

ORDINANCE NUMBER 1005

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PERRIS, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, REPEALING CHAPTER 7.26 OF THE PERRIS MUNICIPAL CODE AND ADDING A NEW CHAPTER 7.26 TO THE PERRIS MUNICIPAL CODE PERTAINING TO THE PREVENTION OF GRAFFITI

THE CITY COUNCIL OF THE CITY OF PERRIS DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council hereby finds and determines that:

- A. Graffiti is inconsistent with the City's property maintenance goals and aesthetic standards, the existence of graffiti on public and private property is obnoxious and a blighting factor which not only depreciates the value of the property upon which it exists, but also depreciates the value of adjacent and surrounding properties in the community and adversely affects the business community.
- B. The proliferation of graffiti is often gang related and may be a sign of the existence of broader and more significant illegal activities.
- C. The prompt removal or repair or replacement of property damaged by graffiti of any and all graffiti wherever located in the City is in the public interest and for the public benefit, as the continued existence of graffiti tends to attract additional graffiti and may encourage other acts of malicious vandalism.
- D. The City Council encourages the courts dealing with graffiti taggers and their parents to utilize any and all available and effective remedies, including but not limited to required parental removal of graffiti. The City Council also wishes to amend its existing graffiti removal ordinance to utilize all options available to the City to recover its costs from graffiti vandalism.
- E. A program authorizing the possible use of City funds to remove graffiti on

public and private property or repair or replace such damaged property is a suitable mechanism for the prevention and removal of graffiti within the City.

- F. Graffiti implements and paraphernalia, especially those used by gang members and criminals, may often be stolen, and therefore reasonable regulations are needed to discourage the theft of such implements and paraphernalia.

Section 2. Chapter 7.26 of the Perris Municipal code is hereby repealed in its entirety.

Section 3. Chapter 7.26 is added to the Perris Municipal Code to read as follows:

- 7.26.010 Definitions.
- 7.26.020 Declaration of Public Nuisance.
- 7.26.030 Prohibition Against Causing or Attempting to Cause Graffiti.
- 7.26.040 Furnishing or Selling Specific Types of Graffiti Implements to a Minor.
- 7.26.050 Removal of Graffiti.
- 7.26.060 Land-Use Permits.
- 7.26.070 Determination and Recovery of Costs by Probation Officer from a Minor or His/Her Parents.
- 7.26.080 Recovery of Costs by Assessment or Liens on Minor or His/Her Parents Property.
- 7.26.090 Penalties for Violation.
- 7.26.100 Reward for Information.
- 7.26.110 Ordinance Shall Work in Conjunction With State Statutes and Local Ordinances.

7.26.010 *Definitions.*

Whenever the following words and phrases are used in this Chapter, they shall have the following meanings ascribed to them:

- A. Graffiti. Any unauthorized defacement by inscription, symbol, design

and/or configuration of letters and/or numbers whether written, drawn, scribed, etched, marked, painted, stained, stuck on or adhered by any means whatsoever, to any surface whether publicly or privately owned, including but not limited to, trees, signs, mailboxes, poles, fixtures, utility boxes, trash containers, walls, windows, roofs, paths, fences, walks, streets or pavement, under/overpasses, tunnels, bridges, trestles, drainage facilities, buildings and/or the interior or exterior of any other structure or surface. The term "graffiti" shall include the commonly used term "tagging" and those two terms shall be interchangeable as used in this Chapter.

- B. Aerosol Paint Container. Any canister, can, bottle, container, or other receptacle which contains any substance commonly known as paint, stain, dye and/or any other pigmented substance which is and/or can be pressurized in order to propel any such substance.
- C. Markers. Any implement commonly known as an indelible or permanent ink marker and/or marking pen and/or similar implement which contains any pigmented substance including, but not limited to, ink or any other substance which cannot be easily and completely removed with water after said substance has dried, which implement at its broadest width is greater than 1/8" or which leaves a mark of at least 1/8".
- D. Paint Stick. Any device which contains any substance, solid or liquid, including, but not limited to, any form of any substance commonly known as paint, stain, ink, chalk, wax, epoxy and/or any other similar substance which can be applied to any surface by such means as applying pressure to and/or contacting any surface in such a way as to leave any visible mark, which at its broadest width is greater than 1/8" or which leaves a mark of at least 1/8".
- E. Etchers. Any tool, device and/or other mechanism including, but not limited to, glass etchers, metal etchers, cutting instruments, drill bits or any other instrument that is capable of permanently scratching or otherwise marking any surface including, but not limited to, glass, mirrors, windows, steel, aluminum, brass, tin, fiberglass, wood, plastic, concrete or any other surface.

7.26.020 *Declaration of Public Nuisance.*

- A. Graffiti which appears on any property and/or structures so as to be visible

from a public right-of-way or public owned property or from a common area (including but not limited to the street or beach) is hereby declared to be a public nuisance subject to abatement as provided for by the Perris Municipal Code.

7.26.030 *Prohibition Against Causing or Attempting to Cause Graffiti.*

It is unlawful for any person or group of persons to apply or cause or attempt to apply or cause graffiti or to tag including, but not limited to, any of the following acts:

- A. Drawing, scribing, etching, marking, painting, staining, sticking or adhering by any means whatsoever, any unauthorized inscription, symbol, design, and/or any configuration of letters and/or numbers upon any surface, whether publicly or privately owned, including, but not limited to, trees, mail boxes, signs, poles, fixtures, utility boxes, trash containers, fences, walls, windows, roofs, paths, walks, streets or pavement, under/overpasses, tunnels, bridges, trestles, drainage facilities, buildings and/or the interior or exterior of any other structures or surfaces.
- B. Attempting to draw, scribe, etch, mark, paint, stain, stick or adhere by any means whatsoever, any unauthorized inscription, symbol, design, and/or any configuration of letters and/or numbers upon any surface, whether publicly or privately owned, including, but not limited to, trees, mail boxes, signs, poles, fixtures, utility boxes, walls, windows, roofs, paths, walks, streets or pavement, fences, trash containers, under/overpasses, tunnels, bridges, trestles, drainage facilities, buildings and/or the exterior or interior of any other structures or surfaces.
- C. Conspiring to, or participating in any way in causing or attempting to cause graffiti, including, but not limited to, acting as a "look-out."

7.26.040 *Furnishing or Selling Specific Types of Graffiti Implements to a Minor.*

- A. It shall be unlawful and a violation of this Code for any person to give, sell or loan to any other person any implement with the knowledge such implement may be used to cause or attempt to cause graffiti. It is unlawful for any retail or commercial merchant to store, stock or display any aerosol paint container, paint stick or marker in such a way that it may be handled by or accessible to anyone who is not an employee or otherwise authorized personnel, without the assistance of said employee or authorized personnel.
- B. All such merchants who sell aerosol paint containers, paint sticks or markers as part of a business shall conspicuously display a sign applicable to all such aerosol paint containers, paint sticks or markers available for sale stating substantially the following:
 - (1) "Must be 18 years of age or older to purchase. Must have valid I.D. to purchase"; and
 - (2) "Any person who maliciously defaces real or personal property with graffiti is guilty of a misdemeanor punishable by fine, imprisonment, or both."

All signs must be at least ten inches (10") by sixteen inches (16"), with letter size of at least three-eighths inch (3/8"), and posted in a conspicuous place within six feet (6') of the implement or paraphernalia being offered for sale. Such signs may be obtained from and furnished by the City.

7.26.050 *Removal of Graffiti.*

- A. **Prohibition Against Allowing Graffiti to Remain.** It shall be unlawful for any owner, occupant, or person otherwise in control of any property within the City to permit any graffiti to exist, or to allow any graffiti to remain on any surface located on such property when the graffiti is a public nuisance under Section 7.26.020 and notice of repair, replacement or removal has been given under (B) below.
- B. **Removal from Non-City Property.**
 - (1) It is the duty of every property owner, occupant or person otherwise

in control of any property within the City to remove graffiti promptly from his or her property or to repair or replace that property which cannot be repaired. When graffiti is a public nuisance under Section 7.26.020, the City may cause a written notice to be served upon the owner of the affected property requesting repair, replacement or removal of the graffiti. Notice shall be deemed given upon personal service, or 48 hours after being deposited in the United States Mail, First Class, postage prepaid, directed to the intended individual.

- (2) Notwithstanding any other provisions of this Chapter, if such property owner, occupant or person otherwise in control of the property, fails to remove the graffiti within 48 hours after receipt (as defined in (E)) the notice requiring the removal of the graffiti, the graffiti may be abated by the City pursuant to the provisions of this Code, including the billing of the cost to the property owner. The unpaid costs of abatement may be placed on the tax roll in the manner allowed by law.

C. Removal from City Property. Whenever the City Manager or his designated representative determines that graffiti exists upon property owned by the City, it may be removed or the property repaired or replaced by the City at its expense as soon as possible.

D. Cost Recovery.

- (1) Parental Civil Liability. Consistent with Civil Code Section 1714.1, in situations where graffiti is willfully caused by individuals under the age of 18, the parent or legal guardian of said minor shall be responsible for its removal or payment for the cost thereof. The City may recover such costs up to the maximum amount allowed by law (\$20,000 plus an inflation factor) against the parent or legal guardian.
- (2) The City hereby elects and thus may utilize the cost recovery methods set out in Sections 7.26.070 and 7.26.080 hereof.

7.26.060 *Land-Use Permits.*

In approving tentative or parcel maps, conditional use permits, plot plans, public use permits, or other similar land use entitlement, the City may impose terms or conditions designed to prevent and/or facilitate the removal of graffiti.

7.26.070 *Determination and Recovery of Costs by Probation Officer from a Minor or His/Her Parents.*

- A. Collection by Juvenile Court. As set out in Welfare & Institutions Code Section 742.10 et seq., the City hereby elects to have the ability to request the probation officer of Riverside County to recoup, in juvenile court proceedings, its costs associated with defacement by minors of its and others property with graffiti, as those costs are set out in Section 7.26.070(B) below.
- B. Cost Measures. The City finds that the average cost to the City for removing graffiti or repairing or replacing property are as follows:

Cost per square inch of removing painted graffiti from property	2.25
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Cost per square inch of repairing property:	3.125
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Cost per hour for employees and cost per mile for vehicles and research costs (minutes of computer time) of Perris Police Dept. in identifying and apprehending a minor/person later convicted of a graffiti related offense (PC 549, 549.3, 594.4, 640.5, 640.6, 640.7 as section may be added or those may be amended from time-to-time):	\$95.00
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Cost per square inch of replacing property:	3.125
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These costs include direct and indirect overhead and shall be reviewed and updated as necessary every three years.

- C. Transmitting Cost Data. When the Perris Police Department apprehends a minor/person for one of the offenses stated above, in order to proceed with juvenile court recovery, the City shall transmit to the probation officer and juvenile court data sufficient to determine the City's law enforcement, removal, repair and replacement costs as set out in (B) above. The City also shall participate in procedures developed by the probation

officer.

7.26.080 *Recovery of Costs by Assessment or Liens on Minor or His/Her Parents Property.*

- A. Lien for Costs. The cost of abatement of graffiti, including but not limited to court costs, attorneys fees, costs of graffiti removal, repair or replacement, and law enforcement costs of identifying and apprehending, may be made a lien or special assessment on the minor and/or the property of his/her parents, having custody or control of the minor, as set out in this section. Such costs shall be determined as set out in Section 7.26.070(B).
- B. Notice of Lien. At such time as the City has identified a minor who has defaced property with graffiti, the City may notify the minor and his/her parent(s) of the City's intention to place a lien or special assessment on their property (as identified in the notice) for the costs identified in (A) if the amount of the lien or assessment is not paid by the date specified in the notice or the minor/parent fails to protest the proposed lien/assessment.

The notice shall state the amount of costs, the amount of proposed lien date of a City Council public hearing, at least ten (10) days away, at which the lien/assessment will be considered and the minor/parent's right to protest the proposed lien/assessment at that time.

- C. Service of Notice. The notice shall be served in the same manner as a civil summons. If the minor/parent cannot be found after a diligent search, the notice may be served by conspicuously posting the notice on the property for ten (10) consecutive days and by publishing the notice under Government Code Section 6062 in a newspaper of general circulation in the County.
- D. Public Hearing. At the time, date and place set for public hearing, the City Council shall consider the lien/assessment and any protests and approve, modify or reject the amount of the lien/assessment or its collection. The Council shall determine whether to utilize a lien or special assessment.
- E. Recordation of Lien. The lien shall be recorded in the Riverside County Recorder's office, where it shall have the force, effect and priority of a judgment lien. The City may foreclose on the lien. The City also may recover costs regarding processing, recording or foreclosing on the lien.
- F. Collection of Assessment. A special assessment may be collected at the

same time, in the same manner and subject to the same laws, penalties and procedures for delinquencies as ordinary municipal taxes. However, if any real property to which the abatement and related administrative costs relate has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attached thereon prior to the date on which the first installment of the taxes would become delinquent, then the abatement and related administrative costs shall not result in a lien against the real property but shall instead be transferred to the unsecured roll for collection.

7.26.090 *Penalties for Violation.*

- A. Any violation of this Ordinance is a misdemeanor and shall be punishable by either (1) a fine of up to \$1,000.00, or up to six (6) months in the County jail, or both, and/or community service, or (2) if applicable, the provisions of Penal Code Section 594.
- B. As a part of any sentence or other penalty imposed, the court may also order that restitution be paid to the victim by the admitted or convicted perpetrator, and in the case of a perpetrator who is a minor, by the minor's parent or lawfully designated guardian or custodian, pursuant to, inter alia, Civil Code Section 1714.1 and California Penal Code Sections 640.5 and 640.6. Restitution may include the amount of any reward.

7.26.100 *Reward for Information.*

Rewards for information leading to the identification, apprehension and conviction of any person who has placed graffiti upon any public or private property in the City are hereby authorized in a range from One-Hundred Dollars (\$100.00) to Five Hundred Dollars (\$500.00). Whether a reward is appropriate, and the amount thereof, shall be determined at the discretion of the City Council or Manager, and based on the severity of the crime and the utility of the information received.

7.26.110 *Ordinance Shall Work in Conjunction With State Statutes and Local Ordinances.*

This Ordinance shall be interpreted so as to work with and in conjunction with (when and where applicable) any and all state and/or local ordinances relating to the control of graffiti and/or related vandalism, including, but not limited to, Sections 594, 594.1, 594.3, 640.5, 640.6, of

the California Penal Code; Section 1714.1 of the California Civil Code; and Section 53069.3 of the California Government Code.

Section 4. Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or by reason of any preemptive legislation, the remaining provisions of this ordinance shall remain in full force and effect. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof, independently, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions may be declared invalid or unconstitutional.

Section 5. Effective Date.

This Ordinance repeals and replaces Ordinance Number 828. It shall be effective thirty (30) days after the date of its adoption. Notwithstanding, any graffiti removal actions commenced under Ordinance Number 828 before the date of repeal, shall be completed thereunder.

Section 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty (30) days after its passage.

ADOPTED, SIGNED and APPROVED this 11th day of September, 1995.

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MAYOR OF THE CITY OF PERRIS

Attest:

City Clerk

STATE OF CALIFORNIA)
 COUNTY OF RIVERSIDE) §
 CITY OF PERRIS)

I, Beti An Hynes, duly elected City Clerk of the City of Perris, California, do hereby certify that the foregoing Ordinance Number 1005 was introduced at an adjourned regular meeting thereof held on 28th day of August, 1995, and adopted by the City Council of the City of Perris at a regular meeting thereof held on the 11th day of September, 1995, by the following called vote:

Ayes: Torres, Long, Baitinger, Denney and Fletcher
 Noes: None
 Absent: None

CITY CLERK _____