

ORDINANCE NO. 457

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
HAWAIIAN GARDENS REGULATING THE SALE OF TOBACCO
PRODUCTS IN THE CITY OF HAWAIIAN GARDENS**

WHEREAS, it is in the best interests of the City to regulate the sales of tobacco products to minimize access to such products by children and young people; and

WHEREAS, the provisions of the Stop Tobacco Access to Kids Enforcement Act, Business and Professions Code §§ 22950 et seq., provide minimum standards for regulating the sale of tobacco products and specifically authorizes the City to adopt more stringent standards.

NOW, THEREFORE, the City Council of the City of Hawaiian Gardens does hereby **RESOLVE** as follows:

Section 1: Chapter 48 is hereby added to Title 6 of the Hawaiian Gardens Municipal Code to read as follows:

CHAPTER 48

SALE OF TOBACCO PRODUCTS

6.48.010 Legislative Findings and Purpose.

The City Council of the City of Hawaiian Gardens does hereby find and determine:

- A. That the Surgeon General has concluded that, "tobacco is often the first drug used by those young people who used alcohol, marijuana and other drugs";
- B. The Surgeon General and the State of California Department of Health Services have found that, although illegal, children can easily buy or shoplift cigarettes and other tobacco products over-the-counter, through self-service displays and vending machines;
- C. The smoking of cigarettes and other related products is highly addictive, so that the chances are only one out of twenty (20) that a smoker attempting to quit smoking will succeed; and
- D. Minors are generally not informed of the adverse effects of smoking or are led through advertisements and commercial promotions to believe that cigarette smoking will enhance their image or lifestyle; and
- E. The purpose and the intent of this Chapter is to promote the health, safety and welfare of the City by:
 - 1. Reducing access of tobacco products by minors and young people; and
 - 2. Reducing shoplifting of tobacco products by minors and young people.

6.48.020 Prohibition of tobacco product vending machines.

No person shall place, maintain, use, or permit the placement, maintenance, or use, of any tobacco product vending machine on his or her premises for the purpose of selling or distributing any tobacco product or tobacco accessory when persons under eighteen (18) years of age have access to the premises.

6.48.030 Ban on Self-Service Tobacco Displays.

No person shall sell, distribute, permit to be sold, distributed or offer to sale or distribute, any tobacco product by means of a self-service display or by any means other than vendor-assisted sales behind the counter or at a location on the premises that is not accessible to persons who are under eighteen (18) years of age. This prohibition shall not apply to places where no person under eighteen (18) years of age is ever permitted.

6.48.040 Definitions. The following words and phrases, whenever used in this chapter, shall be construed as defined in this section:

"Person" means an individual, firm, partnership, joint venture, unincorporated association, corporation, estate, trust, trustee, or any other group or combination of the above acting as a unit.

"Tobacco accessories" means cigarette papers or wrappers, pipes, cigarette rolling machines, and any other item designed primarily for the smoking or ingestion of tobacco products.

"Tobacco product" means any substance containing tobacco leaf, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, and dipping tobacco.

"Tobacco product vending machine" means any mechanical or electrical device requiring the insertion of coins or paper bills, or other thing representative of value, to dispense or release a tobacco product and/or tobacco accessories.

6.48.050 Enforcement and penalties.

- A. Any person who violates or refuses to comply with the provisions of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Chapter shall be punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.
- B. In addition to the penalties hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be, by this City, summarily abated as such, and every day such condition continues shall be regarded as a new and separate offense.

6.48.060 Severability.

This chapter shall be enforced to the full extent of the authority of the city. If any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the city, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this chapter, and the applications thereof; and to that end the section, subsections, paragraphs, sentences and words of this chapter shall be deemed severable.

Section 2. Removal of Existing Vending Machines and Temporary Exemptions.

- A. All vending machines in use on premises accessible to minors shall be removed within ninety (90) days after the effective date of this ordinance except a machine owned by a person who has purchased the machine within six months prior to the effective date of this ordinance, and who has applied for and received a use extension based on financial hardship, as described in subsection B of this section.

B. A use extension shall be granted to an owner of a machine who has purchased such a machine within six months prior to the effective date of this chapter, upon a showing of financial hardship, determined if all the following are present:

1. That the tobacco product vending machine had been in use in the city in an area accessible to minors on the effective date of this chapter;

2. That the tobacco product vending machine owner ("owner") had owned the machine for less than six months prior to the effective date of this chapter;

3. That the owner will not have recovered his or her investment in the machine before the date of required discontinuance; and

4. That the investment not recovered at the date of required discontinuance will exceed ten percent of the actual cost of the machine; and

5. That the machine will be located so as to allow for constant supervision by the owner or a responsible employee.

C. The length of the use extension shall be determined by the City Administrator or his or her designee, provided that the use extension shall in no event exceed one year from the date of installation of the machine. The owner shall bear the burden of proof on each issue, and the decision of the City Administrator or his or her designee shall be final. The City Administrator's power to grant a use extension shall expire six months after the effective date of this Ordinance.

D. For purposes of this section, "six-month owner" means a person who purchased a tobacco product vending machine fewer than six months prior to the effective date of this chapter for the purpose of using the machine to sell or distribute tobacco products exclusively within the City of Hawaiian Gardens and who on the effective date of this ordinance was using the vending machine in an area accessible to minors and who has not, or will not have, recovered his or her investment therein by the date on which discontinuance of the use.


Section 3. The City Clerk, or his/her duly appointed Deputy, is directed to attest hereto, and shall cause this Ordinance and its certification to be entered into the Hawaiian Gardens Municipal Code of the City of Hawaiian Gardens.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS THIS FEBRUARY DAY OF 13, 2001.

CITY OF HAWAIIAN GARDENS


LEONARD J. CHAIDEZ, MAYOR

ATTEST:


MARIE C. LOGIE PENA
INTERIM CITY CLERK



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

Agenda Item No.: B-3

Meeting Date: 2/27/01

City Administrator: 

TO: Honorable Mayor and Members of the City Council

THROUGH: Anthony B. Lopez, City Administrator

FROM: Steven Peguero, Community Relations Officer

SUBJECT: SECOND READING Ordinance No. 457. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS REGULATING THE SALE OF TOBACCO PRODUCTS IN THE CITY OF HAWAIIAN GARDENS.

DATE: February 27, 2001

DISCUSSION:

Tobacco products are addictive and cause various adverse health effects. The Surgeon General has concluded that tobacco is often the first drug used by those young people who used alcohol, marijuana and other drugs, and illegal, children can easily buy or shoplift cigarettes and other tobacco products over-the-counter, through self-service displays and vending machines. Additionally, the smoking of cigarettes and other related products is highly addictive and minors are generally not informed of the adverse effects of smoking or are led through advertisements and commercial promotions to believe that cigarette smoking will enhance their image or lifestyle.

The attached ordinance promotes the health, safety and welfare of the City=s residents by reducing access of tobacco products to children and reducing shoplifting of tobacco products to children. It bans vending machines except in places where persons under the age of 18 do not have access to the premises. It also requires that all sales and displays of tobacco products occur behind the counter or at locations where persons under the age of 18 are not allowed.

The Ordinance requires that all vending machines be removed within 90 days of the effective date of the Ordinance and provides a limited exemption that is applicable for only the first six months of the Ordinance for persons who had recently purchased a vending machine, under specified conditions.

RECOMMENDATION:

Staff recommends that the City Council read by title only, waive further reading, and adopt Ordinance No. 457: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS REGULATING THE SALE OF TOBACCO PRODUCTS IN THE CITY OF HAWAIIAN GARDENS.



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

Agenda Item No.: B-1

Meeting Date: 2-13-2001

City Administrator: 

TO: Honorable Mayor and Members of the City Council

THROUGH: Anthony B. Lopez, City Administrator

FROM: Steven Peguero, Community Relations Officer

SUBJECT: FIRST READING Ordinance No. 457. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS REGULATING THE SALE OF TOBACCO PRODUCTS IN THE CITY OF HAWAIIAN GARDENS.

DATE: January 13, 2001

DISCUSSION:

Tobacco products are addictive and cause various adverse health effects. The Surgeon General has concluded that tobacco is often the first drug used by those young people who used alcohol, marijuana and other drugs, and illegal, children can easily buy or shoplift cigarettes and other tobacco products over-the-counter, through self-service displays and vending machines. Additionally, the smoking of cigarettes and other related products is highly addictive and minors are generally not informed of the adverse effects of smoking or are led through advertisements and commercial promotions to believe that cigarette smoking will enhance their image or lifestyle.

The attached ordinance promotes the health, safety and welfare of the City's residents by reducing access of tobacco products to children and reducing shoplifting of tobacco products to children. It bans vending machines except in places where persons under the age of 18 do not have access to the premises. It also requires that all sales and displays of tobacco products occur behind the counter or at locations where persons under the age of 18 are not allowed.

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LOS CERRITOS
Community News FAX COVER PAGE

DATE 2-20-01 FAX NO. 921-1915

ATTENTION: Marie PHONE NO. 425-0412

COMPANY City Clerk NO OF PAGES: _____

Patricia Gillies

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CITY OF HAWAIIAN GARDENS
ORDINANCE NO. 457

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS REGULATING THE SALE OF TOBACCO PRODUCTS IN THE CITY OF HAWAIIAN GARDENS

NOT TO BE REPEATED OR

WHEREAS, it is in the best interests of the City to regulate the sales of tobacco products to minimize access to such products by children and young people; and

WHEREAS, the provisions of the Stop Tobacco Access to Kids Enforcement Act, Business and Professions Code 22950 et seq., provide minimum standards for regulating the sale of tobacco products and specifically authorizes the City to adopt more stringent standards.

NOW, THEREFORE, the City Council of the City of Hawaiian Gardens does hereby RESOLVE as follows:

Section 1: Chapter 48 is hereby added to Title 8 of the Hawaiian Gardens Municipal Code to read as follows:

CHAPTER 48
SALE OF TOBACCO PRODUCTS

6.48.010 Legislative Findings and Purpose.

The City Council of the City of Hawaiian Gardens does hereby find and determine:

A. That the Surgeon General has concluded that, "tobacco is often the first drug used by those young people who used alcohol, marijuana and other drugs";

B. The Surgeon General and the State of California Department of Health Services have found that, although illegal, children can easily buy or shoplift cigarettes and other tobacco products over-the-counter, through self-service displays and vending machines;

C. The smoking of cigarettes and other related products is highly addictive, so that the chances are only one out of twenty (20) that a smoker attempting to quit smoking will succeed; and

D. Minors are generally not informed of the adverse effects of smoking or are led through advertisements and commercial promotions to believe that cigarette smoking will enhance their image or lifestyle; and

E. The purpose and the intent of this Chapter is to promote the health, safety and welfare of the City by:

- 1. Reducing access of tobacco products by minors and young people; and
- 2. Reducing shoplifting of tobacco products by minors and young people.

6.48.020 Prohibition of tobacco product vending machines.

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"Tobacco product vending machine" means any mechanical or electrical device requiring the insertion of coins or paper bills, or other thing representative of value, to dispense or release a tobacco product and/or tobacco accessories.

6.48.050 Enforcement and penalties.

A. Any person who violates or refuses to comply with the provisions of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Chapter shall be punishable by a fine of not more than One Thousand Dollars (\$1,000), or by imprisonment in the County Jail for a period not exceeding six months, or by both such fine and imprisonment. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Code is committed, continued, or permitted by such person and shall be punishable accordingly.

B. In addition to the penalties hereinabove provided, any condition caused or

permitted to exist in violation of any of the provisions of this Code shall be deemed a public nuisance and may be by this City, summarily abated as such, and every day such condition continues shall be regarded as a new and separate offense.

6.48.060 Severability.

This chapter shall be enforced to the full extent of the authority of the city. If any section, subsection, paragraph, sentence or word of this chapter is deemed to be invalid or beyond the authority of the city, either on its face or as applied, the invalidity of such provision shall not affect the other sections, subsections, paragraphs, sentences or words of this chapter, and the applications thereof; and to that end the section, subsections, paragraphs, sentences and words of this chapter shall be deemed severable.

Section 2: Removal of Existing Vending Machines and Temporary Exemptions.

A. All vending machines in use on premises accessible to minors shall be removed within ninety (90) days after the effective date of this ordinance except a machine owned by a person who has purchased the machine within six months prior to the effective date of this ordinance, and who has applied for and received a use extension based on financial hardship, as described in subsection B of this section.

B. A use extension shall be granted to an owner of a machine who has purchased such a machine within six months prior to the effective date of this chapter, upon a showing of financial hardship, determined if all the following are present:

- 1. That the tobacco product vending machine had been in use in the city in an area accessible to minors on the effective date of this chapter;
- 2. That the tobacco product vending machine owner ("owner") had owned the machine for less than six months prior to the effective date of this chapter;
- 3. That the owner will not have recovered his or her investment in the machine before the date of required discontinuance; and
- 4. That the investment not recovered at the date of required discontinuance will exceed ten percent of the actual cost of the machine; and
- 5. That the machine will be located so as to allow for constant supervision by the owner or a responsible employee.

C. The length of the use extension shall be determined by the City Administrator or his or her designee, provided that the use extension shall in no event exceed one year from the date of installation of the machine. The owner shall bear the burden of proof on each issue, and the decision of the City Administrator or his or her designee shall be final. The City Administrator has power to grant a use extension shall expire six months after the effective date of this Ordinance.

D. For purposes of this section, "six month owner" means a person who purchased a tobacco product vending machine fewer than six months prior to the effective date of this chapter for the purpose of using the machine to sell or distribute tobacco products exclusively within the City of Hawaiian Gardens and who on the effective date of this ordinance was using the vending machine in an area accessible to minors and who has not, or will not have, recovered his or her investment therein by the date on which discontinuance of the use.

Section 3. The City Clerk, or his/her duly appointed Deputy, is directed to attest hereto, and shall cause this Ordinance and its certification to be entered into the Hawaiian Gardens Municipal Code of the City of Hawaiian Gardens.

PASSED, APPROVED, AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS THIS FEBRUARY DAY OF 2001.

CITY OF HAWAIIAN GARDENS

LEONARD J. CHAIDEZ, MAYOR ATTEST:

MARIE C. LOGIE-PENA, INTERIM CITY CLERK

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES, CITY OF HAWAIIAN GARDENS

I, MARIE C. LOGIE-PENA, Interim City Clerk of the City of Hawaiian Gardens, California, do hereby certify that Ordinance No. 457, was duly and regularly passed and adopted by the City Council of the City of Hawaiian Gardens on this 13 day of February, 2001, by the following roll call votes as the same appears on file and on record in the Office of the City Clerk.

AYES:
NOES:
ABSENT:
ABSTAIN:

MARIE C. LOGIE-PENA, INTERIM CITY CLERK

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References On

2/21 @ 11:30 AM - Richard - re: Ord 457 - not to be published - a fax - ED & PP - (9)