

Article VI. Use of City Funds for Rewards or Corrections.Sec. 30-50. Graffiti prevention, prohibition and removal.

- (a) Purpose and intent. The purpose of the section is 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 both public and private buildings, structures, or places causes blight within the City which results in a deterioration of property and business values for adjacent and surrounding properties, all to the detriment of the city. The city council finds and determines that graffiti is obnoxious and a public nuisance which must be abated to avoid the detrimental impact of graffiti on the City and to prevent the further spread of graffiti. California Government Code Section 53069.3 permits the use of City funds to remove graffiti from public or privately-owned permanent structures located on public or privately-owned real property in the City.
- (b) Definitions. Graffiti means any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, or painted on any surface of public or private buildings, structures, and places.

Lot means a lot, parcel, tract, premises, or piece of land, improved, or unimproved, in the City.

Owner as used in the section, means any person so designated on the last equalized assessment roll, and also any person having, or claiming to have, any legal, or equitable, interest in the premises.

Graffiti implement means a marking pen with a tip exceeding four (4) millimeters in width containing anything other than a solution which can be removed with water after it dries; a paint stick; any spray container containing any fluid which will leave a permanent mark after it dries; other than an aerosol container of paint; or a deodorant stick, or a deodorant roll-on, which has been modified with an opaque colorant.

- (c) Graffiti implements -public areas. It is unlawful for any person to carry on his or her person and in plain view to the public a graffiti implement while in any posted public facility, park, playground, swimming pool or recreational area, other than a highway, street, alley or way, unless he or she has first received valid authorization from the governmental entity which has jurisdiction over the public area. As used in this section, "posted" means a sign placed in a reasonable location or locations stating it is a misdemeanor to possess a graffiti implement in such public facility, park, playground, swimming pool, or recreational area without valid authorization.
- (d) Graffiti implements - minors. It is unlawful for any person under the age of eighteen (18) years to possess a graffiti implement for the purpose of defacing property while on any public highway, street, alley, or way, or other public place, regardless of whether that person is not in any automobile, vehicle, or other conveyance.
- (e) Nuisance. The existence upon any lot of graffiti is expressly declared to be a public nuisance, and it shall be the duty of both the owner of the lot, and any person who may be in possession, or who has a right to such possession, to at all times keep such lot clean and free from graffiti.

- (f) Removal of graffiti. Graffiti may be removed by any of the following methods:
- (1) Any person applying graffiti within the city shall have the duty to remove the same within twenty-four (24) hours after notice by the city or the public or private owner of the property involved. Failure of any person to so remove graffiti shall constitute an additional violation of this section. Where graffiti is applied by an unemancipated minor, his parent(s) or legal guardian(s) shall be responsible for such removal or for the payment thereof.
 - (2) Whenever the city manager, or his designated representative, determines that graffiti is so located on public or privately-owned real property within this city so as to be capable of being viewed by a person utilizing any public right-of-way in this city, the city manager, or his 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 and/or repair of an area more extensive than where the graffiti is located shall not be authorized, except where the structure or property is city-owned and the city manager, or his designee, determines that a more extensive area is to be repainted and/or repaired, or where the private property owner, or other public entity owner, agrees to pay for the costs of repainting and/or repairing a more extensive 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 and release of the city from liability.
 - c. When a structure is privately owned, the removal of graffiti by city forces or by a private contractor under the direction of the city may be authorized only after securing the written consent of the owner and release of the city from liability.
- (g) Reward. Pursuant to California Government Code Section 53069.5, the city council may, by resolution, establish a reward for information leading to the identification, apprehension, or conviction of any person who places graffiti upon any public or private property in the city. In the event of damage to public property, said resolution may require that the convicted offender reimburse the city for any reward paid, and may place responsibility for reimbursement of such reward upon the parent(s) or legal guardians(s) of any unemancipated minor so convicted.
- (h) Display for sale. On and after July 1, 1993, every person who owns, conducts, operates, or manages a retail commercial establishment selling aerosol containers, or marker pens with tips exceeding four (4) millimeters in width, containing anything other than a solution which can be removed with water after it dries, or paint sticks, shall store or cause such aerosol containers, marker pens, or paint sticks, to be stored in an area viewable by, but not accessible to the public in the regular course of business without employee assistance, pending legal sale or disposition of such marker pens, paint containers, or paint sticks.
- (i) Violations. In addition to other penalties under state law which may be applicable, any violation of this section shall be a misdemeanor offense punishable by either six (6) months in jail, a \$1,000.00 fine, or both such fine and imprisonment.(Ord. Nos. 429, 826)

Sec. 30-51. Billing and Collection of Costs for Removal of Graffiti.

(a) The *Government Code of California* Sections 38772, 38773.2, and 37773.6 authorizes the city to make the expense of abatement of a graffiti nuisance a lien against the property of a minor, with joint and several liability against the parent or guardian having custody and control of the minor for such lien. Expense of abatement includes law enforcement costs incurred by the city. Pursuant to said provisions of the *Government Code*, the following procedure to collect abatement and related administrative costs incurred in the summary abatement resulting from the defacement by a minor of the property of another by graffiti or other inscribed material.

(1) There is hereby imposed a charge for expenses of abatement. A minor and the parent or guardian having custody and control of said minor shall pay to the city all expenses of abatement, as defined in Section 38772(d)(1) of the *Government Code of California*, incurred by the city in identifying and apprehending the minor. "Minor" means a minor as defined in Section 38772(d)(3) of the *Government Code of California*.

(2) The Director of Public Safety of the City of Paramount shall serve the minor and the parent or guardian having custody and control of the minor, a notice entitled "Notice of Hearing" substantially in the following form:

NOTICE OF HEARING TO DETERMINE EXPENSE
OF ABATEMENT OF NUISANCE

Notice is hereby given that on the _____ day of _____, 199__, the Director of Public Safety shall hear and determine the costs incurred by the City arising out of the graffiti nuisance violation committed by _____, on _____, 199__.

The alleged violations consist of the following: _____

The expenses of abatement consist of the following: _____

All persons having any objection to, or interested in said matters are hereby notified to attend a meeting with the Director of Public Safety of the City of Paramount to be held on the _____ day of _____, 199__, at City Hall Council Chambers, 16400 Colorado Avenue, Paramount, California, when their testimony and evidence will be heard and given due consideration.

DATED: The ____ day of _____, 199__.

CITY CLERK

Notice shall be provided in *Government Code* Section 38773.2(b).

- (3) The decision of the Director of Public Safety shall be final. The minor and/or parent or guardian having custody and control of said minor shall have thirty (30) days from the billing date to pay the charges as determined by the Director of Public Safety. If the charges are not paid within the thirty (30) days, the total costs shall become a special assessment against the property of the minor and the parent or guardian, and upon recordation in the office of the County Recorder of a Notice of a Lien, as so made and confirmed shall constitute a lien on said property for the amount of such assessment.
- (4) The City Manager shall be authorized to execute a Notice of Lien.
 - a. After confirmation and recordation, a copy may be turned over to the tax collector and shall add the amounts of the respective assessments to the next regular tax bills levied against the respective lots and parcels of land, and thereafter the amounts shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to foreclosure and sale in case of delinquency as provided for ordinary municipal taxes; or
 - b. After recordation the lien may be foreclosed by judicial or other sale in the manner and means provided by law.
 - c. The Notice of Lien for recordation shall be in the form substantially as follows:

NOTICE OF LIEN
(Claim of City of Paramount)

Pursuant to the authority vested by the provisions of Section 38773.2 of the *Government Code* and Section 30-51 of the Paramount Municipal Code, the City of Paramount did on or about the ____ day of _____, 199__, determine and assess the costs of the abatement and related administrative costs incurred thereby, of a graffiti nuisance which occurred on or about _____, 199__; and the same has not been paid nor any part thereof; and the City of Paramount does hereby claim a lien for such graffiti nuisance abatement in the amount of said assessment in the sum of \$ _____; the same shall be a lien against the real property hereinafter described until the same has been paid in full and discharges of record.

The real property hereinabove mentioned, and upon which a lien is claimed is that certain parcel of land particularly described as follows and situated in the County of _____, State of California.

(Description)

Dated this ____ day of _____, 199__.

CITY MANAGER, CITY OF PARAMOUNT

- (b) The City Council, as an alternative hereby adopts a procedure for recovery of related administrative costs incurred for the abatement of graffiti nuisance by a special assessment against a 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 in the same time and in the same manner as ordinary municipal taxes are collected and shall be subject the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection, and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the abatement and related administrative costs relates 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 attaches 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. Notices or instruments relating to the abatement proceeding or special assessment may be recorded.
 - (1) The terms "abatement and related administrative costs," "graffiti or other inscribed material" and "minor" have the same meaning as specified in Sections 38772 and 38773.2 of the *Government Code*.
 - (2) The procedures and the hearing by the Director of Public Safety and all notices hereinable required shall be required and are hereby incorporated prior to the recordation of a Notice of Special Assessment. Should the minor and/or parent or guardian having custody and control of the minor fail or refuse to pay the charges for the expenses of the graffiti abatement within thirty (30) days after billing such costs, such shall constitute a special assessment against the property of the minor and/or the parent or guardian having custody of the minor substantially in the following form:

NOTICE OF SPECIAL ASSESSMENT

Under the authority Government Code Section 38773.6 and as vested by Section 30-51 of the Municipal Code of the City of Paramount the City did abate a graffiti nuisance on _____, 199__, and then on _____, 199__ did assess a cost of the abatement of said nuisance. The City of Paramount claims a special assessment on the real property for related administrative expenses in the sum of \$_____. This amount is a special assessment against the real property until it is paid with interest at the rate of seven percent (7%) a year from _____, 199__.

The real property referred to above and upon which the special assessment is claimed is that certain property more particularly described as follows _____ situated in the County of Los Angeles, State of California.

DATED: _____, 199__

CITY OF PARAMOUNT

BY _____
CITY MANAGER

(Ord. Nos. 429, 826, 848)

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