

Chapter 9.32 GRAFFITI ABATEMENT

Sections:

9.32.010 Purpose and intent.

The city council finds that graffiti on public or private property is a cause of blight which depreciates not only the value of the property defaced, but also the value of adjacent and surrounding properties, creating a negative impact upon the entire city.

Graffiti is also a means of identification utilized by gangs. Graffiti encourages further gang-related activities. Graffiti creates fear within the community and blight upon the urban landscape. It devalues property and detracts from the sense of community enjoyed by the residents of Rocklin. Graffiti is both a crime against property and a social crime against the quality of life and freedom from intimidation citizens desire in their neighborhoods. Graffiti is vandalism and is prohibited by Penal Code Section 594, et seq., and Section 640.6.

California Government Code Section 53069.3 authorizes the city, under certain circumstances, to provide for the removal of graffiti and other inscribed materials from private as well as public property. The council finds and determines that graffiti is obnoxious and a public nuisance and unless the city causes it to be removed from public and private property, it tends to remain. Other properties then become the target of graffiti with the result that entire neighborhoods are affected and become less desirable places in which to be.

It is the purpose and intent of the city council, through the adoption of this chapter, to provide additional enforcement tools to protect public and private property from acts of vandalism and defacement, including the application of graffiti on privately and publicly owned walls and structures. It is the further intent of the city council, through the adoption of this chapter, to advise all of those who disregard the property rights of others, that the law enforcement agencies of the city, county and the district attorney's office will strictly enforce the law and vigorously prosecute those persons engaging in the defacement of public and private properties.

(Ord. 728 § 1 (part), 1995).

9.32.020 Definitions.

"Adhesive label" means any sheet of paper, fabric or plastic, or other substance with an adhesive backing.

"Aerosol paint container" means any aerosol container which is adapted or made for the purpose of applying spray paint, or other substance capable of defacing property.

"Permanent felt tip marker" means any marker or similar implement with a tip which, at its broadest width, is greater than one-eighth of an inch, containing permanent ink or other permanent pigmented liquid.

"Graffiti" means any inscription, word, figure or design that is marked, etched, scratched, drawn, painted on, or otherwise affixed to or on any surface, regardless of the nature of the material, without the prior written authorization given by the owner thereof.

"Graffiti implement" means an aerosol paint container, a permanent felt tip marker, paint stick, etching tool, adhesive label, or any other device capable of being used to leave a visible mark at least one-eighth of an inch in width upon any surface of any material.

"Paint stick" means a device containing a solid form of paint, wax, epoxy or similar substance capable of being applied to a surface by pressure, and upon application, leaving a mark at least one-eighth of an inch in width.

"Etching tool" means masonry or glass drill bit, a carbide drill bit, a glass cutter, a grinding stone, an awl, a chisel, a carbide scribe, or other similar device that may be used to etch, scratch or mark a surface.

(Ord. 728 § 1 (part), 1995).

9.32.030 Leaving graffiti on property prohibited.

It is unlawful for the owner of any real property within the city, including fixtures and improvements, which bears graffiti to allow the graffiti to remain on the property.

(Ord. 728 § 1 (part), 1995).

9.32.040 Possession of graffiti implements by minors prohibited.

It is unlawful for any person under the age of eighteen years to have in his or her possession any graffiti implement while upon public property, or upon private property without the prior written consent of the owner of such property. This section shall not apply to the possession of any graffiti implement under the circumstances and in the manner prohibited by Penal Code Sections 594.1 and 594.2.

(Ord. 728 § 1 (part), 1995).

9.32.050 Possession of graffiti implements in designated public places prohibited.

It is unlawful for any person to possess any graffiti implement while in or upon any public park, playground, swimming pool, recreational facility, or within twenty-five feet of an underpass, bridge abutment, storm drain, sound wall or similar types of infrastructure not normally used by the public, except as may be authorized by the city. This section shall not apply to the possession of any graffiti implement under the circumstances and in the manner prohibited by Penal Code Sections 594.1 and 594.2.

(Ord. 728 § 1 (part), 1995).

9.32.060 Selling or furnishing graffiti implements to minors prohibited.

- A. It is unlawful for any person to sell, exchange, give, loan or otherwise furnish, or permit to be sold, exchanged, given, loaned or otherwise furnished, any graffiti implement to any person who is in fact under the age of eighteen years unless such person is in the presence of his or her parent or guardian.
- B. This section shall not apply to the selling, giving or otherwise furnishing to any person who is in fact under the age of eighteen any aerosol container of paint under the circumstances and in the manner prohibited by Penal Code Section 594.1.

(Ord. 728 § 1 (part), 1995).

9.32.070 Purchase of graffiti implements by minors prohibited.

- A. It is unlawful for any person who is under the age of eighteen years to purchase or otherwise obtain a graffiti implement unless such person is in the presence of his or her parent or guardian.
- B. This section shall not apply to the purchase of any aerosol container of paint by any person who is under the age of eighteen under the circumstances and in the manner prohibited by Penal Code Section 594.1.

(Ord. 728 § 1 (part), 1995).

9.32.080 Accessibility to graffiti implements.

Every person who owns, conducts, operates or manages a commercial establishment that sells graffiti implements shall prominently display in the proximity of the implements a sign not smaller than eight and one-half inches by eleven inches which shall read as follows:

GRAFFITI IS A CRIME. ANY PERSON DEFACING REAL OR PERSONAL PROPERTY NOT HIS/HER OWN WITH GRAFFITI IS GUILTY OF A CRIME PUNISHABLE BY IMPRISONMENT OF UP TO ONE YEAR AND/OR A FINE OF UP TO \$50,000. PENAL CODE § 594.

SELLING OR OTHERWISE CONVEYING AEROSOL SPRAY PAINT, PERMANENT WIDE-TIPPED MARKERS ($\frac{1}{8}$ "), PAINT STICKS, ETCHING, TOOLS, OR ADHESIVE LABELS TO PERSONS UNDER 18 YEARS OF AGE IN THE CITY OF ROCKLIN IS A MISDEMEANOR, PUNISHABLE BY A FINE AND/OR IMPRISONMENT.

Where the sign specified in Penal Code Section 594.1 is required, the signs required by this section shall be in addition to that required by the Penal Code.

(Ord. 728 § 1 (part), 1995).

9.32.090 Penalties for violations.

- A. Violation of any section of this chapter may be charged as either a misdemeanor or an infraction in the discretion of the city attorney.
- B. The parent(s) or legal guardian of a minor who violates this chapter shall be liable for the payment of civil damages pursuant to Civil Code Section 1714.1(b).

(Ord. 728 § 1 (part), 1995).

9.32.100 Declaration of nuisance.

The presence of graffiti on private or public property is declared to constitute a public nuisance which may be abated or enjoined as such in accordance with provisions of this chapter, Chapter 8.04, or any other provision of law.

(Ord. 728 § 1 (part), 1995).

9.32.120 Authority to remove.

Code enforcement officers shall cause the abatement and removal of graffiti in accordance with the procedures prescribed in this chapter, Chapter 8.04, and any other provision of law.

(Ord. 728 § 1 (part), 1995).

(Ord. No. 1101, § 3, 8-14-2018)

9.32.130 Notice and order to remove—Form.

Upon discovering graffiti on public or private property, a code enforcement officer shall cause a notice and order to abate and remove graffiti to be mailed to, or personally served upon, the owners of the property, as shown on the latest equalized assessment roll, and any individuals known to have applied the graffiti to the property. The notice and order shall advise as follows:

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- A. If the graffiti is not removed within ~~the time frame~~seventy-two (72) hours ~~set forth in the notice and order~~, the city shall remove the graffiti and assess the costs to the property owner and/or the individuals responsible.
 - B. If a responsible individual is a minor, costs shall be assessed to the parents or guardians of that minor.
 - C. If consent to remove the graffiti is provided to the city by the owner, or any person so authorized by the owner, within the time given to remove the graffiti, the city shall remove the graffiti ~~at no cost to the owner~~and assess the costs to the property owner and/or individuals responsible.
 - D. Prior to removal of said graffiti, the property owner shall report graffiti vandalism to the Rocklin Police Department.
 - E. The owner or individual may appeal the order to abate and remove graffiti as set forth in Chapter 9.01 of this Title 9 or any successor chapter.

~~(Ord. 728 § 1 (part), 1995)~~

~~(Ord. No. 1101, § 3, 8-14-2018)~~

9.32.140 Reserved.

Editor's note(s)—Ord. No. 1101, § 3, adopted Aug. 14, 2018, repealed former § 9.32.140 which pertained to appeal, and derived from Ord. No. 728, § 1(part), adopted in 1995.

9.32.150 City abatement—Cost assessment.

The city may recover the cost of abatement, including its administrative costs, under this chapter in the same manner as provided in Chapter 1.08 of this code.

(Ord. 728 § 1 (part), 1995).

(Ord. No. 1101, § 3, 8-14-2018)

9.32.160 Treble damages.

Upon entry of a second or subsequent civil or criminal judgment within a two-year period which ordered abatement of graffiti as a public nuisance, a fine in the amount of three times the cost of abatement shall be paid by the violator(s).

(Ord. 728 § 1 (part), 1995).