

ORDINANCE NO. 1154

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
SIMI VALLEY AMENDING PROVISIONS OF CHAPTER 31,
TITLE 5 OF THE SIMI VALLEY MUNICIPAL CODE RELATING
TO GRAFFITI ENFORCEMENT AND ABATEMENT

THE CITY COUNCIL OF THE CITY OF SIMI VALLEY DOES ORDAIN
AS FOLLOWS:

SECTION 1. Chapter 31 of Title 5 of the Simi Valley Municipal Code is hereby amended as set forth in the attached Exhibit 1, incorporated herein by reference.

SECTION 2. If any section, subsection, sentence, clause, or phrase in this chapter is for any reason held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares it would have passed this chapter, and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases is declared invalid or unconstitutional.

SECTION 3. This ordinance shall take effect and be in full force and effect at 12:01 a.m. on the thirty-first (31st) day after its passage.

SECTION 4. The City Clerk shall cause this ordinance or a summary hereof to be published in a newspaper of general circulation, published in the County of Ventura and circulated in the City, and if applicable, to be posted in accordance with Government Code Section 36933; shall certify to the adoption of this ordinance and shall cause a certified copy of this ordinance, together with proof of publication, to be filed in the Office of the Clerk of this City.

PASSED and ADOPTED this 22nd day of March 2010.

Attest:

/s/
Assistant City Clerk

/s/
Paul Miller, Mayor of the
City of Simi Valley, California

Approved as to Form:

Approved as to Content:

/s/
Tracy M. Noonan, City Attorney

/s/
Mike Sedell, City Manager

CHAPTER 31 GRAFFITI

5-31.01 Purpose.

The City Council finds that unwanted graffiti, on public and private properties, is a blighting factor on neighborhoods, encourages other acts of malicious vandalism and crime, and depreciates the value of adjacent and surrounding properties. The City Council further finds and declares that graffiti is a public nuisance effecting the health, safety, and welfare of the City's residents. The purpose of this chapter is to reduce and eliminate incidents of graffiti and provide for the prompt abatement of graffiti from public and private properties in the City.

5-31.02 Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Defacement" shall mean the intentional altering of the physical shape or physical appearance of property.

"Etching cream" means any caustic cream, gel, liquid, or solution capable, by means of a chemical action, of defacing, damaging, or destroying hard surfaces in a manner similar to acid.

"Graffiti" means any unauthorized inscription, word, figure, or design that is marked, etched, scratched, drawn, affixed by slap tag, or painted on any structural component of any building, structure, post, pole, or other facility, regardless of the nature of the material of that structural component.

"Graffiti implement" shall mean a pressurized container of paint; a marker with a tip one-half (½) inch or more in width capable of defacing property with waterproof ink, paint, or other liquid; or an etching tool or etching cream capable of scarring glass, metal, concrete or wood

"Minor" shall mean any person under the age of eighteen (18) years.

"Responsible adult" is a parent or legal guardian of an individual under the age of eighteen (18) years.

"Slap tag" means any material such as, but not limited to, decals, stickers, posters, or labels which may be affixed upon any structural component of any building, structure, post, pole, or other facility, which contains a substance commonly known as adhesive or glue.

5-31.03 Prohibition of defacement/graffiti.

It shall be a violation of this chapter for any person to apply graffiti upon any wall, rock, street, bridge, building, fence, gate, structure, tree, post, pole or other real or personal property, either publicly or privately owned, without the permission of the owner or lessee of such property.

5-31.04 Sale of graffiti implements.

(a) General. It shall be unlawful for retailers to sell or offer to sell a graffiti implement to a minor.

(b) Any persons engaged in the retail sale of graffiti implements shall store or cause such implements to be stored in an area viewable by, but not accessible to, the public in the regular course of business without employee assistance, pending legal sale or disposition of such implements.

5-31.05 Purchase of graffiti implements.

(a) It is a violation of this chapter for minors to purchase graffiti implements.

(b) It is a violation of this chapter for any adult to purchase, furnish, or supply graffiti implements to a minor.

5-31.06 Signs required.

Any person engaged in the retail sale of graffiti implements must display at the location of retail sale a sign clearly visible and legible to employees and customers which states as follows: "It is unlawful for any person to sell to any individual under the age of 18 years a pressurized container of paint, a waterproof marker with a tip wider than one-half (1/2) inch, or an etching tool."

5-31.07 Removal.

(a) *Public property.* Whenever the Director of Public Works or his/her designated representative determines that graffiti exists upon property owned by the City, it shall be removed within twenty-four (24) hours after it is observed by City staff. When property is owned by a public entity other than the City, the removal of the graffiti may be authorized by the Director of Public Works or his/her representative, and removal undertaken by City personnel or independent contractor only after securing written consent of the public entity having jurisdiction over the property.

(b) *Private property.*

(1) *Duty to remove.* It is every property owner's duty to remove graffiti promptly from his/her property. Where graffiti is located upon private property, and is capable of being viewed by persons utilizing any public right-of-way, property, or sidewalk within the City, the City shall cause a written notice to be served upon the owner of the affected premises requesting the removal of that graffiti. Unless the property owner provides specified written consent authorizing the City or its contractor to abate the graffiti, the property owner shall have ten (10) calendar days after the date of the City's notice to remove the graffiti. Failure to remove or authorize City removal as specified shall be a violation for each day the graffiti is not removed.

- (2) *Notice.* The notice shall be addressed to the name and address as appears on the last tax assessment roll, by depositing a copy of the notice in the U.S. mail, with postage fully pre-paid, or by personally delivering a copy of the notice to owner. The service is complete at the time of such deposit in the mail or when personal service is effectuated. The failure of any person to receive such notice shall not affect the validity of any proceeding.
- (3) *Authorization to enter, hold harmless.* Prior to the entry onto private property by City personnel or authorized contractor for purposes of graffiti removal, a specified and signed written consent form shall be obtained from the private property owner or designated agent for such authorization of entry and release of liability. After written consent is received, City personnel or authorized contractor shall remove the graffiti within twenty-four (24) hours.
- (4) *Authorization to enter, court order.* If a specified and signed written consent to enter upon private property is not obtained from or is refused by the property owner or designated agent, the City may enter upon the property to abate the nuisance pursuant to a court order. After the court order is received, City personnel or authorized contractor shall remove the graffiti within twenty-four (24) hours.

5-31.08 Enforcement.

Without limiting any of the City's legal remedies to enforce this chapter, the following enforcement options may be pursued.

(a) *Civil Remedies.*

(1) *Court Proceedings.* Any person, responsible adult, firm, or corporation who violates any provision of this chapter shall be responsible for payment of costs of investigation, removal of graffiti, the amount of any reward paid pursuant to section 5-31.09 of this chapter, and all attorney's fees and legal costs incurred in any civil proceeding in a court of law.

(2) *Civil Fines.* Any person, responsible adult, firm, or corporation who violates any provision of this chapter shall be subject to fines and/or other penalties in accordance with Title 1, Chapter 8 (Civil Fines) of the Simi Valley Municipal Code. The amount of civil penalties assessed pursuant to Title 1, Chapter 8 shall be established by resolution of the City Council.

- i. In the event a minor is assessed a civil fine or penalty, the minor may perform community service and pay City administrative fees, if any, as an alternative to paying the civil fine or penalty with prior written consent and approval from the City of Simi Valley Police Chief or designee. The number of community service hours required to satisfy a civil penalty is specified in the Schedule of Civil Fines adopted by the City Council.
- ii. A responsible adult who is assessed a civil fine or penalty may also request that the minor serve the required hours of community

service as described in subsection (a)(2)(i), above, and pay City Administrative fees, if any, as an alternative to paying the applicable civil fine or penalty.

- iii. The City Police Chief or designee shall retain the discretion to approve the community service suggested by the minor or responsible adult. Upon approval of City Police Chief or designee to perform community service, the minor shall complete the required hours within one year of approval, and shall submit proof of completion to City Police Chief. Failure to receive approval to perform community service or failure to complete the required hours of service shall result in imposition of the applicable civil fine or penalty, which is immediately payable. No reduction in the fine or penalty is authorized for completion of less than the required hours of community service as set forth in subsection (a)(2)(i) above.

(b) *Administrative Abatement.* The City may pursue any violation of this chapter through the administrative abatement process pursuant to Title 1, Chapter 6 (Abatement of Public Nuisances) of the Simi Valley Municipal Code and recover all costs incurred pursuant to that Chapter.

(c) *Criminal Penalties.* Any person, firm, or corporation who violates, permits, or causes to violate any provision of this chapter, or who fails to comply with any of the requirements of this chapter, shall be guilty of a misdemeanor, punishable by up to six (6) months in the County Jail, a One Thousand and no/100ths (\$1,000.00) Dollar fine, and/or both.

(d) *Fines, Penalties and Damages of Minors.* Pursuant to California Civil Code § 1714.1, any responsible adult whose minor child is in possession of a graffiti implement, or whose minor child engages in a willful act of graffiti vandalism, shall be jointly and severally liable for any and all civil fines, penalties, damages, and costs, not to exceed Twenty- Five Thousand and no/100ths, (\$25,000.00) Dollars per incident or act.

5-31.09 Reward.

The City Council hereby authorizes the City Manager to pay a reward to any person who provides information leading to the apprehension and conviction of any person who willfully places graffiti on any public or private property within the City. The maximum reward amount shall be One Thousand and no/100ths (\$1,000.00) Dollars. The exact amount of the reward, up to One Thousand and no/100ths (\$1,000.00) Dollars, shall be determined by the City Manager after receipt of a report from a police officer confirming that the recommended reward recipient provided information leading to the apprehension and conviction of a person who willfully placed graffiti on public or private property. No law enforcement officer, municipal officer or employee of the City shall be eligible to receive such reward.