

ORDINANCE NO. 2287

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING CHAPTER 8.64 REGARDING GRAFFITI PREVENTION,
PROHIBITION, AND REMOVAL

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY ORDAINS AS
FOLLOWS:

Sections:

- 8.64.010 Purpose and Intent
- 8.64.020 Graffiti Defined
- 8.64.030 Graffiti Prohibition/Declaration of Public Nuisance
- 8.64.040 Possession of Graffiti Implement
- 8.64.050 Removal of Graffiti
- 8.64.060 Reward
- 8.64.070 Violations - Penalties

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 wilful 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. (Ordinance 2253 § 1 (part), 1993.)

8.64.020 Graffiti Defined. "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 inch, containing an ink that is not water soluble.

"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.

"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.

applied to a surface by pressure, and upon application, leaving a mark at least one-eighth inch in width, visible from a distance of twelve feet, and not water soluble. (Ordinance 2253 § 1 (part), 1993.)

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 declared to be a public nuisance. (Ordinance 2253 § 1 (part), 1993.)

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. (Ordinance 2253 § 1 (part), 1993.)

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 require that the property owner remove the graffiti himself, or the City may 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) If a private property owner's consent cannot be obtained and/or the owner has not removed the graffiti within five days then the City may remove 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 options:

(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 prepaid. 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 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, if not paid, 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 days after the date appearing on the notice of intent to remove graffiti, the City Manager, or his/her designee, shall hold a hearing on the objections. If the City Manager overrules the objections, the owner shall have five 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 subsection (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 Section 6.20.070 - 6.20.080 of the Municipal Code to determine the actual costs of abatement. The owner shall then be sent a notice of assessment for such abatement costs and will be given thirty (30) days from the mailing of said notice to pay the City for the full cost of abatement.

Should the owner fail to pay the assessment within the time allotted, the City Manager shall thereafter follow the procedures set forth in Section 6.20.090 - 6.20.100 of the Municipal Code regarding recovery of the costs of abatement, through assessment of the costs of abatement against the property as lien. The notice of lien for purposes of this Chapter shall be in substantially the following form:

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

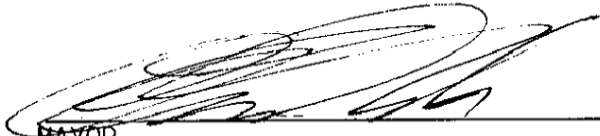
(Ordinance 2253 § 1 (part), 1993.)


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, the 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. (Ordinance 2253 § 1 (part), 1993.)

8.64.070 Violations - Penalties. 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 months in jail, a one thousand dollar fine, or both such fine and imprisonment. (Ordinance 2253 § 1 (part), 1993.)

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the 1st day of March, 1994.

ATTEST:


MAYOR


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 introduced and presented on February 15, 1994 with vote as follows:

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

and was passed on March 1, 1994 by the following vote:

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


CITY CLERK