

CHAPTER 10
PROHIBITION OF GRAFFITI

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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(s), occupant(s), or person(s) in control of the premises upon which graffiti has been applied shall remove the graffiti within forty-eight (48) hours after notice is given or within forty-eight (48) hours following denial of an appeal pursuant to this Chapter.(Ord. 3178, 04-12-18)

5-10-4 G NOTICE TO ABATE NUISANCE.

(A) Whenever graffiti is located on any public or private property or any surface visible from any public right of way within the City, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) of the premises requiring abatement of the nuisance and the removal of the graffiti or the covering of the graffiti with paint or other substance(s) that masks 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(s) or controller(s) of the premises. Service of notice may be accomplished by personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall remove graffiti within forty-eight (48) hours of receipt of the notice; that the owner(s), occupant(s), or person(s) in control of the property given the notice may, within forty-eight (48) hours of receipt of the notice, deliver in writing to the City Clerk his or her objections to the removal of the graffiti and request an appeal hearing before a panel comprised of three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council. (Ord. 3178, 04-12-18)

5-10-5 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the graffiti. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to removal under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to removal, abatement of the nuisance shall take place within forty-eight (48) hours following the decision by the Board of Adjustment panel. (Ord. 3178, 04-12-18)

5-10-6 EXCEPTIONS TO REMOVAL.

The removal requirements in this Chapter shall not apply if the property owner(s), occupant(s), or person(s) in control of the property or their representative can demonstrate by a preponderance of the evidence that:

- (1) If the City removes the graffiti, it will cause irreparable harm to property; or
- (2) The alleged markings are not “graffiti”, as that term is defined in this Chapter. (Ord. 3178, 04-12-18)

5-10-7 CITY ABATEMENT

- (A) City is authorized to use public funds to abate a graffiti nuisance.
- (B) If the property owner or occupant or person in control of the property fails to remove the graffiti within forty-eight (48) hours following a final decision regarding the graffiti, the City may enter the property and commence abatement pursuant to Idaho Code.
- (C) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3178, 04-12-18)

5-10-8 PENALTY.

It shall be unlawful for any person to violate any provision of this Chapter. In addition to any punishment, fine, or penalty specified in this Chapter, a Court may order any violator to make restitution to any 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 such restitution. (Ord. 3178, 04-12-18)