

ORDINANCE NO. _____

ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHULA VISTA MUNICIPAL CODE CHAPTER 9.20 TO
PERMIT RECOVERY OF THE CITY'S AVERAGE COSTS
RELATED TO GRAFFITI ABATEMENT AND REMEDIATION
BY THE SAN DIEGO PROBATION OFFICE IN JUVENILE
COURT PROCEEDINGS AND ADOPTING THE 2018 CHULA
VISTA GRAFFITI ABATEMENT COST AND EXPENSES
MATRIX

WHEREAS, Government Code Section 53069.3 authorizes a city to enact an ordinance to use city funds to remove graffiti or other inscribed material from publicly or privately owned real or personal property located within the city, and to replace or repair property on which graffiti or other inscribed material cannot be removed cost effectively; and

WHEREAS, Welfare and Institutions Code Section 742.14 authorizes a city to enact an ordinance permitting the probation officer of the county to recoup for the city, through juvenile court proceedings, the city's costs associated with defacement by minors of city property and the property of others by graffiti or other inscribed material; and

WHEREAS, the California Supreme Court, in *Luis M. v. Superior Court of Los Angeles County*, found that while a city may elect to have the probation officer of the county recover the city's graffiti abatement costs through juvenile court proceedings, a city must first adopt an ordinance to authorize this action, in accordance with Welfare and Institutions Code section 742.14; and

WHEREAS, in accordance with Welfare and Institutions Code section 742.14, such ordinance shall include specific cost findings that are to be reviewed at least once every three years and adopted by resolution; and

WHEREAS, it is the express intent of the City Council to authorize the City of Chula Vista to recover its graffiti abatement costs through juvenile court proceedings as set forth in the Welfare and Institutions Code; and

WHEREAS, the proposed amendment does not cause a substantial change to the objectives, policies, and regulations contained in Chula Vista Municipal Code chapter 9.20; and

WHEREAS, the City Council believes that the City should avail itself of all remedies to recover its costs associated with the abatement of graffiti;

NOW THEREFORE the City Council of the City of Chula Vista does ordain as follows:

Section I. Findings

The City Council finds that:

1. On September 28, 2017, the City of Chula Vista completed a comprehensive study and review of the graffiti abatement costs and expenses that was verified for use by the City of Chula Vista Finance Department.
2. The attached Graffiti Abatement Costs and Expenses Matrix reflects the most current average costs per unit of measure incurred by the Chula Vista Police Department in identifying and apprehending a person subsequently convicted of violating Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code or a minor subsequently found to be a person described in Section 602 of the Penal Code by reason of the commission of an act prohibited by those same sections.
3. The attached Graffiti Abatement Costs and Expenses Matrix reflects the most current average costs per unit of measure incurred by the City of Chula Vista of removing graffiti and other inscribed material, and of repairing and replacing property of the types frequently defaced with graffiti or other inscribed material that cannot be removed cost effectively.
4. The costs and expenses included in the attached Graffiti Abatement Costs and Expenses Matrix identify the basis upon which average graffiti abatement costs are determined and demonstrate the abatement cost to be recovered from a person convicted of violating Section 594, 594.3, 594.4, 640.5, 640.6, or 640.7 of the Penal Code or a minor found to be a person described in Section 602 of the Penal Code by the San Diego probation office in juvenile court proceedings.
5. The attached Graffiti Abatement Costs and Expenses Matrix reflects the average costs and expenses associated with graffiti abatement in the City of Chula Vista.

Section II. Chapter 9.20 of the Chula Vista Municipal Code regarding property defacement is amended to read as follows:

9.20.067 Collection of abatement costs through the juvenile court.

A. For purposes of this section only, the following definitions are applicable:

1. "Minor" means a person under the age of eighteen (18) years who has been convicted of violation of Section 594, 594.3, 594.4, 640.5, 640.6 or 640.7 of the Penal Code, or has been found to be a person described by Section 602 of the Welfare and Institutions Code by reason of the commission of an act prohibited in the Penal Code sections identified in this subdivision.
2. "Graffiti Abatement Costs and Expenses" includes:
 - a. the average law enforcement costs per unit of measure incurred in identifying and apprehending a Minor; and
 - b. the average costs per unit of measure incurred by the city in removing graffiti; and

c. the average cost per unit of measure incurred by the city in repairing and replacing property of the types frequently defaced with graffiti that cannot be removed cost effectively.

B. The San Diego County probation office and its agents, employees, and assigns are hereby authorized, on behalf of the city, to collect from the Minor, the Minor's estate, or the Minor's parent or guardian, the city's Graffiti Abatement Costs and Expenses through juvenile court proceedings, and to promptly transfer said funds to the city.

C. Updated Graffiti Abatement Costs and Expenses findings shall be reviewed and adopted by the City Council at least once every three years. Immediately after adoption, the city clerk shall cause a certified copy of the ordinance adopted pursuant to this section and any resolution containing updated cost findings to be forwarded to the clerk of the juvenile court in San Diego County and to the probation office of San Diego County.

[Note: [Sections 9.20.010 through 9.20.065, and Section 9.20.070 remain unchanged]]

Section III. The City Council hereby adopts the graffiti abatement costs and expenses as set forth in the Graffiti Abatement Costs and Expenses Matrix attached as Exhibit 1 hereto and incorporated by reference herein.

Section IV. Severability

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section V. Construction

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this Ordinance shall be construed in light of that intent.

Section VI. Effective Date

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

Section VII. Publication

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

Presented by

Approved as to form by

Glen R. Googins
City Attorney

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