

## Chapter 9.18

### GRAFFITI PREVENTION, PROHIBITION, REMOVAL AND ABATEMENT PROCEDURES

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#### **Section 9.18.010 Purpose and intent.**

It is the purpose and intent of this chapter to help prevent the spread of graffiti and to establish a program for its removal from public and private property. The spread of graffiti on public and private buildings, walls, signs and other structures or places or other surfaces causes blight within the City, resulting in a genuine threat to life, incalculable economic losses to businesses in terms of physical property, profits and goodwill, and the general deterioration of property and business values for adjacent and surrounding properties. The power of graffiti to create fear and insecurity within the community and blight upon the landscape, reducing property values and detracting from the sense of the community enjoyed by residents of Riverside is beyond the cost of cleanup or removal. Not only is graffiti a property crime, but a social crime on the quality of life and freedom from intimidation citizens desire within their neighborhoods. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.015 Definitions.**

"Aerosol paint container" means any aerosol container, regardless of the material from which it is made, which is adapted or made for the purpose of spraying paint, dye, or other substances.

"Felt tip marker" means any indelible marker or similar implement with a tip, at its broadest width greater than one-eighth inch, containing anything other than a solution which can be removed with water after it dries.

"Graffiti" means any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any surface of public or private property, including but

not limited to, buildings, walls, signs, structures or places, or other surfaces, regardless of the nature of the material of the structural component.

"Graffiti implement or paraphernalia" means any aerosol paint container, felt tip marker, paint or graffiti stick, gum label, masonry or glass drill bit, carbide drill bit, glass cutter, grinding stone, awl, carbide scribe, acid etching solutions, or etching tool or device capable of scarring any surface, including, but not limited to glass, metal, concrete or wood or any other marking implement that is commonly used to deface, damage, or destroy property; any piece, design or scrap book or drawings, illustrating graffiti marks or signs.

"Gum label" means any sheet of paper, fabric, plastic or other substance with an adhesive backing which, when placed on a surface, is not easily removed.

"Paint stick or graffiti stick" means any device containing a solid form of paint, chalk, wax, epoxy, or other similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-sixteenth of an inch in width.

"Retail commercial establishment" means any business enterprise, including any person, partnership, association, corporation, company, or organization, which sells or trades aerosol paint containers or felt tip marker. (Ord. 6684 § 1, 2003; Ord. 6611 § 1, 2002; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.020 Graffiti prohibited.**

A. It is unlawful for any person to write, paint, spray, chalk, etch, or otherwise apply graffiti on public or privately owned buildings, signs, walls, permanent structures, places, or other surfaces located on public or privately owned property within the City.

B. It is unlawful for any person owning or otherwise in control of any real property within the City to permit or allow any graffiti to be placed upon or to remain on any permanent structure located on the property when the graffiti is visible from the street or public or private property. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.025 Possession of graffiti implements or paraphernalia prohibited.**

A. It is unlawful for any person to have in his or her possession any graffiti implement or paraphernalia while in or upon any highway, street, alleyway, public park, playground, swimming pool, public recreational facility, underpass, bridge abutment, storm drain, or private property without the written consent of the owner, with the specific intent to paint, spray, chalk, etch or otherwise apply graffiti on, or deface, damage, disfigure, destroy, or mar any of the following places or things, including but not limited to: public or privately owned buildings, signs, walls, permanent structures, places or other surfaces within the City.

Exceptions:

1. A minor who is attending and is actively enrolled in a class which requires use of such implements, of which written permission from the school is in his or her possession;

2. An authorized City employee of the City of Riverside, or agent thereof, or its contractors.

B. It is unlawful for any minor (person under the age of 18) to have in his or her possession aerosol can tips, other than tips affixed to aerosol cans, and any graffiti implement or paraphernalia, not including aerosol cans, while in or upon any highway, street alleyway, public park, playground, swimming pool, public recreational facility, underpass, bridge abutment, storm drain, or private property without the written consent of the owner, whether the minor is or is not in a vehicle. This section shall not apply to any minor who is accompanied by a parent or guardian or under the immediate supervision of an adult teacher. (Ord. 6611 § 2, 2002; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.030 Furnishing graffiti implements or paraphernalia to minors prohibited.**

It is unlawful for any person, other than a parent or legal guardian, to sell, exchange, give, loan, or otherwise furnish, or cause or permit to be exchanged, given, loaned, any graffiti implement or paraphernalia to any person under the age of eighteen years without the prior written consent of the parent or lawfully designated custodian of the minor. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.035 Commercial display of aerosol paint containers, paint/graffiti sticks and broad-tipped felt markers.**

Retail commercial establishments or other vendors shall, pending legal sale, display aerosol paint containers, paint/graffiti sticks, acid etching solutions, and broad-tipped felt markers for sale, only in areas viewable by, but not accessible to the public. (Ord. 6684 § 2, 2003; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.040 Graffiti removal at City expense.**

Whenever the Public Works Director or his/her designated representative determines that graffiti is so located on public or private property within the City so as to be capable of being viewed by persons utilizing any public right-of-way in the City, the Public Works Director or his/her designated representative is authorized 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:

A. In removing the graffiti, the painting or repair shall be limited to the minimum necessary to properly restore the defaced area.

B. Where 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 structure.

C. 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.

D. The City reserves the right to recover City costs and expenses pursuant to Section 9.18.105 of this Municipal Code, Penal Code Section 594, Civil Code Sections 731, 1714 and 1714.1, and Government Code Section 38771, et seq. and Welfare and Institutions Code Section 742.10 et seq. from any person who has willfully damaged property in a manner described within Section 9.18.020 of this Municipal Code. (Ord. 7229 § 10, 2013; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

**Section 9.18.050 Graffiti declared public nuisance.**

Graffiti which the Public Works Director or his/her authorized representative has determined exists on any permanent structure in the City which is visible from a street or other public or private property is declared to be a public nuisance. (Ord. 6514 § 1, 2002; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

**Section 9.18.060 Abatement.**

Whenever the Public Works Director or his/her authorized representative determines that graffiti on a particular structure constitutes a public nuisance and is unable to secure the consent of the owner for the City to cause the graffiti to be removed, such graffiti shall be abated as follows:

A. Notice. The Public Works Director shall cause a notice to be issued to abate such

nuisance. The property owner shall have ten days after the date of the notice to remove the graffiti, or the property will be subject to abatement by the City.

B. Service of Notice. The notice to abate graffiti pursuant to this section shall cause a written notice to be served upon the owner(s) of the affected premises, as such owner's name and address appears on the last equalized property tax assessment rolls of the County of Riverside. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this chapter may be served in any one of the following manners:

1. By personal service on the owner, occupant or person in charge or control of the property.

2. By certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.

The notice shall be substantially in the following form:

#### NOTICE OF INTENT TO REMOVE GRAFFITI

"Date:

NOTICE IS HEREBY GIVEN that you are required by law at your expense to remove or paint over the graffiti located on the property commonly known as \_\_\_\_\_, Riverside, California, which is visible to public view, within ten (10) days after the date of this notice; or, if you fail to do so, City employees or private contractors employed by the City 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 Public Works Director for the City of Riverside or his/her designated representative within ten (10) days from the date of this notice. At the conclusion of this ten (10) day period the City may proceed with the abatement of the graffiti inscribed on your property at your expense without further notice."

C. Appeal. Within ten days from the mailing or personal service of the notice, the owner or person occupying or controlling such premises or lot affected may appeal to the City Council of the City of Riverside. At a regular meeting or regular adjourned meeting of the City Council not more than twenty days thereafter, the Council shall proceed to hear and pass upon such appeal. The decision of the Council thereupon shall be final and conclusive.

D. Removal by City. Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the Public Works Director or his/her designated representative approves, then the Public Works Director is authorized and directed to 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 purposes. All reasonable efforts to minimize damage from such entry shall be taken by the City, and any paint used to obliterate graffiti shall be as close as practicable to background color(s).

E. Record of Cost for Abatement. The Public Works Director and/or the Finance Director shall keep an account of costs (including, but not limited to, court costs, attorney's fees, cost of removal of the graffiti or other inscribed material, costs of repair and replacement of defaced property, incidental and administrative costs, and any law enforcement costs incurred in the investigation and apprehension of a person causing the graffiti damage) of abating such nuisance on each separate parcel of land where the work is done and shall render an itemized report in writing to the City Council showing the cost of abatement; provided, that before the report is submitted to the Council a copy shall be served in accordance with the provisions of this section, together with a notice of time when the report shall be heard by the Council for confirmation.

1. The City Council shall set the matter for hearing to determine the correctness and reasonableness of such costs.

2. The term "incidental expenses" shall include, but not be limited to, the actual expenses and costs of the City in the preparation of notices, specifications and contracts and in inspecting the work, and the costs of printing and mailing required hereunder.

F. Report--Hearing and Proceedings. At the time and place fixed for receiving and considering the report, the City Council shall hear and pass the report of such costs of abatement, together with any objections or protests. Thereupon, the City Council may make such revision, correction or modification in the report as it may deem just, after which, by motion, the report as submitted or as revised, corrected or modified shall be confirmed. The decision of the City Council on all protests and objections which may be made shall be final and conclusive.

G. Assessment of Costs Against Property. The total cost for abating such nuisance, as confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon notice and recordation in the office of the Riverside County Recorder of a notice of lien, as so made and confirmed, shall constitute a lien on the property for the amount of such assessment pursuant to Government Code Section 38773.5.

1. After such confirmation and recordation, a copy shall be filed with the Assessor and Tax Collector of Riverside County, acting for the City, in order that said County officials may add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land, and thereafter said amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or

2. After such recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.

H. Second or subsequent civil judgment. Upon the entry of a second or subsequent civil judgment within a two-year period, the City may find that an owner of property is responsible for a condition that may be abated in accordance with this code section, may request the court order treble damages pursuant to Government Code Section 38773.7. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.070 Private property consent.**

Property owners in the City of Riverside may consent in advance to City entry onto private property for graffiti removal purposes. The City will make forms for such consent available. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.080 Public property.**

Where 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 an authorized representative of the public entity having jurisdiction over the structure. (Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

#### **Section 9.18.090 Limitation of filing judicial action.**

Any owner, lessee, occupant or other interested person having any objections or feeling aggrieved at any proceeding taken on appeal by the City Council in ordering the abatement of any public nuisance under the provisions of this chapter, must bring an action to contest such decision within thirty days after the date of such decision of the City Council. Otherwise, all objections to such decision shall be deemed waived. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993; Ord. 5809 § 1, 1990)

**Section 9.18.100 Duty to remove graffiti.**

Any person applying graffiti to any surface within the City shall have the duty to remove it within twenty-four hours after being notified by the City, or its agents. Failure to remove the graffiti shall constitute an additional violation of this Chapter. (Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)

**Section 9.18.105 Civil liability.**

In addition to any other remedy provided herein, any person responsible for the application of graffiti or each parent or legal guardian in the case of a minor responsible for the application of graffiti shall also be personally liable for any and all costs to any person, business or public entity incurred in connection with the removal of graffiti caused by that person or the parent or guardian's minor child, and for all law enforcement costs, attorneys' fees and court costs incurred in connection with the civil prosecution of any claim for damages or reimbursement as allowed by Welfare and Institutions Code section 38772. (Ord. 7229 §10, 2013)

**Section 9.18.110 Liability for reward.**

The City may pay a reward, as established from time to time by City Council resolution, to any person who provides information which satisfies the Chief of Police or the Chief's designee that there is probable cause to believe a specific person is responsible for the application of graffiti, to a surface of real or personal property. In addition to any fines levied by the City for violation of this chapter, any person who has damaged property by inscribing graffiti on public or private property shall be liable for the amount of any reward paid pursuant to this chapter and Section 53069.5 of the California Government Code. If such person is an unemancipated minor, such minor's parents or guardian are so liable and shall pay such amount to the City. (Ord. 7229 §11, 2013)

**Section 9.18.115 Liens and special assessments.**

A. Lien and personal obligation. The expense of abating the graffiti nuisance may result in a lien against the property of a minor and a personal obligation against the minor. The parent(s) or guardian(s) having custody and control of the minor shall be jointly and severally liable with the minor pursuant to Government Code Sections 38772, 38773.2 and 38773.6.

1. Notice of Intent to Lien. Notice of Intent to record a lien shall be given to the owner of record of any parcel prior to the recordation of any lien. The owner may be the minor, or the parent(s) or legal guardian having custody and control of the minor. Said notice shall be served by personal service in the same manner as a civil action in accordance with the Code of Civil Procedure Section 415.10. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy of the Notice in a conspicuous place upon the property for a period of ten days and publication thereof in a newspaper of general circulation published in the county in which the property is located pursuant to Government Code Section 6062.

2. Recordation. A nuisance abatement lien shall be recorded in the County Recorder's Office in the county in which the parcel of land is located and from the date of recording shall have the force, effect, and priority of a judgment lien.

3. Specific data. A graffiti nuisance abatement lien authorized by this section shall specify the amount of the lien; the name of the agency on whose behalf the lien is imposed; the date of the abatement order; the street address, legal description, and assessor's parcel number of the parcel on which the lien is imposed; and the name and address of the recorded owner of the parcel.

4. If the lien is discharged, released, or satisfied through payment or foreclosure, notice of the discharge containing the information specified in Subsection (3) shall be recorded

by the governmental agency. A graffiti nuisance abatement lien and the release of the lien shall be indexed in the grantor-grantee index.

5. A graffiti nuisance abatement lien may be satisfied through foreclosure in an action brought by the City.

6. The City may recover from the property owner any costs incurred regarding the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien.

B. Special assessment. As an alternate to the nuisance lien, the City may recover its costs, as delineated above, a special assessment against the parcel of land owned by the minor or by the parent or guardian having custody and control of the minor. The assessment may be collected at the same time and in the same manner as ordinary municipal taxes are collected and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes pursuant to Government Code Section 38773.7.

C. Second or subsequent criminal judgment. Upon the entry of a second or subsequent criminal judgment within a two-year period, the City may find that an owner of property is responsible for a condition that may be abated in accordance with this code section, may request the court order treble damages pursuant to Government Code Section 38773.7. (Ord. 7229 § 12, 2013; Ord. 6514 § 1, 2000)

**Section 9.18.120 Severability.**

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the chapter. The City Council hereby declares that it would have passed this chapter and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional. (Ord. 7229 § 13, 2013; Ord. 6514 § 1, 2000; Ord. 6051 § 1, 1993)