

**CITY OF HAWAIIAN GARDENS
ORDINANCE NO. 428**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS APPROVING AN AMENDMENT TO THE MUNICIPAL CODE RELATING TO CITATIONS ISSUED TO JUVENILES, JUVENILE LOITERING AND CURFEW VIOLATIONS, AND COST RECOVERY.

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

Section 1. Title 1, Chapter 1.12, Section 1.12.020 of the Hawaiian Gardens Municipal Code is hereby amended by adding thereto a new paragraph C, to read as follows:

1.12.020 Violations--Infractions.

C. Notwithstanding any other provision of this Code, when a person under the age of 18 years is charged with a violation of this Code, and a peace officer issues a notice to appear in Superior court to that minor, the charge shall be deemed an infraction unless the minor requests that a petition be filed under section 601 or 602 of the Welfare and Institutions Code. The amount of the fine imposed shall be set by the court.

Section 2. Title 9, Chapter 9.56 of the Hawaiian Gardens Municipal Code is hereby amended by adding thereto new Sections 9.56.020 and 9.56.030 to read as follows:

9.56.020 Daytime Loitering by Minors. It is unlawful for any minor under the age of eighteen years, who is subject to compulsory education or to compulsory continuation education to loiter, idle, wander, in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place during the hours of 8:30 a.m. and 1:30 p.m. on days when school is in session. This section does not apply:

A. When the minor is accompanied by his or her parent, guardian, or other adult person having the care or custody of the minor; or

B. When the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care or custody of the minor; or

C. When the minor is going or coming directly from or to their place of gainful employment or to or from a medical appointment; or

D. To students who have permission to leave school campus for lunch or school related activity and have in their possession a valid, school issued, off-campus permit.

CRD.
428

9.56.030 Minor Curfew, Loitering or Wilful Misconduct Cost Recovery

A. Determination by Court. When, based on a finding of civil liability or criminal conviction for violations of curfew, daytime loitering (truancy) or wilful misconduct in violation of Welfare and Institutions Code Section 602, a minor under eighteen years of age is detained and the said detention required the supervision of the juvenile offender by Hawaiian Gardens Police Department employee(s), the parents(s) or legal guardian(s) having custody or control of said minor shall be jointly and severally liable for the cost of providing such personnel.

B. Determination by Chief of Police. As determined by the Chief of Police or his designee, the parent(s) or legal guardian(s) of a minor committing any public offense amounting to an act of wilful misconduct in violation of Welfare and Institutions Code Section 602 where police personnel provide services relating to the detention, processing or supervision of minors, may be assessed, and billed for, the cost of providing such personnel for such services.

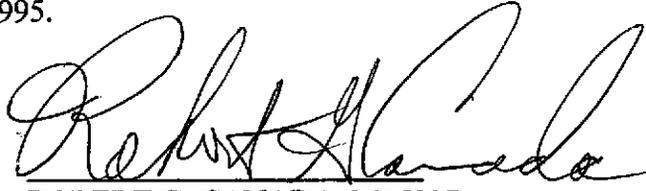
C. Appeal. Any person receiving a bill for police services pursuant to this Chapter may, within fifteen (15) days after the billing date, file a written request appealing the imposition of said charges. Any billing sent pursuant to this section shall inform the billed party of the right to appeal said billing. Any appeal regarding such billing shall be heard by the Chief of Police, or his or her designee, as the hearing officer. Within ten (10) days after the hearing, the hearing officer shall give written notice of the decision to the appellant. Upon the filing of a request for an appeal, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. If the appeal is denied in part or in full, all amounts due to the City shall be paid within thirty (30) days after notice of the decision of the hearing officer.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Resolution 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 this 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.

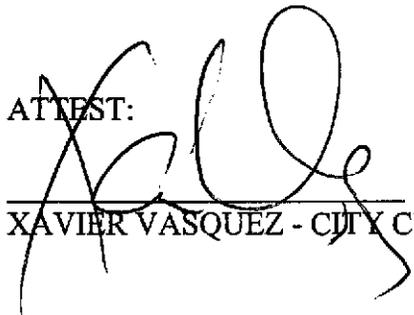
Section 4. Effective Date. This Ordinance shall take effect thirty days after its adoption. The City Clerk or his duly appointed deputy, shall certify to the adoption of this Ordinance and shall cause this Ordinance to be published as required by law.

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 25 day of July 1995.

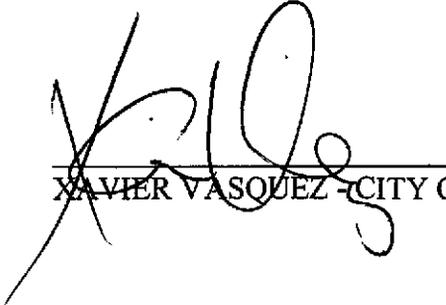

ROBERT G. CANADA, MAYOR

ATTEST:


XAVIER VASQUEZ - CITY CLERK

I Xavier Vasquez, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 428, was duly and regularly passes and adopted by the City Council of the City of Hawaiian Gardens on the 25 day of July 1995, by the following roll call vote as the same appears on file and record in the office of the City Clerk.

AYES: Prida, Flores, Cabrera, Navejas, Canada
NOES: None
ABSENT: None
ABSTAIN: None


XAVIER VASQUEZ - CITY CLERK

AGENDA ITEM NO. 1 A

TO: Mayor and Council
ATTENTION: Nelson Oliva, City Administrator
FROM: Walter McKinney, Chief of Police
SUBJECT: **ORDINANCE NO. 428/SECOND READING/APPROVAL OF
JUVENILE CITATIONS, DAYTIME JUVENILE
LOITERING AND COST RECOVERY.**
DATE: July 25, 1995

OVERVIEW:

Council addressed Ordinance No. 428 at the Regular City Council Meeting of July 11, 1995 and moved to continue this item to the Meeting of July 25, 1995 for second reading.

RECOMMENDATION:

Staff recommends adoption of Ordinance No. 428.

COUNCIL ACTION:

Waive further reading and adopt Ordinance No. 428.

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AGENDA ITEM NO. 2 B

TO: Mayor and Council

ATTENTION: Nelson E. Oliva, City Administrator
Maurice O'Shea, City Attorney
Walter McKinney, Chief of Police

FROM: Police Sergeants Jim Steimer and Robert Nishimura

SUBJECT: **ORDINANCE NO. 428 / FIRST READING
APPROVAL OF JUVENILE CITATIONS,
DAYTIME JUVENILE LOITERING AND
COST RECOVERY**

DATE: July 11, 1995

OBJECTIVE:

This report presents for city council consideration a new city ordinance that is designed to address the complex problems of juvenile truancy, timely judicial process for infractions through an innovative citation process, and a cost recovery program to compensate for the financial burden of juvenile arrest, detention, and supervision.

OVERVIEW:

Hawaiian Gardens, as well as other cities throughout the country, are combining resources with school districts to effectively deal with the rising student truancy rate. We believe increased law enforcement contacts with juveniles are directly related to the truancy rate among students. Truants generally loiter about businesses, malls, and at homes where parents are not present and are often disruptive to schools and other students. Habitual truants often encourage other students to indulge in negligent and irresponsible behavior. Because of this, opportunities increase for experimentation in drugs, promiscuity, gang involvement, and general contempt for authority.

Hawaiian Gardens is experiencing a rising annual student truancy rate. Many new families move into Hawaiian Gardens to provide an alternative to the gang atmosphere and the random violence of the inner city. Occasionally some of these new families bring the same influences from the inner cities that they are trying to escape.

The school district conservatively estimates that 100-200 students a day are truant from school. In addition, the most problematic students are required to attend a continuing education facility only 3 hours a day, 5 days a week instead of regular school. This program leaves a significant

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amount of unstructured time for these students during the regular school day where they spend some of the time in destructive activities, disrupting other schools, or to further gang or criminal behavior. In the past, truants were contacted by officers and simply returned to school for disposition. This effort often led to suspension or expulsion which enhanced the problems of unsupervised youth. Officers did not have the authority to detain or channel youths into the judicial system. This system of dealing with truancy is without risk to the offender and their parents and encourages poor behavior.

Most juveniles who violate the Municipal Code, Penal Code, Vehicle Code, Business and Professions Code require a physical arrest and subsequent detention at the station for booking. Due to the legal requirements that mandate segregation of juveniles from adult prisoners and direct supervision and special housing of juveniles, officers are routinely removed from service from 3 to 8 hours. The officers are then dependent on the timely response from the parent or guardian to take custody of the juvenile or, for a Probation Officer to assess the arrest and authorize the detention in Juvenile Hall. If the juvenile is to be detained at Juvenile Hall, the officer is required to transport the juvenile to the facility. When an officer is out of service for this period of time, they are not available to handle other calls for service. This severely restricts our service delivery and usually results in the usage of overtime.

DISCUSSION:

Intelligence reports conclusively find gang recruitment is escalating and gang activity is apparent and definitely on an upswing. Because of this trend the City of Hawaiian Gardens and the Police Department are active in the following areas to deal effectively with the misguided youth of our community.

- Identifying, monitoring, and gathering information on active gang members.
- Obtaining and tracking of the "terms and conditions of probation" on active gang members.
- Identifying, monitoring and collecting information from schools, patrol and detectives regarding gang members who are in violation of their terms of probation.
- Improving working relationship with the Probation Department that resulted in our notification of subjects who are recently released from jail and are on probation and/or parole. We have also received their assistance violating subjects who do not conform to conditions of probation/parole.
- Implementing provisions to enhance awareness and improve communication between law enforcement and school district personnel regarding deviant juvenile behavior.

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DATE: July 11, 1995

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- Develop the below listed ordinance.

NEW ORDINANCE STRATEGY:

The new ordinance addresses juveniles in the 12 to 17 year old age group. The percentage of arrests and calls dealing with these juveniles encompass 50% of the total calls for police service. It is the largest percentage of police contact for any specialized grouping.

The new ordinance was created to provide a multi dimensional remedy for juvenile problems. The passage of the ordinance will allow for the arrest of truants, streamline the time consuming juvenile booking process by allowing police officers to cite juveniles into Juvenile Traffic Court for municipal code violations and selected state codes, provide financial relief to the city for the detention and supervision of juveniles, and cultivate a timely judicial review for offenders.

Juvenile Citation Release Section 1.12.020:

Welfare and Institutions Code Section 256 gives authority to peace officers to cite certain misdemeanor offenses into the Juvenile Traffic Court. A municipal code must exist allowing the police department to cite juveniles charged with Hawaiian Gardens Municipal Code violations as infractions. An amendment to Municipal Code Section 1.12.020 will add sub section "C" which gives the Juvenile Traffic Court the authority to hear misdemeanors as infractions.

Within the provisions of the ordinance, police officers will contact the juvenile offenders who violate the new municipal code and selected state codes. They will be given a written citation, (much like a traffic ticket) to appear in the Traffic Division of Juvenile Court for review. The field "citation" will allow the officer to forego the booking process unless proper identification cannot be obtained or in the event of more serious crimes and gang activity. We have developed this process because disposition hearings held in traffic division are held within 30 days as compared to 2-3 months for juvenile court. It will also save the department man-hours usually expended during the booking process. In the past District Attorneys have been reluctant to file minor offenses committed by juveniles due to restricted superior court availability. The citation process will afford another avenue for the judicial filing of minor criminal cases.

Also, as of January 1, 1993 any juvenile who fails to appear in traffic court after giving a written promise to appear is reported to the Department of Motor Vehicles and the juvenile's drivers license is suspended until the citation is adjudicated. In addition, an arrest warrant will be issued for the minor who fails to appear as promised. If the minor does not have a drivers license, their right to a license will be suspended. This procedure does not apply to the Delinquency Court, nor does it apply to Adult Court. It is unique to the Juvenile Traffic Court (Section 40509 California Vehicle Code).

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DATE: July 11, 1995

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Daytime Loitering by Minors Section 9.56.020

This section of the ordinance will establish a municipal code section to define the parameters of "truancy" and provide officers with the authority to detain the juvenile and process him/her for judicial review and disposition. This section basically states:

"It is unlawful for any minor, under the age of eighteen, who is subject to compulsory education or to compulsory continuation education to loiter, idle, wonder, in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place during the hours of 8:30 am and 1:30 pm on days when school is in session. The provisions of this section do not apply when the minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or when the minor is on an emergency errand directed by his or her parent or guardian or other adult person having the care and custody of the minor or when the minor is going or coming directly from or to their place of gainful employment or to and from a medical appointment or students who have permission to leave campus for lunch or school related activity and have in their possession a valid, school issued, off-campus permit. Each violation of the provisions of this section shall constitute a separate offense and shall be a misdemeanor."

Officer Responsibility: The traffic court will accept juveniles as young as 12 years old and will determine their suitability to stand trial. Officers will use their department issued cite book for this cite out program and a "fact" sheet will accompany the cite to court which will include any pertinent information including the officers probable cause to make the contact and or arrest.

No case will be heard unless the minor has their parent or legal guardian present. Officers will only be called to testify if the minor contests the violation. **All gang members, suspected gang members or "wanna be" gang members involved in any bookable violation will be brought to the station and processed accordingly. Detained or non-detained petitions will be sought on these individuals.**

Juvenile Court Responsibility: This procedure was viewed by Judge Richard Montez, Presiding Judge of the Juvenile Court of Los Angeles County. Should this ordinance be adopted by the Hawaiian Gardens Council, it will receive full support from his office. Judge Montez agrees that all Referees will enforce the ordinance and requested that juveniles be cited directly into the Juvenile Traffic Court (per WIC 256) by a police officer. The referees will then use their own discretion as to the punishment they impose. It is the policy of the Court to impose up to \$135 fine for the first offense and to suspend or delay the issuance of a drivers license to the minor. On a second offense, the fine can range from \$270 to \$675, depending upon the facts of the case. The ordinance will also apply to students who attend school outside the Hawaiian Gardens city limits that are found in Hawaiian Gardens and are truant from school.

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Cost Recovery Section 9.56.030

Currently there is no provision for the recovery of fees when officers spend an excessive amount of time with juveniles for curfew and/or daytime loitering (truancy) violations.

It is the desire of the Hawaiian Gardens Police Department to recover the administrative costs associated with the detention, processing and supervision of juvenile offenders, as said offenders require constant supervision and monitoring and may not, by law, be placed into secure detention facilities. The City has determined that the most equitable procedure would be to require the parents or legal guardians of those juvenile offenders utilizing the additional police services to defray the city's expense of providing those services. This section of the ordinance reads as follows:

(a) Determination by court. When based on a finding of civil liability or criminal conviction for violations of curfew, daytime loitering (truancy) or wilful misconduct in violation of Welfare and Institutions Code 602, a minor, under the age of 18, is detained, and said detention required the supervision of the juvenile offender by the Hawaiian Gardens Police Department employee(s), then the parent(s) or legal guardian(s) having custody and control of the juvenile shall be jointly and severally liable for the cost of providing such personnel over and above the services normally provided by the department.

(b) Determination by Chief of Police. As determined by the Chief of Police or his designee, the parent(s) or legal guardian(s) of a minor committing any public offense amounting to an act of wilful misconduct in violation of Welfare and Institutions Code Section 602 where police personnel provide services relating to the detention, processing or supervision of minors that are over and above the normal services usually provided by the Hawaiian Gardens Police Department, may be assessed, and billed for, the cost of providing such personnel for such services beyond those normally provided by said department.

This section also contains an appeal procedure for any billing sent pursuant this section. The appeal must be made in writing within 15 days. The Chief of Police or his designee shall within 10 days give written notice of the decision to the appellant. Upon the filing of a request for appeal, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. If the appeal is denied in part or in full, all amounts due to the city should be paid within 30 days after notice of the decision.

Parental Responsibility: Should law enforcement officers determine that there is probable cause to believe that a parent or legal guardian or other person having care and custody of a minor has violated any provisions of Title 2. Part 27. Chapter 2 of the Education Code regarding the compelling of the attendance of the minor into school classes in violation of section 48293(a), the officer may issue a notice to appear to the Los Cerritos Municipal Court to said parent, legal

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guardian or other person having care and custody of the minor, and the court should follow the guidelines pursuant to Education Code section 48293(a)(1),(2) or (3). These sections allow the court discretion to direct the parent, legal guardian or other adult having care and custody of the minor to be placed in a parent education and counseling program in lieu of imposing a fine.

FISCAL IMPACT:

There will be no appreciable drain on the police departments budget. Officers will be trained on the mechanical aspects of the program during their briefings. It is not anticipated that there will be a need for additional funds or manpower. This program is expected to generate an unspecified amount of revenue.

RECOMMENDATION:

Staff recommends City Council approval and introduction of the ordinance to allow the police department the ability to implement the provisions of the ordinance in conjunction with school district efforts and the beginning of the school year.

COUNCIL ACTION REQUIRED:

Waive further reading and introduce **Ordinance No. 428.**

City of HAWAIIAN GARDENS
POLICE DEPARTMENT

'Our Youth, Our Future'
NOTIFICATION

- ▶ Effective _____, Hawaiian Gardens Council passed a new Hawaiian Gardens Municipal Code regarding truancy.
- ▶ If you are under 18 or are the parent or guardian of a child under 18, you should be aware of this new law.
- ▶ The law was enacted to deter truancy and to motivate school age children to attend school.
- ▶ The law will also assist to insure the safety of our youth by empowering the police to detain and arrest gang members and narcotics dealers from other schools and school districts that may be cruising our schools and disrupting our students.
- ▶ The new ordinance states:

“It is unlawful for any minor, under the age of eighteen, who is subject to compulsory education or to compulsory continuation education to loiter, idle, wander, in or upon the public streets, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, public buildings, places of amusement and eating places, vacant lots or any unsupervised place during the hours of 8:30 a.m. and 1:30 p.m. on days when school is in session. The provisions of this section do not apply when the minor is accompanied by his or her parents, guardian or other adult person having the care and custody of the minor, or when the minor is on an emergency errand directed by his or her parent or guardian or other adult person having care and custody of the minor, or when the minor is going or coming directly from or to their place of gainful employment, or to and from a medical appointment or students who have permission to leave campus for lunch or school related activity and have in their possession a valid, school issued, off-campus permit. Each violation of the provisions of this section shall constitute a separate offense and shall be a misdemeanor.”

The ordinance also contains a provision allowing the Police Department to bill parents for police man-hours rendered in investigation, detention and supervision of an arrested youth.

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

This space is for the City Clerk's Filing Stamp

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, 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:

August 8,
all in the year 1995.

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

Dated at Long Beach, California, this 8th day of August, 1995.

Barbara Callison
Signature

Press-Telegram Legal
Advertising Department

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

PROOF OF PUBLICATION OF

City of Hawaiian Gardens

ORDINANCE NO. 428

CITY OF HAWAIIAN GARDENS
ORDINANCE NO. 428
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS APPROVING AN AMENDMENT TO THE MUNICIPAL CODE RELATING TO CITATIONS ISSUED TO JUVENILES, JUVENILE LOITERING AND CURFEW VIOLATIONS, AND COST RECOVERY. NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAWAIIAN GARDENS DOES HEREBY ORDAIN AS FOLLOWS:

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C. Appeal. Any person receiving a bill for police services pursuant to this Chapter may, within fifteen (15) days after the billing date, file a written request appealing the imposition of said charges. Any billing sent pursuant to this section shall inform the billed party of the right to appeal said billing. Any appeal regarding such billing shall be heard by the Chief of Police, or his or her designee, as the hearing officer. Within ten (10) days after the hearing, the hearing officer shall give written notice of the decision to the appellant. Upon the filing of a request for an appeal, payment of the bill for the police services shall be suspended until notice of the decision of the hearing officer. If the appeal is denied in part or in full, all amounts due to the City shall be paid within thirty (30) days after notice of the decision of the hearing officer.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this Resolution 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 this 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.

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PASSED, APPROVED, AND ADOPTED by the City Council of the City of Hawaiian Gardens on the 25 day of July 1995.

/s/ ROBERT G. CANADA, MAYOR

ATTEST:

/s/ XAVIER VASQUEZ - CITY CLERK

I, Xavier Vasquez, City Clerk of the City of Hawaiian Gardens, do hereby certify that Ordinance No. 428, was duly and regularly passed and adopted by the City Council of the City of Hawaiian Gardens on the 25th day of July 1995, by the following roll call vote as the same appears on file and record in the office of the City Clerk.

AYES: Prida, Flores, Cabrera, Navejas, Canada

NOES: None

ABSENT: None

ABSTAIN: None

/s/ XAVIER VASQUEZ - CITY CLERK

Pub. August 8, 1995 (11) PT (7043/135612-Gov't)