

**CHAPTER 10  
PROHIBITION OF GRAFFITI**

SECTION:

- 5-10-1: Findings and Purpose
- 5-10-2: Definitions
- 5-10-3: Graffiti Removal Required
- 5-10-4: Graffiti Notice To Remove
- 5-10-5: City Abatement Option
- 5-10-6: Penalty

5-10-1 FINDINGS AND PURPOSE.

(A) The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain, thereby causing other properties to become the target of graffiti and entire neighborhoods become less livable, all to the detriment of the City. The Council also finds that graffiti leads to other, more violent crimes and gang related activity. The City shall be entitled to abate the nuisance of graffiti pursuant to Idaho Code and other applicable laws.

(B) The purpose of this Chapter is:

- (1) To prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.
- (2) To provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

5-10-2 DEFINITIONS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

*Graffiti:* Any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved upon any surface of public or private property by any implement, when application of the mark was not expressly authorized in advance by the owner, occupant or authorized representative of the owner of the property.

5-10-3 GRAFFITI REMOVAL REQUIRED.

(A) The existence of graffiti on public or private property is hereby declared to be a public nuisance and persons owning or controlling property having graffiti thereon shall be subject to the removal and abatement provisions specified in this Chapter.

(B) The owner or person in control of the premises on which graffiti has been applied may promptly remove the graffiti after notice is given as hereinafter set forth. If, after receipt of such notice, the graffiti nuisance is not abated, the City may proceed to abate the graffiti nuisance in the manner set forth below.

#### 5-10-4 GRAFFITI NOTICE TO REMOVE.

(A) Whenever graffiti is located on any public or private property or any surface visible from any public rights of way within the City, a Notice shall be issued to the owner or person in control of the premises to abate the nuisance and remove the graffiti or cover it with paint or other substance masking the graffiti from public view.

(B) Said notice shall be served upon the owner(s) of the affected premises, as shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant of the premises. Service of the notice may be accomplished through personal service on the owner, occupant, or person in charge or control of the property, by United States mail, postage pre-paid, or by posting in a conspicuous place upon the premises.

(C) Such notice shall be in writing and shall clearly state that the property has been determined to be in violation of this Chapter and that the owner/occupant's failure to remove within forty-eight (48) hours of receipt of the notice will cause the City to declare the property to be a public nuisance; that the owner or person served may, within forty-eight (48) hours of receipt of the notice, deliver in writing to the Chief of Police his or her objections to the removal of the graffiti and request a hearing before the City Council.

#### 5-10-5 CITY ABATEMENT OPTION.

(A) Notice and Hearing. Nuisances which remain unabated after notice, may be removed, abated or destroyed by the City or its agents, after the following steps have been taken:

- (1) If after delivery of the Notice in accordance with this Chapter, abatement of the nuisance has not occurred and the owner or occupant has not requested a hearing, the City may remove, abate or destroy the nuisance.
- (2) If the property owner requests a hearing to show cause before the City Council, the hearing shall, if feasible, be placed on the agenda of the next regularly scheduled city council meeting. The decision of the City Council shall be final. If the Council requires abatement of the nuisance, a ten (10) day period shall be given the property owner after the Council decision so that the property owner shall have additional opportunity to abate the nuisance or to pursue any legal remedies or defenses at the district court level.

(B) Exceptions to Removal. The removal requirements above shall not apply if the property owner or responsible party can demonstrate that:

- (1) The property owner or responsible party can show that if the City removes the graffiti, it will cause irreparable harm to his or her property.
- (2) The property owner or responsible party can show that the alleged graffiti is not actually graffiti.

(C) Right of City to Remove Graffiti:

- (1) Use of Public Funds. The City may use public funds to abate the nuisance.
- (2) Right of Entry on Private Property. If the property owner or occupant fails to remove the graffiti within the time specified by this Chapter, or if the City has requested consent to remove or paint over the graffiti and the property owner or responsible party has refused consent for entry for such removal purposes, the City may enter the property and commence abatement and cost recovery proceedings for the graffiti removal, pursuant to Idaho Code.

5-10-6 PENALTY.

It shall be unlawful for any person to violate any provision of this Chapter. In addition to any punishment specified in this Chapter, the Court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the Court. In the case of a minor, the parents or legal guardian may be ordered to make the restitution.