

1 BEFORE THE BOARD OF SUPERVISORS

2 OF THE COUNTY OF FRESNO

3 STATE OF CALIFORNIA

4 ORDINANCE NUMBER _____

5 AN ORDINANCE ADDING CHAPTER 10.31 TO THE ORDINANCE CODE OF THE
6 COUNTY OF FRESNO PERTAINING TO GRAFFITI ABATEMENT

7 The Board of Supervisors of the County of Fresno ordains as follows:

8 **Section 1.** That the Ordinance Code of the County of Fresno is hereby amended by adding
9 Chapter 10.31 of Title 10 to read as follows:

10 Chapter 10.31 – GRAFFITI ABATEMENT

11 Section 10.31.010 – Title, Purpose, and Intent

12 Section 10.31.020 – Definitions

13 Section 10.31.030 – Graffiti is a Public Nuisance

14 Section 10.31.050 – Abatement of Graffiti

15 Section 10.31.050 – Notice to Property Owner

16 Section 10.31.060 – Appeal

17 Section 10.31.070 – Jurisdiction to Abate Graffiti as a Public Nuisance

18 Section 10.31.080 – Cost Recovery for Graffiti Abatement

19 Section 10.31.090 – Stay of Abatement Proceedings During Criminal Prosecution of
20 Person Responsible for Graffiti

21 Section 10.31.100 – Removal by the County with Consent Owner

22 Section 10.31.110 – Non-Exclusive Remedy

23 Section 10.31.120 – Severability

24 Section 10.31.010 – Title, Purpose, and Intent

25 This chapter shall be known as the “Graffiti Abatement” ordinance. The board of supervisors find that graffiti on public and private property in the unincorporated areas of the County of Fresno constitutes a threat to public health, safety and welfare, in that the presence of graffiti is detrimental to property values, degrades the quality of life in the community, is often connected to gang activity and may therefore lead to an increase in crime, invites further

1 vandalism, and encourages vagrancy and the accumulation of waste and debris, if not promptly
2 removed.

3 The purpose of this chapter is to prevent the spread of graffiti and to establish
4 mechanisms for its removal from property within the unincorporated area of the County of
5 Fresno, and for the recovery of the county's costs associated with such removal.
6

7 Section 10.31.020 – Definitions

8 For the purposes of this chapter:

- 9 A. "County administrative officer" means county administrative officer as established and
10 defined in Chapter 2.08 of this code or the county administrative officer's designee.
- 11 B. "Enforcement officer" means any county employee designated by the county
12 administrative officer, director of the county department to enforce any provision of this
13 code or related state law, and shall also mean regular salaried, full-time employees of
14 the sheriff-coroner-public administrator's office.
- 15 C. "Graffiti" means any unauthorized inscription, writing, lettering, word, figure, mark,
16 design, or other inscribed material that is written, marked, etched, scratched, drawn,
17 painted, or otherwise posted, pasted, or affixed on privately owned real or personal
18 property.
- 19 D. "Hearing officer" means the person or persons appointed pursuant to Fresno County
20 Ordinance Code, Chapter 2.81, Title 2.
- 21 E. "Owner" means an individual or individuals, corporation, partnership, limited liability
22 company, or any other entity holding fee title to the subject real property. If more than
23 one individual or entity holds any portion of the fee interest in the property, the owners'
24 obligations under this chapter are joint and several as to each owner.
25

1 F. "Staff to the officer of county hearing officer" means county staff as designated by the
2 county administrative officer as described in Section 2.81.130 of this code.

3
4 Section 10.31.030 – Graffiti is a Public Nuisance

5 The Board of Supervisors hereby declares that graffiti visible from a public right-of-way
6 or other public property, is a public nuisance which may be abated pursuant to the procedures
7 set forth in this chapter and in accordance with Chapter 1.16 of this code.

8
9 Section 10.31.040 – Abatement of Graffiti

10 A. Whenever the enforcement officer determines that graffiti exists on any permanent
11 surface on privately owned real or personal property located in the unincorporated area
12 of Fresno County, which is visible from a public right-of-way or other public property, the
13 county may proceed to abate the nuisance pursuant to the provisions of this chapter and
14 Chapter 1.16 of this code.

15 B. The county is authorized to recover any abatement costs and expense incurred by the
16 county in abating graffiti.

17 C. Recoverable graffiti abatement costs include the following:

- 18 1. The costs and expense of removing graffiti from defaced property.
 - 19 2. The costs and expense of repairing or replacing defaced property when the
20 county determines that removal of the graffiti would not be cost effective.
 - 21 3. The related administrative, overhead, direct, or incidental costs incurred in
22 performing or causing the performance of the enforcement, abatement and
23 collection procedures described in this chapter.
- 24
25

1 Section 10.31.050 – Notice to Property Owner

- 2 A. To commence proceedings under this chapter, the enforcement officer shall cause a
3 written notice and order to abate, in accordance with Chapter 1.16 of this code, to be
4 served on the owner.
- 5 B. The notice shall be served in accordance with Section 1.16.130 of this code.
- 6 C. The notice shall inform the owner that graffiti exists on the owner’s property, that the
7 property defaced with graffiti is a public nuisance, and that maintenance thereof
8 constitutes a violation of this code. The notice shall order that the graffiti be removed
9 within fifteen (15) calendar days of service, pursuant to Section 1.16.130, or the county
10 will cause the nuisance to be abated at the expense of the owner. The notice shall
11 contain language in substantially similar form as the following:

12 NOTICE OF INTENT TO REMOVE GRAFFITI

13 NOTICE IS HEREBY GIVEN that pursuant to Fresno County Ordinance Code Section
14 10.31.050, you are required at your expense to remove or paint over the graffiti in
15 existence on the property located at (address), which is visible to public view, within
16 fifteen (15) calendar days after the date of receiving this notice. If you fail to do so,
17 county staff or other persons authorized by the county will enter upon your property and
18 abate the public nuisance by removal or painting over the graffiti. The county’s graffiti
19 abatement costs and expenses will, if not paid, be assessed upon your property and
20 such costs will constitute a lien upon your property until paid.

21
22 Section 10.31.060 – Appeal

- 23 A. The owner may appeal to a hearing officer a notice and order issued pursuant to Section
24 10.31.050 by submitting a written appeal within the time specified in the notice and order
25 to the county administrative officer.

- 1 B. A timely written appeal must be submitted in accordance with Section 1.16.080 of this
2 Code.
- 3 C. A timely filed appeal shall stay any further abatement action until the hearing on the
4 appeal is concluded.
- 5 D. The county administrative officer shall set the matter for hearing and provide at least ten
6 (10) calendar days written notice to the owner of the date, time, location of the hearing.
7 Pursuant to Section 1.16.130, staff to the office of county hearing officer shall serve the
8 notice of hearing by certified or registered mail to the owner and the enforcement officer
9 shall post the notice of hearing.
- 10 E. Following the hearing, the hearing officer shall determine whether the graffiti is a public
11 nuisance, and whether the notice and order to abate should be affirmed, modified or
12 reversed.
- 13 F. If the hearing officer finds that the alleged public nuisance exists and should be abated,
14 abatement of the public nuisance shall be ordered, and the hearing officer shall issue an
15 order of abatement in accordance with Section 1.16.110 of this code.
- 16 G. A copy of the hearing officer's decision and order of abatement shall be served on the
17 owner in accordance with Section 1.16.130 of this code.
- 18 H. Failure to timely submit a notice of appeal shall constitute a waiver of any hearing or
19 appeal and shall be deemed a failure to exhaust administrative remedies.
20

21 Section 10.31.070 – Jurisdiction to Abate Graffiti as a Public Nuisance

- 22 A. After the expiration of the period specified in the notice and order issued pursuant to
23 Section 10.31.050 where no timely appeal is filed, or expiration of the period specified in
24 the order of abatement issued by the hearing officer; the county may take such action to
25 abate the public nuisance and the county administrative officer may direct the work

1 necessary to abate graffiti on real or personal property.

- 2 B. In addition to the abatement procedures provided for in the chapter, a violation of this
3 chapter may be enforced by and through administrative fines in accordance with Chapter
4 1.13, Title 1 of this code.

5
6 Section 10.31.080 – Cost Recovery for Graffiti Abatement

- 7 A. All abatement costs in any enforcement action to abate graffiti as a public nuisance shall
8 be recoverable.
- 9 B. When the county has completed the work of abatement, or has paid for the work, the
10 enforcement officer shall prepare, pursuant to Section 1.16.150 of this code, an
11 "abatement expense statement" showing all graffiti abatement costs as listed in Section
12 10.31.050. The county shall demand payment of said costs within fifteen calendar days
13 of the date of service of the abatement expense statement.
- 14 C. The abatement expense statement shall be served on the owner in accordance with
15 Section 1.16.130.
- 16 D. If graffiti abatement costs are not paid in full within fifteen (15) calendar days after
17 service of the abatement expense statement, an abatement cost confirmation hearing
18 will be set and notice of the cost confirmation hearing will be provided to the owner in
19 accordance with Sections 1.16.150 and 1.16.160 of this code.
- 20 E. An abatement cost confirmation hearing for recovery of graffiti abatement costs shall be
21 conducted in accordance with Section 1.16.170 of this code.
- 22 F. Any graffiti abatement costs confirmed after the abatement cost confirmation hearing
23 shall become delinquent and may be collected by the county through legal means,
24 including as a special assessment and/or lien on the subject real property in accordance
25 with the procedures set forth in Section 1.16.170.

1 Section 10.31.090 – Stay of Abatement Proceedings During Criminal Prosecution of Person
2 Responsible for Graffiti

3 Whenever criminal prosecution is pending against a person or persons alleged to have
4 placed graffiti on property within the unincorporated area of the County of Fresno, and a court of
5 competent jurisdiction has authority over the defendant(s), if convicted, to remove the graffiti,
6 then the county administrative officer may stay abatement proceeding under this chapter until
7 the criminal prosecution has been completed and the judgment of the court has been rendered
8 and has become final.

9
10 Section 10.31.100– Removal by the County with Consent of the Owner

11 With the consent of the owner, the county may remove graffiti or other inscribed material
12 from privately owned real or personal property within the unincorporated area of the County of
13 Fresno, or, if the county determines the graffiti or other inscribed material cannot be removed
14 cost effectively, replace or repair such privately owned property that has been defaced with
15 graffiti or other inscribed material in accordance with Section 4.56.010, Chapter 4.56, Title 4 of
16 this code.

17
18 Section 10.31.110– Non-Exclusive Remedy.

19 This chapter is not the exclusive regulation or abatement procedures for graffiti within
20 the unincorporated areas of Fresno County. It supplements and is in addition to other
21 regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the county, state
22 or any legal entity or agency having jurisdiction.

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1 Section 10.31.120 – Severability

2 If any portion of this chapter is held to be invalid by any court of competent jurisdiction,
3 such decision shall not affect the validity or effectiveness of the remaining portions of this
4 chapter. The Board of Supervisors hereby declare it would have passed each remaining portion
5 irrespective of the fact that any one or more portions are declared invalid.

6
7 **Section 2:** This ordinance shall take effect thirty (30) days after final passage.

8
9 THE FOREGOING, was passed and adopted by the following vote of the Board of
10 Supervisors of the County of Fresno this _____ day of _____, 2024, to wit:

11 AYES:

12 NOES:

13 ABSENT:

14 ABSTAINED:

15
16 _____
17 Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

18 **ATTEST:**

19 Bernice E. Seidel
20 Clerk of the Board of Supervisors
County of Fresno, State of California

21 By: _____
22 Deputy

23 FILE # _____

24 AGENDA # _____

25 ORDINANCE # _____