

**CITY OF HAWAIIAN GARDENS
ORDINANCE 482**

AN ORDINANCE OF THE CITY OF HAWAIIAN GARDENS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AMENDING CHAPTER 10.24 (ABANDONED OR INOPERATIVE VEHICLES) OF THE HAWAIIAN GARDENS MUNICIPAL CODE.

WHEREAS, the California Constitution, under Article XI, Section 5 (A), allows municipalities to enforce within its limits all police, sanitary, and other ordinances and regulations, not in conflict with general laws; and

WHEREAS, Section 22660 of the California Vehicle Code states that a city, county, or city and county may adopt an ordinance establishing procedures for the abatement and removal, as public nuisances, of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property, and for the recovery, of costs of administration and the removal; and

WHEREAS, the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property, not including highways, is found to create a condition tending to reduce the value of private property, to promote blight, and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to harbor rodents and insects that are injurious to the health, safety, and general welfare of the City and its residents; and

WHEREAS, Staff has prepared an exemption from the requirements of CEQA, under Section 15061(b)(3), as the project is covered under the general rule that CEQA only applies to projects that have the potential to cause a significant impact to the environment, and that no environmental impacts are expected of this action.

NOW, THEREFORE, DOES HEREBY ORDAIN by the City Council of the City of Hawaiian Gardens as follows:

Section 1. The City Council of the City of Hawaiian Gardens HEREBY FINDS AND DETERMINES that Ordinance No. 482 (Case No. 03-35MCA) is not subject to the California Environmental Quality Act (CEQA) because Section 15061(b)(3) of CEQA states that as part of preliminary review, a public agency shall determine whether a particular activity is exempt from CEQA. It has been determined this Ordinance is not subject to review and is exempt because CEQA applies only to projects which have a potential for causing a significant effect on the environment and there is no question this ordinance will not have a significant effect on the environment, therefore the activity is not subject to review from CEQA, as stated in the CEQA guidelines Section 15061(b)(3).

Section 2. The City Council of the City of Hawaiian Gardens HEREBY FINDS AND DETERMINES that the proposed amendments and additions will bring Chapter 10.24 of the Hawaiian Gardens Municipal Code (HGMC) into conformance with the California Vehicle Code (Section 22660 et. seq.) and various Court actions. And that the proposed amendments and additions will aid the City in the removal of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property.

Section 3. Subsection B of Section 10.24.010 of the Municipal Code is amended by removing the existing text in its entirety, and by adding the following text:

B. As used in this chapter:

1. The term "Abandoned Vehicle" - shall include, but not be limited to a vehicle that the most recent registered owner has given up or abandoned, with the intent of never again claiming ownership; and/or a vehicle in which the most recent registered owner has cease to maintain, repair, or keep up; and/or any vehicle left unattended on private property without the consent of the owner or lessee of such property or his or her legally authorized agent.

2. The term "Dismantled Vehicle" - shall mean a vehicle that the most recent registered owner is removing critical parts for sale or use on another vehicle. A critical part is any part that is needed to safely operate the vehicle, which includes but not limited to, a wheel or tire, windshield, door, side quarter panel, trunk, hood, roof, steering wheel or transmission.

3. The term "Highway" - shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for purpose of vehicular travel. Highway includes street.

4. The term "Inoperative Vehicle" - shall mean a vehicle from which is missing major essential parts, damage to or inoperative condition of any component part or lack of such a part, which includes but is not limited to, an engine, transmission, battery, wheels, windshield, axles, lights or other parts, current registration tag and/or license plate, a flat tire, or driver-side mirrors, that are necessary for it to be legally operated on City streets; and/or there is a build-up of trash, debris, moss or weeds on, in, under, or around the vehicle that obstructs its use.

5. The term "Owner of the Land" - shall mean the owner of the land on which the vehicle, or parts thereof, is located as shown on the last equalized assessment roll.

6. The term "Owner of the Vehicle" - shall mean the last registered owner and legal owner of record, as shown by the California Department of Motor Vehicles.

7. The term "Public Property" - does not include highways.

8. The term "Vehicle" - shall mean a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

9. The term "Wrecked Vehicle" - shall mean a vehicle or the remnants or remains of a vehicle that has been involved in a crash or wreck, vandalism, or other cause, and has been rendered un-driveable or unmoveable in its current condition, and which is inoperative and cannot be made mechanically operative without the addition of vital parts or mechanisms, which include but is not limited to, a wheel or tire, windshield, door, side quarter panel, trunk, hood, roof, steering wheel or transmission .

Section 4. Subdivision 1 of Subsection A of Section 10.24.020 (Exemptions) of the Municipal Code, is amended by removing the existing text in its entirety, and by adding the following text:

1. A vehicle or parts thereof, which are completely enclosed within a building in a lawful manner.

Section 5. Section 10.24.040 (Administration and Enforcement), is amended as follows:

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the City Administrator **and enforced by the Community Development Director**. In the enforcement of this chapter such **City Code Enforcement** officers and his **Los Angeles County Sheriff's** Deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle (and to remove or cause the removal of a vehicle or parts thereof) declared to be a nuisance pursuant to this chapter. **The removal of any vehicle shall require the issuance of an abatement warrant from the Superior Court.**

Section 6. Section 10.24.050 (Entry Upon Private Property), of the Municipal Code is amended by removing the existing text in its entirety, and by adding the following text:

Section 10.24.050 (Entry Upon Property) - When the city council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property to remove or cause to be removed the removal of a vehicle or parts thereof declared to be a nuisance pursuant to this chapter and with the issuance of an abatement warrant.

Section 7. Section 10.24.080 (Notice of Intent to Abate), Paragraph A, Sub-Paragraph 3, of the Municipal Code is amended as follows:

As owner of the land on which said vehicle (or said parts of vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a requesting is not received by the City Clerk within such 10 day period, **then you will have waived your right to appeal**, and the City Administrator **Community Development Director** shall have the authority to abate and remove said vehicle (or said parts of vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of vehicle) on said land with your reasons for denial, and such statement shall be constructed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Section 8. Section 10.24.080 (Notice of Intent to Abate), Paragraph A of the Municipal Code, is amended by adding the following text as Sub-Paragraph 4:

Once removed, said vehicle(s) will be disposed of by removal to a scrapyard or automobile dismantler's yard as provided in Section 10.24.120 of the Hawaiian Gardens Municipal Code, and will be destroyed without regard to salvage value.

Section 9. Section 10.24.080 (Notice of Intent to Abate), Paragraph B, Sub-Paragraph 3 of the Municipal Code, is amended as follows:

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a requesting is not received by the City Clerk within such 10 day period, ***then you will have waived your right to appeal, and the City Administrator Community Development Director*** shall have the authority to abate and remove said vehicle (or said parts of vehicle) without a hearing.

Section 10. Section 10.24.080 (Notice of Intent to Abate), Paragraph B of the Municipal Code, is amended by adding the following text as Sub-Paragraph 4:

Once removed, said vehicle(s) will be disposed of by removal to a scrapyard or automobile dismantler's yard as provided in Section 10.24.120 of the Hawaiian Gardens Municipal Code, and will be destroyed without regard to salvage value, and without regard to any liens or loans you may have on the vehicle.

Section 11. Subsection A of Section 10.24.090 (Abatement Hearing - When) of the Municipal Code, is amended by removing the existing text in its entirety, and by adding the following text:

A. Upon request by the owner of the vehicle or owner of the land received by the City Administrator within ten days after the mailing of the notices of intent to abate and remove, a public hearing shall be held by the City Administrator on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled, or inoperative vehicle, and the assessment of administrative costs and the cost of the vehicle on which it is located.

Section 12. The last line in Subsection B of Section 10.24.090 (Abatement Hearing - When) of the Municipal Code, is amended by removing the existing text in its entirety, and by adding the following text:

... If such a request for hearing is not received within said ten days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance with holding a public hearing.

Section 13. The third sentence in Subsection B of Section 10.24.100 (Abatement Hearing - Conduct) of the Municipal Code, is amended by removing the existing text in its entirety, and by adding the following text:

At the conclusion of the public hearing, the City Administrator may find that a vehicle or parts thereof have been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determined the administrative costs and the cost of removal to be charged against the owner of the land.

Section 14. Section 10.24.110 (Appeal) of the Municipal Code, is amended as follows:

Within five days from the date of the public hearing and the decision of the City Administrator, any party to the proceedings may file a notice of appeal with the City Clerk. ***If such request is not received by the City Clerk within such 5 day period, then any party to the proceedings will have waived their right to appeal.*** In the event such an appeal is filed with the City Clerk, the City Clerk shall cause the matter to be placed upon the agenda of the City Council within thirty days from the date of filing of the appeal. Notification of the date of the hearing upon the appeal by the City Council shall be sent in writing to all parties of the proceeding. At the time of the hearing on the appeal, the City Council shall conduct a public hearing de novo, and at the conclusion of the hearing, the City Council may affirm, set aside, or modify the determination of the City Administrator. ***The decision and order of the City Council is final.***

Section 15. Section 10.24.120 (Removal of Vehicle) of the Municipal Code, is amended as follows:

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision, if such notice is required by Section 10.24.110, or, in the event of an appeal, five days after the determination by the City Council of such appeal and the making of an order by the City Council declaring the vehicle or parts thereof to be a public nuisance, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard, ***without regard to salvage value.*** After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, ***unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.***

Section 16. Section 10.24.140 (Cost Assessment Collection) of the Municipal Code, is amended by removing the existing text in its entirety, and by adding the following text:

10.24.140 (Cost Assessment and Collection)

A. Recovery of Cost of Abatement. The city officer shall keep an accounting of all costs of abatement for each separate vehicle or parts thereof where the work was done. He shall submit to the City Council for confirmation of an itemized written report of all costs associated with the vehicle abatement process. Costs include, but are not limited to, personnel cost to include overhead and benefits, City Prosecutor costs, administrative costs (Section 10.24.060), vehicle removal cost (i.e., tow company, etc.). and so forth. At least three days prior to submission of the written report to the City Council, the written report shall be posted on or near the City

Council Chamber, with a notice of time of submission. At the time fixed for the receiving and considering the report, the City Council shall hear it with any objections of the property owner liable to be assessed for the abatement. The City Council may modify the report if it is deemed necessary. The City Council shall then confirm the report by motion or resolution.

B. Special Assessment - Lien. The Cost of abatement upon each parcel of land constitutes a special assessment against the parcel. After the assessment is made and confirmed, it is a lien on the parcel.

C. Cost Assessment. After confirmation of the report, a certified copy of the same shall be filed with the County Auditor. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map book for the current year. The County Auditor shall enter each assessment on the county tax roll opposite the parcel of the land. The amount of the assessment shall be collected at the time and in the manner of ordinary municipal taxes. If delinquent, the amount is subject to the same penalties and procedures of foreclosure and sale provided for ordinary municipal taxes. As an alternative method, the County Tax Collector, in his discretion, may collect the assessment without reference to the general taxes, by issuing separate bills and receipts for the assessments. Laws relating to the levy, collection and enforcement of county taxes shall apply to such special assessment taxes.

Section 17. Section 10.24.150 (Judicial Review) of the Municipal Code is added, by adding the following text as follows:

10.24.150 Judicial Review. The timeframes for judicial review of any final determination and order made by the City Council under this Chapter is governed by Section 1094.6 of the California Code of Civil Procedure.


Section 18. Severability If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason to be held 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 anyone or more section, subsection, sentence, clause, phrase, or portion may be declared invalid or unconstitutional.

Section 19. This Ordinance shall become effective thirty (30) days after the final passage thereof.

Section 20. The City Clerk shall certify to the passage of this Ordinance and prior to the expiration of fifteen (15) days from the adoption hereof the City Clerk shall cause this ordinance to be published in the manner described by law.

PASSED, APPROVED, AND ADOPTED by the Hawaiian Gardens City Council on this 22nd
day of April 2003.

ATTEST:


SUZANNE UNDERWOOD
CITY CLERK


MICHIKO A. OYAMA-CANADA
MAYOR


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**CITY OF HAWAIIAN GARDENS
CITY CLERK'S OFFICE
CERTIFICATION**

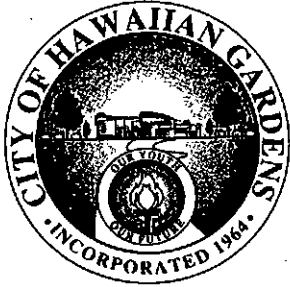
STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS
CITY OF HAWAIIAN GARDENS)

I, Lucie Colombo, Assistant City Clerk of the City of Hawaiian Gardens, do hereby certify that **Ordinance No. 482**, was duly and regularly introduced and placed upon its first reading at a regular meeting of the City Council on the 8th day of April 2003, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on this 22nd day of April 2003, by the following votes as the same appears on file and of record in the Office of the City Clerk.

AYES: CHAIDEZ, HECKERMAN, PRIDA, SCHULTZE, OYAMA-CANADA
NOES: NONE
ABSENT: NONE
ABSTAIN: NONE



LUCIE COLOMBO
ASSISTANT CITY CLERK



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

Agenda Item No.: B-3

Meeting Date: 4-22-2003

City Administrator: [Signature]

CITY OF HAWAIIAN GARDENS
ACTION: ☒ Approved
☐ Denied
☐ Amended
☐ Receive & File
☐ Other

VOTE: 5-0

DATE: 4/22/2003

TO: Honorable Mayor and City Council Members
THRU: Raul Romero, Interim City Administrator
FROM: Joseph Colombo, Director of Community Development
SUBJECT: SECOND READING - - ORDINANCE 482
AN ORDINANCE OF THE CITY OF HAWAIIAN GARDENS AMENDING CHAPTER
10.24 (ABANDONED OR INOPERATIVE VEHICLES) OF THE HAWAIIAN
GARDENS MUNICIPAL CODE.

DATE: April 15, 2003

I. SUMMARY

The City of Hawaiian Gardens City Council heard and approved this Ordinance on April 8, 2003. This ordinance is being brought back for its second reading. Upon its approval by the City Council, Ordinance 482 will become effective thirty (30) days after its approval. The effective date of the ordinance will be May 23, 2003.

II. RECOMMENDATION

1. The Community Development Department recommends the City Council approve Ordinance Number 482.

Attachments:

1. Ordinance Number 482

JC/JRT:

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