

Chapter 8.20

GRAFFITI CONTROL

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8.20.010 Legislative findings and declarations.

The City Council finds and declares that the increase of graffiti on public and private buildings, structures, play grounds, buses, signs, and in other places, creates a condition of blight within the City, which can result in the deterioration of property values, business opportunities, and enjoyment of life for persons using adjacent and surrounding property all to the detriment of the City. The City Council finds that graffiti is often used as a method of communication or marking territory between juvenile gangs and that the presence of juvenile gangs in the City is not favored. The City Council further finds that graffiti is inconsistent with the City's property maintenance goals, crime prevention programs, and aesthetic standards. It is a public nuisance which serves as an invitation for repeated trespasses and vandalism and therefore must be abated to avoid the detrimental impact of such graffiti on the City and to prevent the further spread of graffiti.

The City Council's intent in adopting this chapter is to provide regulations designed to prevent and control the application of graffiti on property within the City and to provide a program for removal of graffiti from walls and structures on both public and private property. (Ord. 592 §1, 1999)

8.20.020 Definitions.

For the purpose of this chapter, the words set out in this section shall have the following meanings:

A. "Defacement" means the intentional and unauthorized altering of the physical appearance or shape of any real or personal property within the City limits.

B. "Graffiti" means the unauthorized scratching, carving, spraying of paint, or marking of ink, chalk, dye, or other similar substances on public and private buildings, structures, and places.

C. "Graffiti materials" includes paint, aerosol, or pressurized containers of paint, indelible markers, pens, pencils, chalk, ink, dye, charcoal, or any other substance capable of altering the physical appearance of public or private property.

D. "Unauthorized" means that the private property owner or City officials have not given their consent to any of the foregoing acts. (Ord. 592 §1, 1999)

8.20.030 Graffiti prohibition.

It is unlawful for any person to scratch, carve, paint, chalk, or otherwise apply graffiti on public or privately owned permanent structures located on public or privately owned real property within the City. (Ord. 592 §1, 1999)

8.20.040 Graffiti declared a public nuisance. The

City Council declares that graffiti is a public nuisance and is subject to punishment and abatement as prescribed in this Code. (Ord. 592 §1, 1999)

8.20.050 Sale and possession of pressurized paint cans.

The following regulations shall apply to the sale and distribution of pressurized paint cans in the City:

A. No person shall sell, exchange, give or loan, or cause or permit to be sold, exchanged, given, or loaned any pressurized can(s) containing any

substances commonly known as paint or dye to anyone under the age of eighteen years, unless such minor is accompanied by the parent or legal guardian of such minor. No person under the age of eighteen years shall purchase any pressurized can(s) containing paint or dye.

B. No person shall have in his or her possession any pressurized can containing any substance commonly known as paint or dye while in a public park, playground, swimming pool, or recreational facility in the City. This section shall not apply to authorized employees of the City or an individual or authorized employee of any individual, agency, or company under contract with the City. (Ord. 592 §1, 1999)

8.20.060 Removal of graffiti.

Graffiti may be removed by any of the following methods:

A. Any person applying graffiti within the City shall have the duty to remove the same within twenty-four hours after notice by the City or the public or private owner of the property involved. Where graffiti is applied by juveniles, the parent or parents shall be responsible for such removal and for the payment therefor.

B. Whenever the Chief of Police or his/her designee determines that graffiti is so located on public or privately owned structures on public or privately owned real property within the City so as to be capable of being viewed by a person utilizing any public right-of-way in the City, the Chief of Police, or his/her designee, may be authorized, upon City Council approval, to provide for the removal of the graffiti solely at the City's expense, without reimbursement from the property owner upon whose property the graffiti has been applied, upon the following conditions:

1. In removing the graffiti, the painting or repair of a more extensive area shall not be authorized;

2. When a structure is owned by a public

entity other than the City, the removal of the graffiti may be authorized only after securing the consent of the public entity having jurisdiction over the structures;

3. Where a structure is privately owned, the removal of the graffiti by City forces or by a private contractor under the direction of the City, may be authorized only after securing the consent of the owner.

C. Alternatively, graffiti located on privately owned structures on privately owned real property within the City so as to be capable of being viewed by a person utilizing any public right-of-way in this City may be removed by the City at the owner's expense as a public nuisance pursuant to the following provisions:

1. Whenever the Chief of Police or his/her designee is apprised of the presence of graffiti located on privately owned real property within the City, the Chief of Police or his/her designee may cause a written notice to be served upon the owner of the affected premises as such owner's name and address appears on the last equalized assessment roll by depositing a copy of the notice in the U.S. Postal Service enclosed in a sealed envelope and with the postage thereon fully prepaid. The mail shall be registered or certified and addressed to the owner at the last known address of the 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 in this chapter, means any person in possession and also any person having or claiming to have any legal or equitable interest in the premises as described by a preliminary title search from any accredited title company. The failure of any person to receive such notice shall not affect the validity of any proceeding hereunder. The property owner shall have seven days after the date of the notice to remove the graffiti or be subject to City removal of the graffiti and assessment of the costs of such removal as a lien on the subject property.

The notice shall be substantially in the following form:

NOTICE OF INTENT TO REMOVE GRAFFITI

Date:

NOTICE IS HEREBY GIVEN that you are required at your expense to remove or paint over that graffiti located on the property commonly known as _____, Ripon, California, which is visible to public view within seven (7) days after the date of this notice; or if you fail to do so, then City employees or private City contractors will enter upon your property and abate the public nuisance by removal or painting over the graffiti. The cost of the abatement by the City employees or its private contractors will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters are hereby notified to submit any objections or comments to the Chief of Police for the City of Ripon or his/her designee within seven (7) days from the date of this notice. At the conclusion of this seven (7) day period, the City may proceed with the abatement of the graffiti inscribed on your property at your expense without further notice.

The service of this notice shall be made on the day the notice is dated and by affidavit filed with the City Clerk.

2. A like notice shall also be posted at the conspicuous place on the premises upon which graffiti is inscribed. The posting of this notice shall be made on the day the notice is dated and by affidavit filed with the City Clerk.

3. If the owner fails to remove or cause the graffiti to be removed by the designate date, or such continued date thereafter as the Chief of Police or his/her designee approves, then the Chief of Police or his/her designee shall so notify the City Administrator and the City Administrator shall cause the graffiti to be abated by City forces or private contract, and the City or its private contractor is expressly authorized to enter upon the premises for such purpose.

4. Should the City be required to abate the graffiti as a public nuisance, it shall recover the costs of said abatement, including incidental expenses. The notice of lien for the purposes of this chapter

shall be in the form or a similar form as follows:

NOTICE OF LIEN

(Claim of City of Ripon)

Pursuant to the authority vested by the provisions of Section 8.20.060 of the Ripon Municipal Code, the City Administrator of the City of Ripon did on or about the ____ day of _____, 19____, cause the painting over or removal of graffiti at the premises hereinafter described in order to abate a public nuisance on said real property; and the City Council of the City of Ripon did on the ____ day of _____, 19____, assess the cost of such abatement upon the real property hereinafter described; and the same has not been paid nor any part hereof; and that said City of Ripon does hereby claim a lien on such costs of abatement in the amount of said assessment, to wit: the sum of _____ dollars; 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 Ripon, County of San Joaquin, State of California and particularly described as follows:
(Described)

DATED this ____ day of _____, 19 ____
City Administrator of the City of Ripon, California
(Ord. 592 §1, 1999)

8.20.070 Alternative means of enforcement.

Nothing in this chapter shall be deemed to prevent the City Council from ordering the City Attorney to commence a civil or criminal proceeding to abate a public nuisance under applicable California Civil or Penal Code provisions, or from proceeding to abate the public nuisance as an alternative to the proceedings set forth in this chapter. (Ord. 592 §1, 1999)

8.20.080 Violation—Penalty.

Violation of any of the provisions of this Chapter shall be a misdemeanor. Any person convicted of a violation of this Chapter shall be guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment for a period not exceeding six months, or by both fine and imprisonment. (Ord. 592 §1, 1999)