

CHAPTER 8.10: GRAFFITI VANDALISM

Section

- 8.10.010 Purpose and intent.
- 8.10.020 Definitions.
- 8.10.030 Making graffiti—Possession of graffiti implements.
- 8.10.040 Limiting access to graffiti implements.
- 8.10.050 (Reserved)
- 8.10.060 Graffiti prohibition and notice of violation.
- 8.10.070 Abatement and billing.
- 8.10.080 Enforcement.

§ 8.10.010 PURPOSE AND INTENT.

The purpose of this chapter is to provide a program for abatement of graffiti from public and private property to protect public safety and to expedite removal of graffiti from structures on both public and private property. The City Council finds and determines the following:

- A. Graffiti constitutes a nuisance and a threat to public safety, which must be removed to alleviate the detrimental impact of such graffiti on the city and to prevent the further spread of graffiti.
- B. Certain categories of graffiti, which incite violence, are especially harmful and must be removed as quickly as possible to avoid or minimize harm to persons and the whole community.

§ 8.10.020 DEFINITIONS.

For purposes of this chapter, the following words and terms shall have the meaning ascribed thereto:

- A. **AEROSOL PAINT CONTAINER.** Any aerosol container which is adapted or made for the purpose of spraying paint.
- B. **BROAD TIP MARKER.** Any marker or similar implement which has a writing surface which is ½ of an inch or greater and containing anything other than a solution which can be removed with water after the solution dries.
- C. **GRAFFITI.** Drawing, scratching, painting, spraying or inscribing a message, slogan, sign, symbol, picture or mark of any type on any private or public sign, building, structure, surface, street, sidewalk, bridge, overpass, underpass, fence, park wall or similar type facility, without the express permission of the owner.
- D. **GRAFFITI IMPLEMENT.** An aerosol paint container, broad tip marker, paint stick, graffiti stick or bleeder.
- E. **MINOR.** A juvenile; an individual who has not reached the age of 18 years.
- F. **PAINT STICK GRAFFITI STICK OR BLEEDER.** An implement containing paint, wax, epoxy or other similar substance.
- G. **RESPONSIBLE PARTY.** An owner, occupant, lessor, lessee, manager, licensee or other person having the right to control such property.

§ 8.10.030 MAKING GRAFFITI—POSSESSION OF GRAFFITI IMPLEMENTS.

A. No person shall make graffiti of any type on any private or public sign, building, structure, surface, street, sidewalk, bridge, overpass, underpass, fence, park, wall, vehicle or other property of another without the express permission of the responsible party.

B. A person is guilty of possession of graffiti implements when he or she possesses any tool, instrument, article, substance, solution or other compound designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon or otherwise mark, under circumstances evincing an intent to use same in order to damage such property.

1. In court proceedings, proof of possession of an unsealed aerosol paint container or other graffiti implement, brush, applicator, dispenser, pen or paint, while the possessor is under, over, in, on, in front of or behind a public sign, building, structure, surface, street, sidewalk, bridge, overpass, underpass, fence, park, wall, vehicle or other public property shall be presumptive evidence of intent to use same in order to damage such property, where permission or authority from the owner of the property has not been demonstrated.

C. In addition to any fines imposed, adult individuals found guilty of a violation of this section shall pay to the city and to the responsible party reasonable restitution for any costs incurred to abate graffiti.

D. Minor individuals found guilty of a violation of this section shall also be ordered to pay to the city and to the responsible party reasonable restitution for any costs incurred to abate graffiti. In the event a minor is ordered to make restitution

pursuant to this section, when appropriate, either or both parents or guardians of the minor shall also be held liable for restitution, up to an amount not to exceed \$10,000, pursuant to A.R.S. § 12-661.

E. Violation of this section by an adult is a misdemeanor punishable, for a first conviction by a minimum term of not less than 30 days in jail, a minimum fine of not less than \$1,500 and not less than 80 hours of community work service, and for subsequent conviction by no less than 6 months in jail and a fine of no less than \$2,500.

F. Violation of this section by a juvenile is a misdemeanor, punishable by a fine of not less than \$500, pursuant to A.R.S. Title 8.

§ 8.10.040 LIMITING ACCESS TO GRAFFITI IMPLEMENTS.

A. No person other than a parent or legal guardian shall knowingly sell, exchange, give, loan or otherwise furnish, or cause or permit to be exchanged, given, loaned or otherwise furnished, any graffiti implement to any person under the age of 18 years.

B. Evidence that a person, his or her employee or agent demanded and was shown acceptable evidence of majority and acted upon such evidence in good faith in a transaction or sale shall be a defense to any prosecution under this section, Acceptable evidence of majority shall include, but is not limited to, driver's license, state-issued identification or military identification.

C. This section does not apply to the transfer of graffiti implements from parent to child, guardian to ward, employer to employee, teacher to student or in any similar relationship when such transfer is for a lawful purpose.

D. Violation of this section is a misdemeanor punishable by not less than 7 days in jail, a fine of \$1,500 a 80 hours community work service.

§ 8.10.050 (RESERVED)

§ 8.10.060 GRAFFITI PROHIBITION AND NOTICE OF VIOLATION.

A. All private and public signs, buildings, structures, surfaces, streets, sidewalks, bridges, overpasses, underpasses, fences, parks, walls, vehicle or other personal property shall be kept free from graffiti when the graffiti is visible from the street or other public or private property.

B. If it is determined by the city that graffiti exists on property in violation of this article, the city shall, in writing, notify the responsible party with a notice of violation. The notice may be served by certified mail, personal service or by posting the subject property and publishing the notice in the official city newspaper.

C. The notice of violation shall identify the property in violation, shall generally describe the location of the graffiti, shall state the cost of abatement by the city and shall direct that the graffiti be removed, by the person to whom notice was given, within 10 days of receipt of the notice.

1. The notice shall state that in the event the responsible party fails to remove the graffiti within the time period specified in the notice of violation, the city shall remove the graffiti and may bill the responsible party for the costs.

2. The effective date of the notice of violation shall be the date received if delivered in person or sent by certified mail, or the date of first publication, if the alternate method of service is used.

3. The notice shall state that the responsible party may appeal the notice by filing a written notice of appeal with the City Clerk within the same time period given to remove the graffiti.

4. Appeal of the notice shall be to the City Council, which shall hear the appeal not less than 7 nor more than 30 days after the notice of appeal is filed.

5. Decision of the Council shall be final and effective as of the date written notice of the decision is served upon the owner, occupant, lessee, tenant or person in control of the property. The Council may grant an extension of time for compliance at the time of its disposition of the appeal.

§ 8.10.070 ABATEMENT AND BILLING.

A. If the responsible party fails to remove the graffiti as required by the notice of violation, the city may proceed with abatement to remove the graffiti and may bill the responsible party for the costs thereof.

1. The city or its authorized private contractor is expressly authorized to enter private property and remove graffiti thereon in accordance with this section.

2. The Police Department shall assist in the enforcement of this chapter.

B. Upon completion of the work, the City Manager shall prepare a verified statement of account of the actual cost of the removal or abatement, the date the work was completed and the street address on which the work was done.

1. The accounting may include a 5% administrative fee for additional inspection and other incidental costs in connection therewith.

2. The City Manager shall cause a duplicate copy of the verified statement to be served upon the owner, occupant,

lessee, tenant or person in control of the property.

3. The person served shall have 30 calendar days from the date of service of the verified statement to remit the amount due in total.

§ 8.10.080 ENFORCEMENT.

A. The Police Department shall be responsible for enforcing the provisions of this chapter set forth in §§8.10.030 and 8.10.040. The Police Department may also provide assistance in enforcing the remaining sections.

B. Enforcement of §§ 8.10.060 and 8.10.070 shall be the responsibility of the Community Services Director or designee.

C. The remaining sections are applicable to all sections of the chapter.

D. If any portion of this chapter is found to be unconstitutional or invalid, the City Council hereby declares that it would have enacted the remainder of this chapter regardless of the absence of any such invalid part.

(Ord. 13-1090, § 19, passed 3-12-2013; Ord. 98-559, § 2, passed - -1998)