

SALT LAKE COUNTY ORDINANCE

ORDINANCE NO. _____, 2008

GRAFFITI PREVENTION AND REMOVAL

AN ORDINANCE AMENDING CHAPTER 10.40 OF THE SALT LAKE COUNTY CODE OF ORDINANCES BY REPEALING SUBSECTION 10.40.010B AND SUBSECTION 10.40.010C REGARDING GRAFFITI REMOVAL AND ENACTING CHAPTER 10.41 REGARDING GRAFFITI PREVENTION AND REMOVAL; DEFINING TERMS; ESTABLISHING PROCEDURES BY WHICH PROPERTY OWNERS MUST REMOVE GRAFFITI; PROVIDING FOR NOTIFICATION AND ABATEMENT; PROVIDING AN APPEAL PROCESS; AND MAKING OTHER RELATED CHANGES.

The County Legislative Body of Salt Lake County ordains as follows:

SECTION I. The amendments made herein are designated by underlining the new substituted words. Words being deleted are designated by brackets and interlineations.

SECTION II. Subsections 10.40.010.B and 10.40.010.C of the Salt Lake County Code of Ordinances, 2001, are hereby repealed.

SECTION III. Chapter 10.41, entitled Graffiti Prevention and Removal, of Salt Lake County Code of Ordinances, 2001 is enacted to read as follows:

10.41.010 Declaration of Purpose.

This ordinance authorizes the County to provide for the removal of graffiti that is detrimental to property values; degrades the community; causes an increase in crime; is inconsistent with the County's property maintenance goals and aesthetic standards; is obnoxious; is a nuisance; and, unless it is quickly removed from public and private property, results in other properties becoming the targets of graffiti. Graffiti is declared to be obnoxious and a nuisance.

10.41.020 Graffiti Nuisance Property.

A. Any property, building or structure within Salt Lake County which becomes a graffiti nuisance property as defined in this ordinance is in violation of this chapter and is subject to its remedies.

B. Any person who permits property under his or her control to become a graffiti nuisance property shall be in violation of this chapter and subject to its remedies.

10.41.030 Definitions.

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

A. “Graffiti” means unauthorized markings, visible to the public, that have been placed upon any property through the use of paint, ink, chalk, dye or any other substance or instrument capable of marking property.

B. “Manager” means the Graffiti Program Manager of the County, or designated representative, who is responsible for the administration of the graffiti nuisance abatement program under this Chapter. In accordance with adopted procedures, the manager may appoint graffiti program employees who shall be authorized to enforce the provisions of this Chapter.

C. “Graffiti Nuisance Property” means property upon which graffiti has been placed and such graffiti has been permitted to remain for more than ten (10) days after the property owner of record has been issued written notification.

D. “Owner” means any person, persons, entity or entities having a legal or equitable interest in real or personal property including but not limited to tenants or lessees.

E. “Responsible Party” means an owner, or an entity or person acting as an agent for an owner by agreement, who has authority over the property or is responsible for the property’s

maintenance or management. Irrespective of any arrangement to the contrary with any other party, each owner shall always be a responsible party for the purposes of this chapter. There may be more than one responsible party for a particular property.

F. “Permit” means to knowingly to suffer, allow, or acquiesce by any failure, refusal or neglect, to abate.

G. “Property” means any real or personal property and that which is affixed, incidental or appurtenant to real property, including but not limited to any structure, fence, wall, sign, or any separate part thereof, whether permanent or not.

H. “Abate” means to remove the graffiti by such means, in such a manner and to such an extent as the manager reasonably determines is necessary to remove the graffiti from public view.

I. “Unauthorized” means without the consent of a responsible party.

10.41.040 Procedures.

A. The owner or responsible party of any property in the County shall remove any graffiti from such property within ten (10) days of notification from the County.

B. A property owner shall be deemed to have complied with an order to abate graffiti if it is obliterated by matching building paint or by such other reasonable means as shall obliterate the graffiti.

C. The manager shall make consent forms available to the public, allowing the manager to enter onto property to abate the graffiti without prior notice from the manager.

D. The manager shall renew the consent forms at least annually for property owners and occupants who request and sign consent forms for allowing graffiti abatement.

E. The manager may summarily abate any graffiti on any utility poles and cabinets, on exterior walls and fences immediately abutting public streets or property, or on any public property, including but not limited to curbs, traffic signs and lights without consent of the property owner.

10.41.050 Notification and Abatement.

When the manager has reason to believe that a property within the County is marked with graffiti and is likely to be a potential graffiti nuisance property, the manager shall:

A. Identify a responsible party and send that party an informational letter describing the nature and location of the graffiti and requesting that the graffiti be promptly removed. The letter shall explain the problems caused by the continued presence of graffiti and the need for its prompt removal, describe the resources available from the county that may aid in graffiti removal, and give notice that failure to remove graffiti is a violation of county ordinance that may lead to legal action to remove the graffiti at the expense of the responsible party and may subject the responsible party to civil penalties.

B. If the graffiti is not removed within ten (10) calendar days after the informational letter has been sent, the manager shall notify the responsible party in writing, by certified mail, that the property has been identified as a graffiti nuisance property. The notice shall contain the following information:

1. The street address or description of the property reasonably sufficient for identification of the property;
2. A concise description of the conditions leading the manager to believe that the property may be a graffiti nuisance property;

3. A description of what must be done to abate the graffiti; and
4. A statement that the graffiti must be abated within five (5) calendar days after receipt of the letter, and a statement that if the graffiti is not abated within that time the property will be subject to abatement of the graffiti nuisance and the responsible party will be subject to monetary penalties and costs.

C. The notice shall also be posted at the property. As an alternative to mailing the notice, the manager may serve a copy of the notice personally on the responsible party. The service is complete at the time of deposit in the United States mail or when personal service is effectuated. The failure of any person to receive such notice shall not affect the validity of any legal proceedings regarding removal of the graffiti.

D. If an address for mailed service cannot, after due diligence, be ascertained and the person to whom the notice is issued cannot, after due diligence, be personally served within Salt Lake County, notice shall be served by posting a copy of the notice conspicuously at the graffiti nuisance property. Proof of service by posting shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and, if by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

E. In the event that the owner fails to remove the graffiti after notice has been sent, the County, may at its option, abate the graffiti as a nuisance. The manager may initiate proceedings to abate any graffiti only after the following has occurred:

1. The manager has determined that graffiti within public view exists on particular premises in the County;

2. A notice of such condition has been sent to the property owner;
3. The property owner has failed to either remove the graffiti or consent to its removal by the County within the time period specified in the notice;
4. If, after proper notification has been given, five (5) days has elapsed, the graffiti has not been abated and no hearing has been scheduled, the manager may cause the graffiti to be abated either by county employees or by an independent contractor. The county and the independent contractor are authorized to enter upon the property and abate the graffiti upon exterior walls, fences, billboards and other structures abutting public streets, property or right-of-way. The county or private contractor will take all reasonable precautions to avoid causing damage to the property where the graffiti is abated. Any paint used to obliterate graffiti shall be as close as practicable to the background color or colors in the area where the graffiti is abated. The cost of the services provided plus a charge of \$250.00 shall be imposed against the real property. If the cost of the services and the special charge are not paid within 30 days, the charges shall be deemed delinquent. A delinquent charge shall be a lien against the property as of the date of delinquency and shall be included in the current or next tax roll for collection and settlement. Payment of a monetary penalty pursuant to this chapter does not relieve the responsible party of the duty to abate the graffiti nuisance.

10.41.060 Appeal.

A. Prior to the County abating graffiti on private property without the consent of the owner, an appeal may be made before the manager at which time the property owner shall be given an opportunity to be heard regarding the proposed abatement. A notice of appeal must be

made to the manager by telephone or e-mail within five (5) business days of the receipt of the property owner's receipt of the notice provided in Section 10.41.050.A.

B. Upon receipt of the appeal request, the manager shall conduct the hearing within five (5) business days. If the manager finds the property to be a graffiti nuisance property, and the owner or responsible party has been given notice in accordance with this ordinance, the manager shall specify when and under what conditions the graffiti shall be abated.

C. The owner may appeal a decision rendered by the manager by filing with manager a request for mediation within five (5) days after the decision being appealed. This step in the appeal process shall be a mediation proceeding which shall be conducted in accordance with the procedures set out in the Salt Lake County Mayor's Executive Order No. 2006-5. The responsibilities for coordinating and arranging the mediation, as set out in the mediation policy, shall be undertaken by the manager.

SECTION IV. This ordinance shall become effective fifteen (15) days after its passage and upon at least one publication of the ordinance or a summary thereof in a newspaper published and having general circulation in Salt Lake County.

APPROVED and ADOPTED this ____ day of _____, 2008.

SALT LAKE COUNTY COUNCIL:

By _____
Michael Jensen, Chair

ATTEST:

Sherrie Swensen
County Clerk
cw.gja.ord.graffiti prevention_29Oct08

ORDINANCE HISTORY

Voting:

Councilman Allen _____
Councilman Bradley _____
Councilman Crockett _____
Councilman Hatch _____
Councilman Hendrickson _____
Councilman Horiuchi _____
Councilman Jensen _____
Councilman Wilde _____
Councilwoman Wilson _____

Vetoed and dated this _____ day of _____, 2008.

By _____
Mayor Peter Corroon or Designee

(Complete as Applicable)

Veto override: Yes ____ No ____ Date _____
Ordinance published in newspaper: Date _____
Effective date of ordinance: _____

SUMMARY OF

SALT LAKE COUNTY ORDINANCE NO. _____

On the _____ day of _____, 2008, the County Council of Salt Lake County adopted Ordinance No. _____, which repeals subsection 10.40.010.B and subsection 10.40.010.C regarding graffiti removal and enacts Chapter 10.41 regarding graffiti prevention and removal; defining terms; establishing procedures by which property owners must remove graffiti; providing for notification and abatement; providing an appeal process; and making other related changes.

SALT LAKE COUNTY COUNCIL:

By _____
Michael Jensen, Chair

ATTEST:

Sherrie Swensen
County Clerk
cw.gja.ord.graffiti prevention_29Oct08.

Approved as to Form

Voting:
Councilman Allen _____
Councilman Bradley _____
Councilman Crockett _____
Councilman Hatch _____
Councilman Hendrickson _____
Councilman Horiuchi _____
Councilman Jensen _____
Councilman Wilde _____
Councilwoman Wilson _____

A complete copy of Ordinance No. _____ is available in the office of the Salt Lake County Clerk, 2001 South State Street, N2100A, Salt Lake City, Utah.