

ORDINANCE NO. 2253

**AN URGENCY ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF GARDEN GROVE, CALIFORNIA,
RELATING TO THE PREVENTION, PROHIBITION,
AND REMOVAL OF GRAFFITI**

The City Council of the City of Garden Grove hereby ordains as follows:

Section 1. Code Amendment

The title of Chapter 8.64 of the Garden Grove Municipal Code is hereby amended in its entirety to read as follows:

"Graffiti Prevention, Prohibition and Removal

Section 8.64.010 Purpose and Intent

The purpose of this Chapter 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 so as to avoid the detrimental impact of such graffiti on the City and to prevent the further spread of graffiti. The City Council further finds that the application of graffiti, as defined herein, is willful misconduct which damages or destroys property. 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.

Section 8.64.020 Graffiti Defined

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.

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 or other substance capable of defacing property.

Felt Tip Marker: means any indelible marker or similar implement with a tip which, at its broadest width is greater than one-eighth (1/8th) inch, containing an ink that is not water soluble.

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-eighth (1/8th) inch in width, visible from a distance of 20 feet, and not water soluble.

Graffiti Implement: means an aerosol paint container, a felt tip marker, or a paint stick or etching tool capable of scarring glass, metal, concrete or wood.

Section 8.64.030 Graffiti Prohibition/Declaration of Public Nuisance

(1) It is unlawful for any person to paint, chalk, etch, or otherwise apply graffiti on public or privately owned buildings, permanent structures, or places located on public or privately owned property within the City.

(2) The existence of graffiti upon public or private property is hereby declared to be a public nuisance.

Section 8.64.040 Possession of Graffiti Implement

No person shall have in his or her possession any graffiti implement while in any public park, playground, swimming pool, public recreational facility, or any public right-of-way in the City. This section shall not apply to authorized employees of the City of Garden Grove, or authorized employees of any individual, agency, or company under contract with the City.

Section 8.64.050 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 same within twenty-four 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 Chapter. Where graffiti is applied by an unemancipated minor, the parent[s] or legal guardian[s] shall be responsible for such removal or for the payment therefor.

(2) Whenever the City Manager or his/her designated representative determines that graffiti is so located on public or privately owned structures 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/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 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/her designee determines that a more extensive area is to be repainted or repaired, or where the private property owner, or other public entity owner agrees to pay for the costs of repainting 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) Where 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.

(3) At City's option or if a private property owner's consent cannot be obtained, graffiti which is located on privately owned permanent structures on privately owned real property within the City and which can be viewed by a person utilizing any public right-of-way in the City may be removed by the City at the owner's expense as a public nuisance pursuant to the following provisions:

(a) The City Manager or his/her designated representative shall cause 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 the notice in the U.S. Postal Service enclosed in a sealed envelope with first-class postage thereon fully pre-paid. The mailed notice shall be certified and addressed to the owner as stated above, and if there is no known address, then in care of the property address. Service shall be complete at the time of deposit in the U.S. Postal Service. The failure of

any person to receive such notice shall not affect the validity of any proceeding hereunder. The owner shall have five (5) days after the date of service 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.

(b) The notice shall be on City letterhead in substantially the following form:

"NOTICE OF INTENT TO REMOVE GRAFFITI

NOTICE IS HEREBY GIVEN that you are required at your expense to remove or paint over the graffiti located on the property commonly known as _____, Garden Grove, California, which is visible to public view, within five (5) days after the date of this notice. The graffiti is visible to public view and therefore constitutes a public nuisance. If you fail to comply with this order City employees or private City contractors will enter upon your property and abate the public nuisance by the removal or painting over of 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 objections to, or interest in said matters are hereby notified to submit any objections to the City Manager or his/her designated representative within five (5) days from the date of this notice.

At the conclusion of this five (5) day period the City may proceed with the abatement of the graffiti on your property at your expense without further notice."

(c) Service of the notice by the City Manager or his/her designated representative shall be made on the day the notice is dated and by affidavit, the original of which shall be filed with the City Clerk.

(d) If any objections are submitted to the City Manager within five (5) days after the date appearing on the Notice of Intent to Remove Graffiti, the City Manager, or his designee, shall hold a hearing on the objections. IF the City Manager overrules the objections, the owner shall have five (5) days from date of the manager's decision to remove the graffiti. Owner may appeal the Manager's decision to the neighborhood

improvement and conservation commission. The commission shall hold a hearing as soon as reasonably practicable. Its decision shall be final.

(e) If no objections are submitted as set forth in (d) above, or if the objections are overruled following hearing, and if the owner fails to remove or fails to cause the graffiti to be removed by the designated date, or such continued date thereafter as the City Manager or his/her designated representative approves, then the City Manager or his/her representative 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.

(f) Should the City Manager be required to abate the graffiti as set forth in (e) above, he or she shall thereafter follow the procedures set forth in Sections 6.20.070-6.20.100 regarding recovery of the costs of abatement, through assessment of the costs of abatement against the property as a lien. The notice of lien for purposes of this Chapter shall be in form substantially as follows:

NOTICE OF LIEN

(Claim of the City of Garden Grove)

Pursuant to Government Code Section 25845 and the authority of Chapter 8.64 of the Garden Grove Municipal Code, the City Manager of the City of Garden Grove 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 Garden Grove 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 thereof; and that said City of Garden Grove does hereby claim a lien for 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 Garden Grove, County of Orange, State of California and particularly described as follows:

(Description)

DATED this _____ day of _____, 19__.

City of Garden Grove, California

Section 8.64.060 Reward

Pursuant to 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 guardian[s] of any unemancipated minor so convicted.

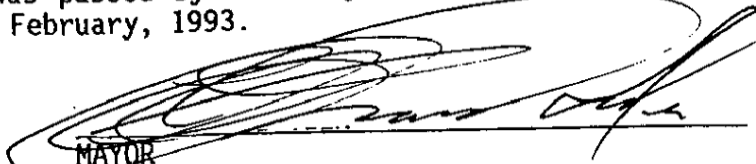
Section 8.64.070 Violations

In addition to other penalties under state law which may be applicable, any violation of this chapter shall be a misdemeanor offense punishable by either six (6) months in jail, a \$1,000 fine, or both such fine and imprisonment."

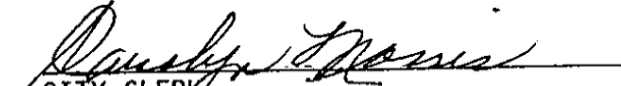
Section 2. Urgency Findings.

The City of Garden Grove is experiencing an onslaught of graffiti which is creating a blighted condition throughout the City. Prompt action is required to curb the graffiti and maintain community property values. Unless this ordinance becomes effective immediately pursuant to Government Code Section 36934, the City will not be able to promptly stem the tide of graffiti. This ordinance is therefore necessary for the protection of the public health, safety and welfare and shall take effect immediately upon its adoption as an urgency ordinance.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on this 2nd day of February, 1993.


MAYOR

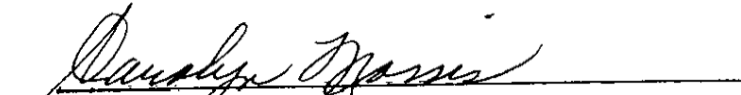
ATTEST:


CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, CAROLYN MORRIS, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was passed by the Council of the City of Garden Grove, California, by a vote of four-fifths (4/5ths) of the members thereof, at a regular meeting held on the 2nd day of February, 1993, by the following vote:

AYES: COUNCILMEMBERS: (5) BROADWATER, CHUNG, DINSEN, LEYES, KESSLER
NOES: COUNCILMEMBERS: (0) NONE
ABSENT: COUNCILMEMBERS: (0) NONE


CITY CLERK