# ORDINANCE NO. 01-10

## AN ORDINANCE OF THE RIDGECREST CITY COUNCIL AMENDING THE RIDGECREST MUNICIPAL CODE AS IT RELATES TO GRAFFITI ABATEMENT

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIDGECREST** as follows:

Section 1. **Purpose**

This Ordinance amends the Municipal Code to provide for the recovery of the cost of graffiti abatement.

Section 2. **Findings**

The City Council finds, determines and declares as follows:

(1) Graffiti within public view constitutes a visual blight;

(2) Graffiti tends to promote juvenile gang activities and juvenile gang competition;

(3) Graffiti constitutes a public nuisance which threatens public health, safety and welfare; and

(4) The public safety, health and welfare are threatened by the proliferation of graffiti and associated criminal violence.

(5) The Council has received a written report describing the costs incurred by the Ridgecrest Police Department in identifying and apprehending persons for violation of Penal Code Sections 594, 594.3, 594.4, 640.5, 640.6 and 640.7 or a minor subsequently found to be a person described in Welfare Institutions Code Section 602 by virtue of violation of such provisions of the Penal Code.

(6) The average cost incurred by the Ridgecrest Police Department, including but not limited to, hourly costs of employee time and costs per mile of operating patrol vehicles, in identifying and apprehending persons subsequently convicted of violating Penal Code Sections 594, 594.3, 594.4, 640.5, 640.6 and 640.7 or a minor subsequently found to be a person described in Welfare Institutions Code Section 602 by virtue of violation of such provisions of the Penal Code, is $4.32 per square foot of defaced material.

(7) The Council has received a report describing the average cost to the City of removing graffiti or other inscribed materials and of repairing or replacing property of the types frequently defaced with graffiti or other inscribed materials that cannot be removed effectively.

(8) The City has incurred costs, including but not limited to costs per square inch of removing painted graffiti or of the cost per item of replacing items that have been etched, of $4.32 per square foot.

Section 3. **Amendment**

Section 4-20.101 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"Section 4-20.101. **General**

(a) No person shall place graffiti on property owned by the City or publicly owned property.

(b) No person shall permit graffiti to be placed or remain on privately owned property visible beyond the boundaries of the lot or parcel.

(c) Violation of this section is an infraction."

Section 4. **Amendment**

Section 4-20.102 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"Section 4-20.102. **Definitions**

The following terms are defined for the purposes of this article unless otherwise apparent from context:

(a) *Graffiti* are crude drawings, inscriptions or defacement applied to property without the consent of the owner or person in possession.

(b) *Graffiti implements* are aerosol spray paints, paints, dyes, polish, broad tip markers containing anything other than a water soluble solution.

(c) *Broad tip markers* are marker pens with a tip broader than three-eighths (3/8) inches in width."

Section 5. **Amendment**

Section 4-20.103 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"Section 4-20-103. **Graffiti Implements**

(a) It is an infraction for any person to possess graffiti implements within any City-owned building, at any City-owned facility or on private property without the permission of the owner or person having control thereof.

(b) A minor shall possess graffiti implements only upon the property of a parent or guardian, or under the supervision of a parent or guardian while upon the property of another.

(c) Every person who operates or manages a retail commercial business selling graffiti implements shall:

(1) Store or cause graffiti implements to be stored in an area not accessible to the public in the regular course of business without employee assistance.

(2) Place a sign in public view stating substantially the following: 'Placing a graffiti is a crime. Possession of graffiti implements is also a crime under certain circumstances. It is a crime to sell or convey aerosol spray paint or broad tip markers to a minor.'"

Section 6. **Amendment**

Section 4-20.104 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"Section 4-20.104. **Graffiti Removal**

(a) The Director of Public Works, or designee, shall inspect City facilities for the presence of graffiti. The Director shall arrange for removal of graffiti from City-owned and operated buildings within forty-eight (48) hours of discovery.

(b) The City Manager, or designee, shall issue notices and citations to remove graffiti. The Notice shall be directed to the owner of record of the parcel of land on which the graffiti exists. The Notice to Abate shall state substantially the following:

> 'NOTICE IS HEREBY GIVEN that the City Manager of the City of Ridgecrest has found and declared that a public nuisance consisting of graffiti exists on your property located at: _____. The City Manager has also found and determined that this condition must be abated by removal or repair.
>
> If you do not rectify the situation within 72 hours of this written notice, the graffiti will be removed and the nuisance abated by the City, and the cost of removal assessed against the land on which the graffiti is located, and such cost will constitute a lien until paid. In the alternative, if the cost is not paid, the amount shall be placed on the tax rolls for collection.
>
> If you object to the proposed removal or abatement of the above described nuisance, you may file a written appeal with the City Manager or designee at the City Hall within three days from the date of receipt of this notice.
>
> DATE:_____ SIGNED:_____
>
> CITY MANAGER'

(c) The Notice to Abate shall be served on the record owner based on the last equalized assessment role or supplemental role, whichever is most current. The Notice shall be served in the same manner as a Summons in a civil action, or if the owner of record cannot be found after a diligent search, the Notice may be served by posting a copy thereof in a conspicuous place on the property for ten days and publication in a newspaper of general circulation published in Kern County pursuant to Government Code Section 6062.

(d) The City Manager, or designee, shall abate the nuisance without further notice to the record owner if the record owner does not appeal the decision within three days of notice personally served, ten days of notice posted and published. If the record owner appeals the decision, in a timely manner, the City Manager shall not abate the nuisance until the appeal process has been completed. The City Manager shall consider the appeal of the record owner. The City Manager's written decision shall be final.

(e) If the City Manager has invoked the abatement process described in the preceding section, and if the record property owner has not paid the cost of removal within thirty days of presentation of a bill, and the cost of abatement has not been recovered through the probation office, a nuisance abatement lien may be filed by the City Manager as specified in this Municipal Code."

Section 7. **Amendment**

Section 4-20.105 of the Ridgecrest Municipal Code is hereby amended and reenacted to read as follows:

"Section 4-20.105. **Parental Responsibility**

(a) Pursuant to Section 1714.1(b) of the California Civil Code, every parent or legal guardian having custody or control of a minor who defaces property by inscribing graffiti thereon shall be jointly and severally liable with such minor for any resulting damages incurred by the property owner in an amount not to exceed twenty-five thousand dollars ($25,000) for each such act of defacement."

Section 8. **Amendment**

Section 4-20.106 is hereby added to the Ridgecrest Municipal Code to read as follows:

"Section 4-20.106. **Cost Recovery**

(a) The City hereby elects to have the Probation Officer of Kern County recoup for it, through Juvenile Court Proceedings in accordance with Welfare and Institutions Code Section 742.16, the costs incurred by the City associated with the defacement by minors of its property and the property of others by graffiti or other inscribed materials. The City shall determine the average costs for such graffiti abatement and that cost will be established by Resolution. The findings of average costs shall be reviewed at least once every three years.

(b) The Chief of Police, or designee, shall transmit to the Probation Officer information about the City's expenditures, and/or any expenditures by the property owner, to identify and apprehend any minor about whom a petition is filed alleging the minor is a person described by Welfare and Institutions Code Section 602 by reason of commission of an act prohibited by Penal Code Sections 594, 594.3, 594.4, 640.5, 640.6 or 640.7. The information shall be sufficient to enable the Probation Officer and the Juvenile Court to calculate the cost to the City for identifying and apprehending the minor and other expenditures, such as costs to the property owner, to remove the graffiti or other materials inscribed, or repair/replace the property defaced by the minor.

(c) The Chief of Police, or designee, shall also forward to the Probation Officer and Clerk of the Juvenile Court a certified copy of the resolution containing the findings of the City Council as to the average cost of identifying and apprehending such persons and removing or repairing property defaced or inscribed by graffiti. The findings of average cost shall be reviewed at least once every three years.

(d) If the City receives reimbursement, as a result of legal proceedings or otherwise, for costs of graffiti abatement on private property, the City shall:

(1) Reimburse the owner of the property, but in no event to exceed the amount of actual reimbursement received by the City, if the owner of the property has paid the City for the cost of graffiti abatement or the cost is collected through the tax roll.

(2) Remove the nuisance abatement lien filed pursuant to section 4-20.104 for

the costs of graffiti abatement if such a lien is recorded."

Section 9. **Other**

Except as provided herein, the Ridgecrest Municipal Code is hereby reaffirmed and readopted.

**PASSED, APPROVED AND ADOPTED** this 5th day of September 2001, by the following vote.

AYES: Mayor Darnell, Council Members Carter, Holloway, Morgan and Rollins

NOES: None

ABSTAIN: None

ABSENT: None

Donna Darnell, Mayor

ATTEST:

Harvey M. Rose
City Clerk