

ORDINANCE NO. 3481 C.S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MONTEREY

AMEND MONTEREY CITY CODE CHAPTER 22, ARTICLE 2 TO PROVIDE CIVIL AND ADMINISTRATIVE PENALTIES FOR THE PLACEMENT OF GRAFFITI

THE COUNCIL OF THE CITY OF MONTEREY DOES ORDAIN, as follows:

SECTION 1:

WHEREAS, California Penal Code section 594 extensively regulates graffiti, its punishments, and its abatement;

WHEREAS, a 1995 Attorney General opinion, 78 Ops. Cal. Atty Gen. 143 concluded that "A charter city ordinance making it a crime to place graffiti upon real or personal property located within the city would be void due to its duplication of state criminal statutes"; and

WHEREAS, State law authorizes local governments to create nuisance abatement and graffiti cost recovery laws to ensure that all public and private property within the City may be maintained free of graffiti.

NOW THEREFORE, the Monterey City Council declares as follows:

SECTION 2: Monterey City Code, Chapter 22, Article 2 is hereby repealed in its entirety and is replaced to read as follows:

Sec. 22-35 Findings and Purpose.

(a) The Monterey City Council finds that the presence of graffiti on public and private property within the City can cause the aesthetic deterioration of neighborhoods and commercial areas, creates blight and, if not promptly abated, may lead to further placement of graffiti and the aesthetic deterioration of areas within the City of Monterey.

(b) The Monterey City Council finds and determines that graffiti is obnoxious and a public nuisance, and must be eliminated by means of prevention, education, and abatement to avoid the detrimental impact of such graffiti on the City and its residents, and to prevent the further spread of graffiti. Prompt removal is a disincentive to graffiti and minimizes the blight created by graffiti.

(c) The purpose of this ordinance is to promote the health, safety, and general welfare of the community by creating an aesthetically pleasing environment in which graffiti is declared a nuisance which must be promptly abated by property owners and imposing penalties on vandals.

Sec. 22-35.1 Definitions.

(a) As used in this chapter, "graffiti" means any unauthorized form of painting, scratching, writing or inscription, regardless of the content or nature of the material used, which is placed upon any private structure, fixture, sign, sidewalk, or other real or personal property in any location where it can be viewed from any public street, bay, walkway, building, park, facility, or any other public property, or upon any public structure, fixture, sign, sidewalk, or other real or personal property, and which is without the authorization of the owner or any other person in control of the property.

(b) "Owner" means any person, firm, corporation, partnership or other entity, owning property either public or private, whose name or title appears on the last equalized assessment role with the Monterey County Recorder's Office, or the lessee, tenant or other person having control or possession of the property.

Sec. 22-35.2 Graffiti Declared a Nuisance and Prohibited.

It shall be a nuisance for any person to place graffiti upon any property located within the City of Monterey. Any owner of property within the City of Monterey shall remove any graffiti on his/her property within five days of notice of its placement on such property. Maintenance of property in violation of this section is a public nuisance.

Sec. 22-35.3 Penalties and Remedies and Graffiti Abatement.

- (a) The remedies provided for in this section are in addition to any the City might have under Chapter 1, Article 2 (Administrative Remedies); Chapter 22, Article 4 (Nuisance Abatement); or applicable law.
- (b) The City may impose a graffiti nuisance abatement lien pursuant to state law against the property of the individual who defaces property with graffiti, or if the individual is a minor, a lien against the property of the parent or guardian, by following the procedures set forth under Monterey City Code section 1-12.1, as enhanced or modified by Government Code section 38771 et seq. In accordance with state law, the City may make the expense of abatement a personal obligation against the individual, or if the individual is a minor, against his/her parent or guardian. If the individual is a minor, the parent or guardian shall be jointly and severally liable with the minor. An administrative citation may be issued for violations relating to graffiti offenses against the responsible person(s) and/or, if the responsible person is a minor, against the parent(s) or guardian(s) having custody and control of the minor.

SECTION 3: All ordinances and parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason declared unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or the effectiveness of the remaining portions of this chapter or any part thereof. The City Council hereby declares that it would have adopted this chapter notwithstanding the unconstitutionality, invalidity, or ineffectiveness of any one or more of its sections, subsections, sentences, clauses, or phrases.

SECTION 5: This ordinance shall be in full force and effect thirty (30) days from and after its final passage and adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF MONTEREY this 2nd day of July, 2013, by the following vote:

AYES:	5	COUNCILMEMBERS:	Downey, Haffa, Selfridge, Sollecito, Della Sala
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	0	COUNCILMEMBERS:	None
ABSTAIN:	0	COUNCILMEMBERS:	None

APPROVED:

ATTEST:



Mayor of said City



City Clerk thereof

