

ORDINANCE NUMBER 0- 18863 (NEW SERIES)

ADOPTED ON OCT 16 2000

AN ORDENANCE AMENDING CHAPTER V, ARTICLE 4, DIVISION 4 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTIONS 54.0401 THROUGH SECTION 54.0403; AMENDING SECTION 54.0405; RETITLING AND AMENDING SECTION 54.0406 TO SECTION 54.0407; AMENDING SECTION 54.0408; RETITLING AND AMENDING SECTION 54.0409; AMENDING SECTION 54.0410; AMENDING SECTION 54.0413, ALL RELATING TO GRAFFITI ABATEMENT.

WHEREAS the present definition of *graffiti* must be expanded to accurately reflect the varying forms of *graffiti* vandalism which exist today; and

WHEREAS expanding the definition of *graffiti* will serve to strengthen the City's ability to address the blight caused by *graffiti*;

WHEREAS authorizing the City to recover abatement costs from problem properties which are continually abated is a necessary step to reduce the continual use of public fmds for *graffiti* abatement;

NOW THEREFORE, BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Section 54.0401 to read as follows:

SECTION 54.0401 - Declaration of Purpose

(a) It is the purpose and intent of this Division to provide a procedure for removal of *graffiti* from surfaces on public or private property in order to reduce blight and deterioration within the City and to protect the public health and safety.

(b) The City finds and determines that *graffiti* is obnoxious and constitutes a public nuisance, and must be abated to avoid the detrimental impact of such *graffiti* on the City and its residents and prevent the further spread of *graffiti*.

Section 2. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 54.0402 and 54.0402 to read as follows:

SECTION 54.0402 - Definitions

Defined words appear in italics. The words and phrases used in this Division have the meanings set forth in this section:

"*Enforcement Official*" has the same meaning as defined in Section 11.0210.

"*Graffiti*" means any *unauthorized* inscription, word, figure, picture, or design that is sprayed, marked, posted, pasted or otherwise affixed, drawn, or painted on any surface of public or private property. *Graffiti* shall not mean a sign as defined in Municipal Code section 113.0103.

"*Graffiti Abatement Procedure*" means an administrative abatement procedure which identifies *graffiti*, issues notice to the *responsible person* to abate the *graffiti*, and provides for abatement in the absence of timely response.

"*Private Contractor*" means any person with whom the City has duly contracted to remove *graffiti*.

"*Responsible Person*" has the same meaning as defined in Section 11.0210.

"Unauthorized" means without the permission of a responsible person or in violation of this Division as determined by the enforcement official.

SECTION 54.0403 - Authority

The City Attorney and the Director of the Neighborhood Code Compliance Department, or any Director authorized by the City Manager, shall be vested with the authority to administer and enforce the provisions of this Division. The City Attorney and the Director may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter I of this Code as may be necessary to effectively implement and enforce this Division.

SECTION 54.0404 - Enforcement Remedies

[No change in text.]

Section 3. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Section 54.0405 to read as follows:

SECTION 54.0405 - *Graffiti* Prohibited

(a) To the extent not otherwise provided for by state law, it is unlawful for any person to place graffiti upon any public or private property within the City of San Diego.

(b) It is unlawful for any responsible person, to maintain *graffiti* that has been placed upon, or to allow *graffiti* to remain upon, any surface within that person's control, possession or ownership when the *graffiti* is visible from the street or other public property.

Section 4. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Section 54.0406 to read as follows:

SECTION 54.0406 - Abatement Authority and Procedures

Whenever an enforcement official determines that *graffiti* located on publicly or privately owned property in the City of San Diego is visible from the street or other public property, the enforcement official is authorized to follow the administrative abatement procedures for Time Frame One as found in Division 6, Article 2 of Chapter I.

Section 5. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 54.0407 and 54.0408 to read as follows:

SECTION 54.0407 - Removal of *Graffiti* by City on Private Property

(a) In accordance with the administrative abatement procedures found in Division 6, Article 2 of Chapter I of this Code to remove *graffiti*, City crews or its *private contractor* are authorized to enter upon private property and abate *graffiti* upon real property and its appurtenances which are visible from public streets, property or rights-of-way.

SECTION 54.0408 - Private Property Consent Forms

Upon receiving a Notice and Order of Abatement, property owners in the City of San Diego may consent in writing prior to the City's entry onto private property for *graffiti* removal purposes. The Director will make forms for such consent available. The consent form shall include a waiver of liability by the property owner in the event of any damage caused by the City in removing the *graffiti*.

Section 6. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 54.0409 and 54.0410 to read as follows:

SECTION 54.0409 - Removal by City on Public Property

(a) Where *graffiti* is located on property owned by a public entity other than the City, the removal of the *graffiti* may be authorized only after securing the consent of an authorized representative of the public entity having jurisdiction over the property

SECTION 54.0410 - Cost Recovery

(a) The *Director* shall follow the cost recovery procedures found in Division 3, Article 3 of Chapter I of this Code. Except as provided in 54.0410(b), no costs shall be assessed against any property owner who was not responsible for, or who did not cause, the placement of the *graffiti* on the affected premises.

(b) The *Director* may recover the costs of abatement as to property owners whose properties have been abated by the City more than five times within a twelve month period;

(c) In deciding whether to recover abatement costs under this Section, the Director may consider the financial and physical ability of the property owner to abate the property;

(d) Cost recovery procedures shall also apply to parents of juveniles who violate Section 54.0405 of this Code.

SECTION 54.0411 - Parent Responsibility

[No change in text.]

SECTION 54.0412 - Community Service

[No change in text.]

Section 7. That Chapter V, Article 4, Division 4 of the San Diego Municipal Code be and the same is hereby amended by amending 54.0413 to read as follows:

SECTION 54.0413 - Reward Authority

(a) Pursuant to Section 53069.5 of the Government Code, the City Manager may pay from City funds a reward of up to \$500.00 for information leading to the arrest and conviction of any person for violation of Section 54.0405 or any Penal Code sections prohibiting *graffiti*. In the event of multiple contributors of information, the reward amount shall be divided by the City in the manner the City deems appropriate. For the purposes of this section, a plea bargain to a lesser offense, or diversion of the offending violator to a community service program or volunteer work service program, shall constitute a conviction.

(b) Claims for rewards under this section shall be filed with the City. Each claim shall:

(1) specifically identify the date, location, and kind of property damaged or destroyed;

(2) identify by name the person who was convicted, or the person who confessed to the damage or destruction of the City property;

(3) identify the court and the date upon which the conviction occurred or the place and the date of the confession.

(c) No claim shall be allowed by the City Manager unless the Police Chief or his designated representative investigates and verifies the accuracy of the claim and recommends that it be allowed or disqualified.

(d) If the party providing information is a private security guard, and the claim qualifies for a reward, the reward shall be given to the security company that employed the guard.

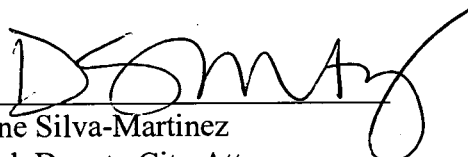
(e) If the person committing the *graffiti* is a juvenile, then the custodial parent of the juvenile shall be liable to reimburse the City for any reward paid pursuant to this section.

Section 8. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 9. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By


Diane Silva-Martinez
Head Deputy City Attorney

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