

CITY OF SACRAMENTO



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July 5, 1983

APPROVED
BY THE CITY COUNCIL

City Council
Sacramento, CA 95814

JUL 5 1983

Honorable Members in Session:

OFFICE OF THE
CITY CLERK

SUBJECT: An Ordinance Amending Chapter 61 of the Sacramento
City Code Relating to Nuisances (Emergency Measure)

SUMMARY

This ordinance is presented for immediate enactment as an emergency measure.

BACKGROUND INFORMATION

In March, 1983, a Municipal Court Judge overturned a criminal conviction for maintaining a nuisance under City Code Section 61.401(a) on the grounds of vagueness and overbreadth. The amendments to Chapter 61 contained in this ordinance are intended to remove any vagueness and overbreadth problems. The changes have been reviewed and approved by the Law and Legislation Committee.

The major changes are:

1. The definition of "junk" in §61.301 would be clarified by adding the requirement that the item either have no substantial market value or require reconditioning in order to be used for its original purpose.
2. Section 61.401(a) is amended. Instead of prohibiting "the accumulation of junk", it would prohibit the keeping, storage, depositing or accumulation for an unreasonable period of any personal property which:
 - (a) Is in public view; and

- (b) Constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby properties.


The ordinance is presented as an emergency measure so that upcoming nuisance abatement shall not be delayed or subject to doubt regarding their validity.

RECOMMENDATION

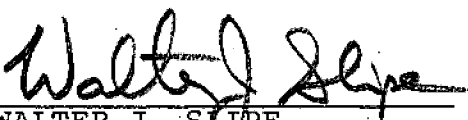
It is recommended that this ordinance be enacted as an emergency measure.

Respectfully submitted,

JAMES P. JACKSON
City Attorney

By: 
DIANE B. BALTER
Deputy City Attorney

RECOMMENDATION APPROVED:


WALTER J. SLUPE
City Manager

July 5, 1983
All Districts

ORDINANCE NO.

83-~~87~~⁰⁷⁶

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

AN ORDINANCE AMENDING ARTICLES III AND IV OF CHAPTER 61 OF THE SACRAMENTO CITY CODE CONSISTING OF SECTIONS 61.301 AND 61.401, RELATED TO NUISANCES, AND DECLARING THIS ORDINANCE TO TAKE EFFECT IMMEDIATELY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 61.301 and Section 61.401 of the Sacramento City Code are hereby amended to read as follows:

ARTICLE III. Definitions

Sec. 61.301 Generally.

For purposes of this Code, the following words shall have the following specified meanings:

(a) Junk: Any cast-off, damaged, discarded, junked, obsolete, salvage, scrapped, unusable, worn-out or wrecked object, thing or material composed in whole or in part of asphalt, brick, carbon, cement, plastic or other synthetic substance, fibre, glass, metal, paper, plaster, plaster of paris, rubber, terra cotta, wool, cotton, cloth, canvas, organic matter or other substance, having no substantial market value or requiring reconditioning in order to be used for its original purpose.

(b) Junk yard: Any premises from on or which any junk is abandoned, bailed, bartered, bought, brought, bundled, deposited, disassembled, disposed of, exchanged, handled, kept, packed, processed, scattered, shipped, sold, stored or transported, regardless of whether or not such activity is done for profit.

(c) Owner: Owner of record of real property, occupant, lessee, or interest holder in same, as the case may be.

(d) Premises: Any real property, or improvements thereon, as the case may be.

(e) Property: Premises.

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(f) Drive-in enterprise: Any commercial enterprise such as a service station or drive-in restaurant upon which enclosed buildings occupy less than 25% of the lot area and where a primary method of providing goods and services to customers is by means of a drive through service.

(g) Abandoned drive-in enterprise. Any drive-in enterprise which has not been providing goods and services for at least 180 days. The term "abandoned drive-in enterprise" shall not include any enterprise all or a part of which has been lawfully converted to another use permitted by the zoning regulations and for which all necessary permits, licenses and other entitlements have been issued, so long as the premises are occupied and maintained for such use.

(h) Service station: Any premises upon which the improvements are designed and built for the primary purpose of selling to or providing others with fuels for internal combustion engines of motor vehicles, whether or not providing related automotive maintenance and repair service.

Secs. 61.302 to 61.400 Reserved.

ARTICLE IV. Nuisances Specified

Sec. 61.401 Generally.

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this city to maintain such premises in such a manner that any one or more of the conditions or activities described in the following subsections are found to exist:

(a) The keeping, storage, depositing, or accumulation on the premises for an unreasonable period of any personal property, including but not limited to abandoned, wrecked, dismantled or inoperative vehicles, automotive parts and equipment, appliances, furniture, containers, packing materials, scrap metal, wood, building materials, junk, rubbish, and debris, which is within the view of persons on adjacent or nearby real property or the public right-of-way and which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values; provided, however, that wood and building materials being used or to be used for a project of repair or renovation for which a building permit has been obtained may be stored for such period of time as is necessary expeditiously to complete the project.

(b) The keeping, storage, depositing or accumulation of dirt, sand, gravel, concrete or other similar materials, for an unreasonable period, which constitutes visual blight or reduces the aesthetic appearance of the neighborhood or is offensive to the senses or is detrimental to nearby property or property values.

(c) The operation of a junk yard or automobile dismantling yard, except in an industrial zone pursuant to a special use permit.

(d) Any abandoned drive-in enterprise.

(e) Any dangerous, unsightly, or blighted condition which is detrimental to the health, safety or welfare of the public.

(f) Any condition in violation of Chapter 9 of the Sacramento City Code (Uniform Building Code)

(g) Any condition in violation of Chapter 6 of the Sacramento City Code (Animal Control Law).

(h) Any condition in violation of Appendix I of the Sacramento City Code (Zoning Ordinance).

(i) Any condition in violation of Chapter 15 of the Sacramento City Code (Fire Protection).

(j) Any condition recognized in law or in equity as constituting a public nuisance.

SECTION 2.

This ordinance is an emergency measure to take effect immediately. The reason for the emergency is that a recent court decision has called the validity of certain provisions of the current nuisance ordinance into question. Existing nuisances are an immediate threat to the health, safety and welfare of the public, and it is necessary that amendments to the ordinance take effect immediately so that nuisance abatement proceedings are not delayed or subjected to doubt regarding their validity.

ENACTED:
EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK