

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 – Penalties for Violation of Unabated Graffiti

22 Section 10.31.110 – Removal by the County with Consent the Property Owner

23 Section 10.31.120 – Non-Exclusive Remedy

24 Section 10.31.130 – Severability

25 Section 10.31.010 – Title, Purpose, and Intent

26 This chapter shall be known as the “Graffiti Abatement” ordinance. The board of
27 supervisors find that graffiti on public and private property in the unincorporated areas of the
28 County of Fresno constitutes a threat to public health, safety and welfare, in that the presence of
29 graffiti is detrimental to property values, degrades the quality of life in the community, is often
30 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. "Property owner" means an individual or individuals, corporation, partnership, limited
22 liability company, or any other entity holding fee title to the subject real property. If more
23 than one individual or entity holds any portion of the fee interest or life estate in the
24 property, the owners' obligations under this chapter are joint and several.
25

1 F. "Staff to the office 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 transmit a
3 notice of intent to remove graffiti to the property owner by certified mail with return
4 receipt requested, by overnight delivery with proof of delivery requested, or by personal
5 service, and posting on the property. Service of this notice shall be effective on the date
6 of mailing, overnight delivery, personal service, or on the earliest date if more than one
7 method of service is used.

8 B. The notice shall inform the property owner that graffiti exists on the property owner's
9 property, that the property defaced with graffiti is a public nuisance, and the failure to
10 remove graffiti from the defaced property constitutes a violation of this code. The notice
11 shall order that the graffiti be removed within ten (10) calendar days of service, or the
12 county will cause the nuisance to be abated at the expense of the owner. The notice
13 shall contain language in substantially similar form as the following:

14 NOTICE OF INTENT TO REMOVE GRAFFITI

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

23 C. The enforcement officer shall undertake reasonable efforts to obtain current contact
24 information for a property owner to provide notice under this section.

1 D. Proof of service of the notice to intent to remove graffiti may be made by a declaration of
2 service by any officer or employee of the county or by affidavit of service by any person
3 over the age of eighteen (18) years. Failure of a property owner to receive a mailed
4 notice that was properly addressed shall not affect the validity of the proceedings.
5

6 Section 10.31.060 – Appeal

7 A. The property owner may appeal to a hearing officer a notice issued pursuant to Section
8 10.31.050 by submitting a written appeal within the time specified in the notice of intent
9 to remove graffiti.

10 B. A timely written appeal must be submitted in accordance with Section 1.16.080 of this
11 Code.

12 C. A timely filed appeal shall stay any further abatement action until the hearing on the
13 appeal is concluded.

14 D. The county administrative officer shall set the matter for hearing and provide at least ten
15 (10) calendar days written notice to the property owner of the date, time, and location of
16 the hearing. Pursuant to Section 1.16.130, staff to the office of county hearing officer
17 shall serve the notice of hearing by certified mail to the owner and the enforcement
18 officer shall post the notice of hearing on the property.

19 E. Following the hearing, the hearing officer shall determine whether the graffiti is a public
20 nuisance, and whether the notice of intent to remove graffiti should be affirmed,
21 modified, or reversed.

22 F. If the hearing officer finds that the alleged graffiti exists and should be abated,
23 abatement of the graffiti shall be ordered, and the hearing officer shall issue an order of
24 abatement in accordance with Section 1.16.110 of this code.

25 G. A copy of the hearing officer's decision and order of abatement shall be served on the

1 owner in accordance with Section 1.16.130 of this code.

- 2 H. Failure to timely submit a notice of appeal shall constitute a waiver of any hearing or
3 appeal and shall be deemed a failure to exhaust administrative remedies.

4
5 Section 10.31.070 – Jurisdiction to Abate Graffiti as a Public Nuisance

6 After the expiration of the period specified in the notice issued pursuant to Section
7 10.31.050 where no timely appeal is filed, or expiration of the period specified in the order of
8 abatement issued by the hearing officer; the county may take such action to abate the public
9 nuisance and the county administrative officer may direct the work necessary to abate graffiti on
10 real or personal property.

11
12 Section 10.31.080 – Cost Recovery for Graffiti Abatement

- 13 A. All abatement costs in any enforcement action to abate graffiti as a public nuisance shall
14 be recoverable.
- 15 B. When the county has completed the work of abatement, or has paid for the work, the
16 enforcement officer shall prepare, pursuant to Section 1.16.150 of this code, an
17 "abatement expense statement" showing all graffiti abatement costs as listed in Section
18 10.31.050. The county shall demand payment of said costs within fifteen (15) calendar
19 days of the date of service of the abatement expense statement.
- 20 C. The abatement expense statement shall be served on the property owner in accordance
21 with Section 1.16.130.
- 22 D. If graffiti abatement costs are not paid in full within fifteen (15) calendar days after
23 service of the abatement expense statement, an abatement cost confirmation hearing
24 will be set and notice of the cost confirmation hearing will be provided to the owner in
25 accordance with Sections 1.16.150 and 1.16.160 of this code.

1 E. An abatement cost confirmation hearing for recovery of graffiti abatement costs shall be
2 conducted in accordance with Section 1.16.170 of this code.

3 F. Any graffiti abatement costs confirmed after the abatement cost confirmation hearing
4 shall become delinquent and may be collected by the county through legal means,
5 including as a special assessment and/or lien on the violation real property in
6 accordance with the procedures set forth in Section 1.16.170.

7
8 **Section 10.31.090 – Stay of Abatement Proceedings During Criminal Prosecution of Person
Responsible for Graffiti**

9 Whenever criminal prosecution is pending against a person or persons alleged to have
10 placed graffiti on real or personal property subject to enforcement proceedings pursuant to this
11 chapter, and a court of competent jurisdiction has authority over the defendant(s), if convicted,
12 to remove the graffiti, then the county administrative officer may stay abatement proceeding
13 under this chapter until the criminal prosecution has been completed and the judgment of the
14 court has been rendered and has become final.

15
16 **Section 10.31.100 – Penalties for Violation of Unabated Graffiti**

17 A. A violation of this chapter is punishable as an infraction.

18 B. Failure by a property owner to remove graffiti or other inscribed materials after the
19 expiration of the period specified in the notice issued pursuant to Section 10.31.050, and
20 where no timely appeal is filed, is subject to an administrative fine pursuant to Section
21 1.13.110 of this code.

22 C. Each day after the expiration of the period specified in the notice issued pursuant to
23 Section 10.31.050 the property owner fails to remove graffiti or other inscribed material
24 is a separate violation.

25 D. The procedures for issuance of a citation to impose an administrative fine for violation of

1 this chapter, payment of the administrative fine, and any appeal of a citation to impose
2 an administrative fine for a violation of this chapter shall be in accordance with the
3 procedures set forth in Chapter 1.13 of this code.
4

5 Section 10.31.110– Removal by the County with Consent of the Property Owner

6 At the discretion of the county and with the consent of the property owner, the county
7 may, with county funds, remove graffiti or other inscribed material from privately owned real or
8 personal property within the unincorporated area of the County of Fresno or, if the county
9 determines the graffiti or other inscribed material cannot be removed cost effectively, replace or
10 repair such privately owned property that has been defaced with graffiti or other inscribed
11 material in accordance with Section 4.56.010 of this code.
12

13 Section 10.31.120– Non-Exclusive Remedy.

14 This chapter is not the exclusive regulation or abatement procedures for graffiti within
15 the unincorporated areas of Fresno County. It supplements and is in addition to other
16 regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the county, state
17 or any legal entity or agency having jurisdiction.
18

19 Section 10.31.130 – Severability

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

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

2
3 THE FOREGOING, was passed and adopted by the following vote of the Board of
4 Supervisors of the County of Fresno this ___ day of _____, 2024, to wit:

5 AYES:

6 NOES:

7 ABSENT:

8 ABSTAINED:

9
10
11 _____
12 Nathan Magsig, Chairman of the Board of
Supervisors of the County of Fresno

13 **ATTEST:**

14 Bernice E. Seidel
15 Clerk of the Board of Supervisors
County of Fresno, State of California

16 By: _____
17 Deputy

18 FILE # _____

19 AGENDA # _____

20 ORDINANCE # _____
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