29.310 Assessment of Costs Against Property

(A) The total cost for abating such nuisance, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the office of the County Recorder of a notice of a lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessments.

(B) After such confirmation and recordation, a certified copy of such decision shall be sent to the tax division of the County Auditor controller's office, whereupon it shall be the duty of said Auditor Controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or

(C) After such recordation such lien may be foreclosed by judicial or other sale in the manner and means provided by law;

(D) Such notice of lien for recordation shall be in form substantially as follows:

NOTICE OF LIEN - CLAIM OF CITY OF HAWAIIAN GARDENS

Pursuant to the authority vested by Section 9.29.260 of the Hawaiian Gardens Municipal Code, the City Administrator of the City of Hawaiian Gardens (for his designated agents) did on or about the _____ day of _____, 19____, assess the cost of such abatement upon said real property hereinafter described: and the same has not been paid nor any part thereof; and that said City of Hawaiian Gardens hereby claim a lien on such abatement in the amount of _____ said assessment, to wit: the sum of \$_____; and the same shall be a lien upon said real property until the same has been paid in full and discharged of record. The real property hereinbefore mentioned, and upon which a lien is claimed, is that certain parcel of land lying and being in the City of Hawaiian Gardens, County of Los Angeles, State of California, and more particularly described as follows:

(DESCRIPTION OF PROPERTY)

Date _____ City Administrator of Hawaiian Gardens _____

9.29.320 Violations

(A) The owner or other person having charge or control of any such buildings or premises maintaining any public nuisance as defined in this chapter, or who violates any order of abatement made pursuant to Section 9.29.260 is guilty of a misdemeanor.

(B) Any person who removes any notice or order posted as required in this chapter is guilty of a misdemeanor.

9.29.330 Nonconforming Noise Sources - Amortization

(A) It is the intent of this section to recognize that the eventual amortization, as expeditiously and as fairly as possible, of existing noise sources that are not in conformity with the provisions of this Chapter is as important as the prohibition of new noise sources that would violate the provisions of this Chapter. It is the intent of this section that any amortization of nonconforming commercial or industrial noise sources shall be effected so as to avoid any undue hardship.

(B) All existing nonconforming commercial and industrial noise sources shall be granted five (5) years from the effective date of this Chapter to bring their existing facilities into compliance with this Chapter, provided that:

(1) They are located in a commercial or industrial zoning district delineated in the City Zoning Ordinance or are located in accordance with a valid business license, special use or conditional use permit at the time of the adoption of this Chapter.

(2) They are not charged to another commercial or industrial use during the amortization period.

(3) They are not altered so as to increase or intensify their noise generation.

(4) If they are structurally expanded during the amortization period, the new portion of the use must meet the standards of this chapter.

(5) If they should be rebuilt after damage or destruction of more than fifty-one (51) percent of the preexisting value, they must be rebuilt in such manner as to immediately meet the standards of this Chapter.

(C) Any discontinuance of a nonconforming noise source for a continuous period of three months or more shall be deemed to constitute abandonment of any nonconforming rights and any further use of the conforming noise source. Any further use of the noise source shall then be in conformance with the standards of this Chapter.

(D) There shall be no expansion of a nonconforming noise source.

Section 3. If any section, subsection, sentence, clause, phrase, 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 the Ordinance. The City Council of the City of Hawaiian Gardens hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

Section 4. This Ordinance shall take effect thirty days (30) after its adoption. The City Clerk or his duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

Section 5. The Mayor or presiding officer, of the City of Hawaiian Gardens City Council is HEREBY AUTHORIZED to affix his/her signature to this Ordinance signifying its adoption by the City Council of the City of Hawaiian Gardens, and the City Clerk, or his duly appointed Deputy, is directed to attest thereto.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens on the 13th day of August 1996.

Lupe A. Cabrera. MAYOR

ATTEST: _____

Domenic Ruggeri, CITY CLERK

I Domenic Ruggeri, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 434, was duly introduced and placed upon first reading at a regular meeting of the City Council on the 9th day of July, 1996, and that thereafter, said ordinance was duly passed and adopted by the City Council of the City of Hawaiian Gardens on the 13th day of August, 1996, by the following roll call vote, as the same appears on file and of record in the office of the City Clerk

AYES: Flores, Navejas, Frida, Canada, Cabrera

NOES: None

ABSENT: None

ARSTAIN: None

DOMENIC RUGGERI, CITY CLERK

Pub. Aug. 28, 1996 (10PT/4912/315936)