



Board Agenda Item 6

DATE: October 22, 2024

TO: Board of Supervisors

SUBMITTED BY: Steve Brandau, Supervisor, District Two

SUBJECT: Proposed Amendment to Ordinance Code of Fresno County, Adding Chapter 10.31, "Graffiti Abatement" to Title 10, "Public, Peace, Morals and Welfare"

RECOMMENDED ACTION(S):

- 1. Conduct first hearing to amend the Ordinance Code of Fresno County, Title 10, to add Chapter 10.31, "Graffiti Abatement"; waive reading of the Ordinance in its entirety and set the second hearing for November 5, 2024;**
- 2. Designate County Counsel to prepare a fair and adequate summary of the proposed Ordinance; and**
- 3. Direct the Clerk of the Board to post and publish the required summary in accordance with Government Code, Section 25124(b)(1).**

There is no additional Net County Cost associated with the recommended actions, which will add Chapter 10.31, "Graffiti Abatement" to Title 10, "Public Peace, Morals and Welfare" of the Ordinance Code of Fresno County to require property owners to remove graffiti that is visible from a public location from privately owned real and personal property located within the unincorporated areas of Fresno County. The purpose and intent of this amendment is to protect the public health, safety, and welfare of all County of Fresno residents by establishing procedures to demand property owners remove graffiti from structures and other property and, when faced with uncooperative owners, a process to authorize the County to abate graffiti from privately owned property. Article 11, section 7 of the California Constitution authorizes the legislative body of a county to adopt ordinances for the preservation of the health, safety, and welfare of the community. Sections 25845 and 53069.3 of the California Government Code authorize the legislative body of a county to establish procedures to abate graffiti as a public nuisance. The proposed amendments to the ordinance would declare property defaced by graffiti to be a public nuisance, demand property owners remove graffiti from their property at the owners' expense and authorize the County to abate graffiti from private property.

This item came to your Board on September 24, 2024. Your Board directed this item return today with certain revisions to the version of the ordinance proposed on September 24th, including requiring county staff to engage in further investigative efforts to identify the current address of property owners in addition to the address of the violation property, requiring notices to be sent to property owners at the additionally identified addresses, requiring proof of receipt for any notices sent to property owners, decreasing the compliance period to ten days, and imposing administrative fines for a violation of proposed ordinance.

Accordingly, the proposed ordinance now requires enforcement staff to use reasonable efforts to obtain current contact information for property owners and provide notice of a violation to property owners at any additionally identified addresses. The proposed ordinance also requires enforcement staff to send notices by a delivery method with proof of receipt. The proposed ordinance now requires compliance within ten days, which is decreased from fifteen days as specified in the previous version. The proposed ordinance includes procedures to impose an administrative fine for a violation of the proposed ordinance with each day graffiti

remains unabated a separate violation. This item is countywide.

ALTERNATIVE ACTION(S):

Your Board may determine not to approve the recommended actions; however, the current enforcement mechanisms for addressing graffiti found on private property are inadequate to expeditiously resolve graffiti that negatively affects public health and safety. Graffiti within the unincorporated areas would remain prohibited under existing state laws and public nuisance laws. However, the County's existing ordinance code regulating graffiti authorizes removal only upon consent from the owner and at the County's expense. As an additional alternative action, your Board may continue the actions with direction to County Counsel and other responsible County department staff to further revise the proposed ordinance.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. Inspection and enforcement efforts may incur such impacts or costs in the future, associated with enforcement of the proposed amendment to the ordinance, which may be partially offset by cost recovery mechanisms. Staff will monitor impacted county departmental budgets accordingly.

DISCUSSION:

Graffiti is a scourge and is found on privately and publicly owned property throughout California. Although the perpetrators of graffiti are typically third parties with no relation to the property owners who are victimized by graffiti, targeted properties by and large are not adequately maintained and supervised. If not promptly removed, property defaced by graffiti negatively impacts surrounding properties and may encourage additional negative conditions on the defaced property. Property defaced by graffiti is a signal that the property is not being properly supervised. In turn, the defaced property can attract vagrants and trespassers and become a source for illegal dumping of waste and debris, which can become a vector for rodents, insects, other pests, and disease. Graffiti negatively affects the surrounding neighborhood and depresses property values and, along with the visual deterioration, these unmaintained properties are a source of blight. The dangers and negative conditions associated with graffiti are a threat to the health, safety, and welfare of the residents of Fresno County.

Currently, graffiti is regulated by the County under Section 4.56.010, of the Ordinance Code. Section 4.56.010 authorizes the County to use county funds to remove graffiti from privately or publicly owned property, but only with the consent of the owner. While this section authorizes recourse against the perpetrators of graffiti, it does not authorize enforcement action against an uncooperative property owner or procedures to abate graffiti found on private property if consent is not granted. Under the current ordinance, abandoned properties or irresponsible property owners would escape enforcement efforts by the County to demand removal and ultimate abatement of graffiti from the premises.

The proposed ordinance declares privately owned property defaced by graffiti to be a public nuisance and subject to abatement. The proposed ordinance establishes procedures to demand property owners to remove graffiti at the owners' expense. The proposed ordinance further establishes procedures for the County to abate graffiti found on private property if property owners fail to respond to a written demand or refuse to take appropriate action. The ordinance further establishes specific procedures for noticing a demand to remove graffiti. The proposed ordinance incorporates the nuisance abatement procedures found in Chapter 1.16 of the Ordinance Code and provides for cost recovery against property owners for the abatement costs the County may incur in abating graffiti from private property. While the proposed ordinance incorporates by reference Section 4.56.010 and the authorization for the County, in its discretion, to use county funds to remove graffiti from private property, the proposed ordinance enables the County to make an initial demand of property owners to remove graffiti and authorizes abatement by the County if necessary.

REFERENCE MATERIAL:

BAI #6, September 24, 2024

ATTACHMENTS INCLUDED AND/OR ON FILE:

Ordinance

On file with Clerk - Ordinance Summary

CAO ANALYST:

Salvador Espino